The document is of interest to American officials as a detailed, if limited, snapshot of communications between Iraqi intelligence and Mr. bin Laden, but this view ends with Mr. bin Laden's departure from Sudan. At that point, Iraqi intelligence officers began ''seeking other channels through which to handle the relationship, in light of his current location,'' the document states.

Members of the Pentagon task force that reviewed the document said it described no formal alliance being reached between Mr. bin Laden and Iraqi intelligence. The Iraqi document itself states that ''cooperation between the two organizations should be allowed to develop freely through discussion and agreement.''

The heated public debate over links between Mr. bin Laden and the Hussein government fall basically into three categories: the extent of communications and contacts between the two, the level of actual cooperation, and any specific collaboration in the Sept. 11 attacks.

The document provides evidence of communications between Mr. bin Laden and Iraqi intelligence, similar to that described in the Sept. 11 staff report released last week.

''Bin Laden also explored possible cooperation with Iraq during his time in Sudan, despite his opposition to Hussein's secular regime,'' the Sept. 11 commission report stated.

The Sudanese government, the commission report added, ''arranged for contacts between Iraq and Al Qaeda.''

''A senior Iraqi intelligence officer reportedly made three visits to Sudan,'' it said, ''finally meeting bin Laden in 1994. Bin Laden is said to have requested space to establish training camps, as well as assistance in procuring weapons, but Iraq apparently never responded.''

The Sept. 11 commission statement said there were reports of further contacts with Iraqi intelligence in Afghanistan after Mr. bin Laden's departure from Sudan, ''but they do not appear to have resulted in a collaborative relationship,'' it added.

After the Sept. 11 commission released its staff reports last week, President Bush and Vice President Dick Cheney said they remained convinced that Mr. Hussein's government had a long history of ties to Al Qaeda.

''This administration never said that the 9/11 attacks were orchestrated between Saddam and Al Qaeda,'' Mr. Bush said. ''We did say there were numerous contacts between Saddam Hussein and Al Qaeda. For example, Iraqi intelligence officers met with bin Laden, the head of Al Qaeda, in the Sudan. There's numerous contacts between the two.''

It is not clear whether the commission knew of this document. After its report was released, Mr. Cheney said he might have been privy to more information than the commission had; it is not known whether any further information has changed hands.

A spokesman for the Sept. 11 commission declined to say whether it had seen the Iraqi document, saying its policy was not to discuss its sources.

The Iraqi document states that Mr. bin Laden's organization in Sudan was called ''The Advice and Reform Commission.'' The Iraqis were cued to make their approach to Mr. bin Laden in 1994 after a Sudanese official visited Uday Hussein, the leader's son, as well as the director of Iraqi intelligence, and indicated that Mr. bin Laden was willing to meet in Sudan.

A former director of operations for Iraqi intelligence Directorate 4 met with Mr. bin Laden on Feb. 19 1995, the document states.

Mr. KYL. I note, concluding with this point, that Abdul Yasim and Abu Nidal were harbored in Iraq. The Taliban did not directly involve itself in 9/11 or have weapons of mass destruction either, but it harbored people like this and that is one reason we went after the Taliban and Saddam Hussein's regime in Iraq.

With regard to the connections between Iraq and al-Qaida, the case is very clear that they were there and the President stands correct, and I hope the Senator from Massachusetts would stand corrected.

Finally, as to the suggestion that Iraq was a diversion from succeeding in Afghanistan, that we have not finished the job there, we were very successful in defeating the Taliban and killing a lot of al-Qaida and capturing a lot of al-Qaida in Afghanistan, and in establishing a regime there which will be holding elections. Karzai made it very clear when he came to this country and expressed his appreciation, just as did Prime Minister Allawi of Iraq, to American forces for helping to provide the Afghanis with enough freedom to control their own future. I think there is confusion that the only al-Qaida are on the border between Afghan and Pakistan, and since we have not captured every single one of them, including Osama bin Laden, therefore our activities in Iraq are responsible for this fact. There has been no evidence of that. As a matter of fact, our military commanders make the point it is not true, that Iraq was not a diversion from anything we had to do in Afghanistan where we were very effective and successful.

To those who convey this sense of panic, that all is going bad, the opposite of that is not those of us who support the President's policy saying everything is rosy. I do not know that anybody has ever used that phrase. If they have, I would like to see it. The President has said repeatedly that this is a long and difficult war and it is going to require a great deal of perseverance and commitment by the American people. But as contrasted by those who create the sense of panic, the President has a vision and the President's commanders have a strategy. When I saw General Abizaid on television last Sunday, he didn't paint a rosy picture. He painted a very realistic assessment. But he also portrayed a calm confidence that if we can persevere we can prevail.

That is what he asked of the American people, to allow the military commanders as well as the Commander in Chief to carry out the vision to defeat the militant Islamic terrorists wherever they are. As I said, they are not only in Afghanistan; they are all over the world including primarily in the Middle East. That is why this war has many fronts. It is not just Afghanistan. We fought simultaneously to try to gain support from Pakistan, Saudi Arabia, the Libyan regime, and from Syria. We did what we did in Afghanistan. We have done what we have done in Iraq. There are still some places to go, but we have also been in Yemen and Sudan, and so on.

The bottom line here is you can't isolate one place in the world and say we have to do that first and win every possible goal there before we can do anything else anywhere else. The President has made it clear that by going to one of the chief sources of terrorism, namely Iraq, we can help to win this war.

The fact that there was such a connection between the terrorists—between al-Qaida and the Iraqi regime—is I think validated by the fact that they have been able to so successfully continue to attack Americans and American forces in Iraq.

Let's consider that the military commanders just might know what they are talking about, No. 1. No. 2, it does no good to wring our hands and paint a picture of panic. Realistic assessments, absolutely; truth to the American people, absolutely; but leadership that presents a vision and a strategy for winning the wider war on terrorism, that is what the President has provided. That is why I am very proud to support President Bush's efforts in this regard.3

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2845, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2845) to reform the intelligence community and the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

Pending:

Wyden Amendment No. 3704, to establish an Independent National Security Classification Board in the executive branch.

Collins Amendment No. 3705, to provide for homeland security grant coordination and simplification.

Specter Amendment No. 3706, to provide the National Intelligence Director with the authority to supervise, direct, and control all elements of the intelligence community performing national intelligence missions.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, the debate now will resume on the amendment offered by the Senator from Pennsylvania. As discussed last night, we have an informal agreement that Senator ROBERTS would be recognized for—is it 25 minutes, I ask Senator ROBERTS?

Mr. ROBERTS. I thought the agreement was 30.

Mr. REID. Mr. President, I could not hear the Senator from Maine. She said there had been an order that the Senator be recognized?

Ms. COLLINS. Mr. President, if I can respond to the Democratic leader's inquiry, there was an informal discussion

last night. There was not an order entered, to the best of my knowledge, but an informal agreement that Senator ROBERTS would be recognized, and it was either 25 or 30 minutes. I am uncertain.

Mr. ROBERTS. If the distinguished chairman will yield, I am not sure of the timeframe. I think my remarks will be approximately 30 minutes. I hope they will not go over 30 minutes. But that would be my goal.

Mr. REID. My only inquiry here is, Senator HARKIN wishes to speak for 10 minutes sometime. We recognize we should have gotten to the bill earlier than we have, but we didn't, and now with the dialog that has gone on Senator HARKIN believes he needs to speak, so we need to somehow figure a way to allow him to do that.

The Senator from Maine has the floor. We understand that. But is there some way between the two managers we can get Senator HARKIN some time here this morning? Otherwise he is just going to hang around and cause trouble.

Ms. COLLINS. Mr. President, if I could complete my sequencing here. After Senator ROBERTS, Senator LEVIN had asked to be recognized on the Specter amendment. They were both here last night, so I want to respect their requests as well.

I wonder if we could arrange for Senator HARKIN to speak after the first series of votes today, for 10 minutes.

Mr. REID. That is fine. After the first vote today I ask unanimous consent Senator HARKIN be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Senator STEVENS to follow Senator HARKIN.

Ms. COLLINS. As part of that sequencing, it would be 10 minutes for Senator HARKIN and 10 minutes for Senator STEVENS—oh, I am sorry. Senator STEVENS is on the bill?

Mr. REID. It would be 15 minutes for Stevens, 15 for Harkin? Or unlimited for Stevens?

Ms. COLLINS. Senator STEVENS is going to be speaking on the bill so he has asked for an unlimited amount of time.

Mr. REID. We understand Senator STEVENS, being the President pro tempore of the Senate, can speak as long as he wants. Again I repeat, after the first vote Senator HARKIN will be recognized for 15 minutes, and then Senator STEVENS will be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Kansas is recognized.

AMENDMENT NO. 3706

Mr. ROBERTS. Mr. President, I rise in support of the Specter amendment. Before I begin, I would like to commend the managers of the bill, Senators COLLINS and LIEBERMAN, for their extraordinary patience and their hard work as we continue working through this process. Senators COLLINS and LIEBERMAN are very prominent and hard-working Senators. They have been given a very tough assignment and a limited timeframe in which to complete it. Nevertheless, they have produced a bill which is a step in the right direction.

As chairman of the Senate Intelligence Committee, I look forward to working with the Senators who serve on the committee of assignment by the leadership as the Senate attempts to make intelligence reform a reality.

Simply put, the Specter amendment would give the national intelligence director, or what we call now the NID, the authority to direct and supervise and control our national intelligence collection agencies. In doing so, it will create a clear chain of command that will leave no doubt in anybody's mind that the national intelligence director is in charge and is accountable.

There is no rush to judgment on this issue. The debate in which we are currently engaged is the same debate that has been going on for decades, centered on how to grant increased authority to the Director of Central Intelligence, or a new national intelligence director, while leaving undisturbed the intelligence community's structural status quo. Time and time again, those who have struggled with this conundrum have found we simply can't get there from here under that context. In other words, I believe it takes significant organizational change to overcome the inherent conflicts in the current structure of our national intelligence community.

True empowerment requires a national intelligence director with both budget authority and the authority to direct and control the activities of the intelligence collection agencies. One without the other will once again leave us with an intelligence head who can neither succeed nor be held fully accountable.

Let me state that the bill reported by the Governmental Affairs Committee does address the question of budget authority very effectively. It is significant and well contained. The bill leaves unaddressed, however, the issue of the national intelligence director's authority to direct, to supervise, and control the activities of our national intelligence collection agencies.

In short, the bill, in my opinion, preserves divided loyalties inherent in the current structure. Why is it so difficult to give this new NID direct control over all of the intelligence community agencies? It is no secret. The issue centers on the fact that the National Reconnaissance Office, which designs and acquires our spy satellites, the National Security Agency, which collects our signal intelligence, and the National Geospatial Intelligence Agency, which processes and disseminates our satellite imagery, all fall under the direct control of the Secretary of Defense.

These agencies, while essential to the collection of national intelligence, have also been deemed essential to the Pentagon's ability to fight and to win wars. In essence, these agencies serve two masters: The head of the intelligence community and the Secretary of Defense. This tension has existed for decades, and it continues today. As long as the Secretary of Defense directs the day-to-day activities of these agencies, the new national intelligence director will continue to struggle with a structure that undermines his ability to succeed as the head of the intelligence community.

It appears to me that under today's bill the national intelligence director's authority concerning collection will be about the same as the DCI's has been for over 50 years. I do not mean to be a pessimist, but history has shown in practice that these authorities to ''establish requirements,'' ''manage the collection task,'' and ''resolve the conflicts'' have limited ability when an agency works with the Secretary of Defense and not for the head of the intelligence community.

Why has it been so difficult to streamline the chain of command in the intelligence community? Because when the Defense Department comes up on the radar screen and announces to Congress and the media that its ability to defend America will be undermined if it loses direct control over its intelligence agencies, Members of Congress rightfully pause and they certainly take note. This is especially true today when American forces are engaged in combat. This, however, should not lead to what we call paralysis.

During this debate, we have heard a great deal about support to our dedicated, brave men and women in uniform, i.e., the warfighters. Many of my colleagues have argued and will continue to argue that the national intelligence director must not be allowed to direct and supervise the control of activities of our national intelligence collection agencies. In their view, granting such an authority would undermine the Secretary of Defense's ability to fight and win wars. For this to be true, the national intelligence director would have to deny our military commanders the information they need to wage war. I cannot conceive of any circumstance where that would be the case.

I am a member of the Armed Services Committee. I am a former Marine officer. I would not sanction any legislation that I thought would limit the ability of our troops to fight and to win wars. I recognize the special requirements of the Department of Defense. As chairman of the Intelligence Committee, I also know that the Department of Defense is only one of the major consumers of intelligence. Important, yes; major, yes; but one.

I often hear people referring to the Department of Defense as the principal consumer of intelligence. While the Department is a significant and important consumer of intelligence, we need

to remember one thing: The principal consumers of intelligence are the President of the United States, the Congress, and the National Security Council. They are the principal consumers. The Department of Defense is a major consumer.

In time, the Department of Homeland Security is likely to become a voracious consumer of intelligence, perhaps on a par with the Department of Defense.

I do not believe the defense of the homeland is any less important than prosecuting the war. Consequently it does not make sense to have 80 percent of our intelligence collection apparatus controlled by one consumer, and that is the Department of Defense.

If we give the national intelligence director the authority to manage all of the national collection agencies, that will ensure one office is responsible and accountable for meeting the intelligence requirements of all consumers including, of course, that of the Department of Defense. If any Cabinet member believes their intelligence requirements are not being met, he or she can address the issues to the national intelligence director. If a Cabinet member does not agree with NID's decision, they can take it up with the President of the United States.

I also note that in testimony before Congress, the directors of two of the Pentagon's intelligence collection agencies—the National Security Agency and the National Geospatial Intelligence Agency—stated that having their agencies transferred to the control of a national intelligence director would not degrade their level of support to the military.

Let me repeat that. The directors of two of the Pentagon's intelligence collection agencies—the National Security Agency and the National Geospatial Intelligence Agency—stated that having their agencies transferred to the control of a national intelligence director would not degrade their level of support to the military.

Additionally, some have argued that giving the national intelligence director line control of agencies with uniformed military personnel would be complicated. There will certainly be some issues to be resolved, to be sure. But the Department of Defense regularly details military personnel to agencies and offices outside of the Department of Defense. We would not be breaking new ground here. We have had civilian control of the military since the founding of this Nation, and I don't see how civilian control by a national intelligence director is qualitatively different than civilian control by the Secretary of Defense. They both work for the President.

There has been a lot of talk about that fact in regard to meetings we have had with people in uniform and the Secretary of Defense and a certain Senator asking, How would you feel if your budget was controlled by somebody who didn't wear a uniform? Well, the Secretary of Defense doesn't wear a uniform. When the military appears before the Congress, they don't wear a uniform. Neither does the Secretary of Army, Navy, or Air Force wear a uniform.

Let me detail a few examples to illustrate why direct control is so important to the success of the national intelligence director.

As recently as last week—I would like for Members to pay attention to this—as recently as last week, the Senate Intelligence Committee received a very troubling briefing in closed session that clearly demonstrated that even on matters relating to the terrorist threat to our homeland, today, now, the terrorist threat that we face, the intelligence agencies still stubbornly refuse to adequately share information. Why are these agencies still not sharing? Some progress has been made. But why are they still not sharing? Is it because the DCI doesn't have adequate budget authority? No. They don't share it because they work for 15 different bosses and no one holds them accountable for information sharing. The national intelligence director can cajole, he can plead, he can consult all he wants; he can promulgate policies and guidelines all day long. He can create grand, trusted information networks. But without a national intelligence director with direct control, there will be no one to force adequate information sharing within the intelligence community.

Let us take another example.

We have all heard former DCI Tenet's now famous declaration of war against al-Qaida in 1998. Mr. Tenet ordered that no resource was to be spared in this critical effort. He declared war as a result of Osama bin Laden issuing fatwas to kill Americans.

What happened as a result of this bold order? Not much. The National Security Agency went its own way, saying: Thank you, Mr. DCI, for your interest in national security, but we are going to retool for a threat that has nothing to do with terrorism.

What would have happened if Mr. Tenet had the authorities granted to the national intelligence director under the Collins-Lieberman bill when he made his 1998 declaration? He might have said: We are at war, and the NSA will see that reflected in the budget you will receive in the next year or so, assuming Congress does not make any changes to it. That is budget authority. That is the crowbar he would use in terms of influence. However, with the authorities to direct, supervise, and control, which are provided in the Specter amendment, Mr. Tenet would have been able to order the NSA to stop retooling for the other threat, get to work that day, focus their efforts on al-Qaida. In the 21st century, threats evolve too quickly to wait a year or so for the national intelligence director's budget change to have any effect. The NID must have direct control in order to make immediate changes.

The bill before the Senate today is a significant step in the right direction. Credit goes to Senator COLLINS and Senator LIEBERMAN. There are many good provisions in the bill which should improve the intelligence community, but it is missing something very important—a clear chain of command and accountability.

As the examples I have cited demonstrate, a clear chain of command and accountability that comes with it are essential to real and lasting reform. If we do not make the hard choices now, I fear after yet another series of intelligence failures—and Lord knows I do not want to sit as chairman of the Intelligence Committee and have any more ''Oh my God'' hearings in regard to past tragedies from Khobar Towers to embassy bombings to the Khartoum chemical plant to the failure to even try to come as close as possible to predicting the India nuclear blast, Somalia, the USS *Cole*, and obviously September 11. We do not want to go back down that road.

I fear the Senate Intelligence Committee will be right back in its hearing room listening to the newly minted national intelligence director testify while he enjoys a great deal of budget authority he still lacks the real authority to perform the day-to-day operations of our intelligence agencies and therefore lacks ability to lead as we expect and as he must. I urge my colleagues to support the Specter amendment so there is no doubt in anyone's mind that the national intelligence director is in charge and is accountable.

I will take a few more moments to comment on some of the debate I have heard concerning this amendment. This is not a new debate. What I heard in the Senate yesterday and today represents an age-old tension that has existed since the intelligence community was created.

Ms. COLLINS. Would the Senator yield briefly for a unanimous consent request?

Mr. ROBERTS. Certainly, I would be more than happy, in the middle of shining the light of truth into darkness, to yield for a unanimous consent request.

Ms. COLLINS. I apologize for interrupting the Senator. Mr. President, I ask unanimous consent that the only amendments remaining to the bill other than the pending amendments be the two lists I now send to the desk; provided further that they be subject to second degrees that are related to the subject matter of the first degree; further, that all other provisions governing the consideration of this bill remain in effect.

Mr. SPECTER. Reserving the right to object, would the distinguished chairwoman repeat that unanimous consent request?

Mr. REID. Mr. President, basically what we have done, we now have a finite list of amendments. The two cloakrooms have hotlined every Senator, and we have, I am sorry to say, more than 200 amendments, but that is

the finite list, and the Senator from Pennsylvania is on the list.

Mr. SPECTER. Parliamentary inquiry: For how many amendments am I on the list?

Mr. REID. Seven.

Ms. COLLINS. Seven plus the pending amendment.

Mr. SPECTER. I thank the Chair.

Mr. ROBERTS. If the Senator will yield, may I ask if the 21 amendments I have drafted, amendments that would improve the nature of the bill, are they included in that list?

Ms. COLLINS. They are indeed.

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

Ms. COLLINS. Thank you, Mr. President.

I thank the Senator.

Mr. REID. Mr. President, if the Senator will allow me to make a statement as to what we are going to do here for a minute, I will be very brief.

The two leaders have directed the two managers of the bill that the next step will be to get a filing deadline. Hopefully that will be in the next few hours. We may not be able to do it until tomorrow, but we are working as quickly as we can to make sure amendments people have submitted will be drafted. We are moving along as quickly as we can.

The list of amendments is as follows:

Shelby, Domestic Preparedness; Shelby, Domestic Preparedness; Shelby, NID; Ensign, Relevant; Ensign, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Lugar, Relevant; Lugar, Relevant; Voinovich, Presidential Appointments; Cornyn, Human Smuggling; Cornyn, State and Local Law Enforcement; Cornyn, Drivers Licenses.

Snowe, IG; Snowe, Red Teams; Snowe, NIE Reports; Snowe, NCTC Reports; Snowe, Relevant; Snowe, Relevant; Allard, Marshall Imagery; Allard, Personnel Authorities; Allard, Personnel Authorities; Allard, Geospatial Informatrion; Cornyn, Cyber Security; Grassley, Money Laundering/Terror Financing; Grassley, IG/Whistleblower Protection; Grassley, Visas; Grassley, Visas; Grassley, Related; Grassley, Related; Grassley, Related.

Hutchison, Center for Alternative Intel. Analysis; Hutchison, Relevant; McConnell, Related; McConnell, Related; McConnell, Related; McConnell, Related; Domenici, Natl. Critical Infrastructure Center; Domenici, Border Surveillance; Domenici, WMD Intel. Center; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant.

Kyl, Relevant; Kyl, Relevant; Kyl, Relevant; Kyl, Relevant; Kyl, Relevant; Kyl, Relevant; Chambliss, Border Security; Chambliss, Document Security; Chambliss, Relevant; Chambliss, Relevant; Chambliss, Military Intel.; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant.

Roberts, NID Agency Control; Roberts, Definitions; Roberts, IC/NFIP Programs; Roberts, IC/NFIP Programs; Roberts, Non-NFIP DIA Programs; Roberts, Intel-Sharing; Roberts, NIDs Authorities; Roberts, NIA; Roberts, NID; Roberts, Sect. 504 of Natl. Sec. Act of 1947; Roberts, NID Control of CIA; Roberts, Reprogramming and Transfers; Roberts, New Positions Subject to NID Concurrence; Roberts, NID Authority; Roberts, NID Authority; Roberts, Analytic Review Unit; Roberts, GC Provision; Roberts, IG Provision; Roberts, NCTC and NIC Responsibilities; Roberts, SecDef Responsibilities to NID for NIP; Roberts, NID Authority; Roberts, NID Authority; Roberts, NID; Roberts, Relevant; Roberts, Relevant.

Hatch, Punishment for Stowaways; Hatch, FBI Translators; Hatch, Expedited Terrorist Removal; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant.

Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Gregg, FBI; Gregg, Relevant; Coleman, Information Network; Coleman, Strike; Collins, Relevant; Collins, Relevant; Collins, Relevant.

Talent, Relevant; Burns, Federal Flight Deck Officer Prog.; Burns, Relevant; Burns, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Frist, Relevant; Frist, Relevant; Frist, Relevant; Frist, Relevant; Frist, Relevant; Frist, Relevant to any on list; Frist, Relevant to any on list; Frist, Relevant to any on list; Frist, Relevant to any on list; Frist, Relevant to any on list.

Collins, Relevant; Collins, Relevant; Collins, Relevant; Collins, Relevant; Collins, Relevant; Collins, Relevant to any on list; Collins, Relevant to any on list; Collins, Relevant to any on list; Collins, Relevant to any on list; Collins, Relevant to any on list; Collins, Managers' amdendments; Voinovich, Ethics in government.

Akaka, 1. Relevant; 2. Relevant; 3. Relevant; 4. Relevant.

Baucus, 1. Relevant.

Bayh, 1. Congressional Reform.

Biden, 1. Relevant; 2. Relevant.

Bingaman, 1. Terrorism; 2. Lab Employees; 3. Chief Science Officer; 4. Relevant.

Boxer, 1. Relevant; 2. Relevant; 3. Relevant.

Byrd, 1. Relevant; 2. Relevant; 3. Relevant; 4. Relevant.

Cantwell, 1. Biometric Visas.

Carper, 1. Rail Security.

Clinton, 1. Relevant; 2. Relevant; 3. 2nd degree to Collins Formula Grants.

Conrad, 1. Relevant; 2. Relevant; 3. Relevant.

Corzine, 1. Relevant; 2. Relevant; 3. Relevant.

Daschle, 1. Related; 2. Related; 3. Related to any on the list; 4. Related to any on the list.

Dayton, 1. NID Communication with Congress.

Dorgan, 1. Nano-technology.

Durbin, 1. Civil liberties; 2. Civil liberties; 3. Foreign language, Science, technology education.

Feingold, 1. Information sharing; 2. Relevant.

Feinstein, 1. State and Local; 2. DoD Tactical; 3. National Intel University; 4. Clarify sub-official role; 5. Colocation; 6. FBI General; 7. Reserve Corps; 8. Related; 9. Related.

Graham, 1. NIC; 2. Education and Training; 3. Relevant; 4. Relevant.

Jeffords, 1. Interoperability; 2. Preparedness; 3. Security; 4. Critical Infrastructure.

Harkin, 1. Civil Liberties; 2. Civil Liberties; 3. Related.

Hollings, 1. MTSA deadlines.

Inouye, 1. TSA.

Lautenberg, 1. NID Five year term (renewable); 2. Close Business with Terrorists Loophole; 3. Risked Based Homeland Security; 4. Port Security; 5. Rail Security; 6. Saudi Arabia.

Leahy, 1. Relevant; 2. Relevant; 3. Translators Report Act; 4. FISA Oversight; 5. FBI Reform Act; 6. USA Patriots Restoration Act; 7. Whistle Blower Protections; 8. Information Sharing Enhancement; 9. Civil Liberties Review Board Improvements; 10. Passenger Screening/Watch Lists; 11. Passenger ID verification.

Levin, 1. Intel Requirements; 2. Alternative Intel; 3. Critical Infrastructure Protection; 4. Budget Authority; 5. Relevant; 6. Relevant.

Lieberman 1. Relevant; 2. Relevant; 3. Relevant; 4. Relevant to any on list; 5. Relevant; 6. Relevant; 7. Relevant to any on list; 8. Relevant to any on list; 9. Relevant to any on list; 10. Relevant to any on list.

Hollings, 1. Creating National Intelligence Coordinator.

Nelson (FL), 1. Relevant; 2. Relevant; 3. Relevant.

Reed, 1. LNG; 2. Transit Security.

Reid, 1. Relevant; 2. Relevant.

Rockefeller, 1. Relevant; 2. Relevant; 3. Relevant to any on the list; 4. Relevant to any on the list.

Sarbanes, 1. Civil liberties.

Schumer, 1. Signal Corps; 2. Biometric Screening; 3. Port Security; 4. Cyber Security; 5. Foreign Intelligence Surveillance Act; 6. Saudi Arabia; 7. Truck Security; 8. Rail Security; 9. Relevant; 10. Relevant; 11. Relevant.

Wyden, 1. Independent Security Classification Board (S.A.# 3704); 2. Databases.

Mr. ROBERTS. What I heard in the Senate yesterday in regard to comments on this debate represents an age-old tension that has existed since the intelligence community was created.

Members heard numerous quotes from statutes such as title 10, title 50. The heart of this debate, however, is whether we will give an individual unambiguous control of intelligence activities in the United States. We can quote from the United States Code all day. The point is the laws could be changed. That is what we do in the Congress. The debate today is about what the law should be, not what the law is. Arguing the status quo is convenient, but it is not always correct.

This bill gives the new national intelligence director one very good tool. It is called budget authority. It does not give him control. The Specter amendment gives the national intelligence director control, which means accountability and real reform.

As we have debated this issue, I have heard many Members cite the words and reported opinions of the 9/11 Commission. The 9/11 Commission has done a great service to this country, but the Commissioners themselves have made it clear they do not have all the answers.

The 9/11 Commission did produce an excellent study of the failures leading

up to the attacks of September 11. The Governmental Affairs Committee bill is faithful to the lessons the Commission drew from its work. It is an excellent report. But I remind my colleagues that the Commission's report was based on a single case study—the period leading up to the attacks of September 11. However, a broader historical examination of our intelligence community leads many—including this Senator—to the important conclusion that over the last 50 years, the intelligence community has drifted due to the lack of or absence of a clear chain of command and the lack of accountability that a clear chain of command can bring. That clear chain of command requires giving the national intelligence director the authority to direct, to control, and to supervise our national collection agencies.

Our job is not to take the work of the 9/11 Commission as a sacred text which is not to be questioned or altered; our job is to take their work and integrate it with the lessons learned over the 50-plus years of history of our intelligence community and nearly 30 years of congressional oversight by the Intelligence Committee. As the Senator from Pennsylvania has pointed out, his amendment incorporates many of those lessons.

Yesterday, I also heard Members argue that the Specter amendment would create confusing chains of command for the National Security Agency, the National Reconnaissance Office, the National Geospatial-Intelligence Agency, and the intelligence collection elements of the Defense Intelligence Agency. I respectfully disagree.

In addition to providing the national intelligence director with the authority to direct, supervise, and control these agencies, the Specter amendment clarifies other provisions of law to specifically address this concern. It amends title 10 and title 50, adds two new provisions to the law to specifically clarify that the Directors, again, of the National Security Agency, the National Reconnaissance Office, the National Geospatial-Intelligence Agency, and the intelligence collection elements of the Defense Intelligence Agency report directly to the national intelligence director.

While this amendment gives the national intelligence director direct control over these agencies, they remain ''combat support agencies''—nobody quarrels with that—and the Secretary of Defense will still have influence over them. That is by design. No one is trying to change that. I think it is much better than the bill's current language in which the Secretary of Defense has direct control of these agencies, and the NID only has influence and persuasion. I can tell you from past history, influence and persuasion do not get you very far at the Pentagon.

Some have argued that only the Secretary of Defense can manage the combat support agencies. Some argue that only if the Secretary of Defense manages the Pentagon's national intelligence collection agencies will the warfighter receive adequate support. This is a fallacy. As I said earlier, there is no reason to believe the Defense Department will not receive the support it needs if the Pentagon's national intelligence collection agencies report to the national intelligence director.

The amendment provides the Secretary of Defense with important feedback mechanisms to make sure the Department is getting the national intelligence support it needs.

First, the Secretary of Defense is required to provide the national intelligence director with some performance appraisals for the directors of the national intelligence collection agencies. Second, the national intelligence director will receive recommendations from the Chairman of the Joint Chiefs of Staff based upon a biannual review of the combat support plans for the National Security Agency; again, the National Reconnaissance Office; again, the National Geospatial-Intelligence Agency; and the DIA, again, the Defense Intelligence Agency.

Working with the Secretary of Defense through these feedback mechanisms, the national intelligence director will ensure that the Defense Department's intelligence needs are met. Clearly, this amendment recognizes the important support role these agencies play to the Department of Defense in its role as an intelligence consumer.

Now, I also heard the argument yesterday that giving the national intelligence director direction, supervision, and control of the National Geospatial-Intelligence Agency is a bad idea because that agency is responsible for making maps. I point out that this agency used to be named the National Imagery and Mapping Agency, but they changed its name to signal a change in the manner in which it would perform its mission.

The National Geospatial-Intelligence Agency, or the NGA, uses intelligence data acquired by satellites and other means and melds that data into the maps that our entire Government uses. This is what is now called geospatial intelligence. The maps we use have the full benefit of the intelligence data we gather all around the world. Mapmaking is not inconsistent with the national intelligence director's mission.

Another argument heard yesterday against the Specter amendment was that the 9/11 Commission had considered granting the NID direction, supervision, and control authorities but rejected the idea on the grounds that the duties of managing these agencies would overload the national intelligence director. However, I note that the Secretary of Defense controls the military services, the Reserves, the unified commands, the defense agencies, field activities, literally millions of uniformed and civilian personnel, and those who mow the yard outside the Pentagon.

So if I understand correctly, in order not to overburden the national intelligence director, we will leave the national intelligence collection agencies under the control of an already extremely busy and, I might add, effective Secretary of Defense. This logic escapes me.

I also heard an argument that the 9/11 Commission had rejected granting the national intelligence director greater authorities because the Commissioners preferred what was described on the Senate floor as a ''lean, mean modern corporate structure.''

I ask my colleagues, What successful modern corporation would not give its chairman and CEO the authority to direct, supervise, and control every component of the organization for which he or she was held accountable by the shareholders? We should not confuse direction, supervision, and control with micromanagement.

I also heard the argument that the Specter amendment would promote group-think within the intelligence community. Well, I can tell you that the Senate Intelligence Committee wrote the book on the occurrence of group-think in its report on the prewar assessments on Iraq's WMD programs.

It is a problem that we on the committee watch very carefully every week, almost every day. I do not believe the Specter amendment will promote any kind of group-think. I would be concerned about the risk of group-think if we were proposing to grant the national intelligence director the authority to direct, supervise, and control the analytical content of our national analytical agencies. That is not what Senator SPECTER's amendment proposes. It proposes direction, supervision, and control over the Department of Defense's national intelligence collection agencies.

Additionally, as was seen in the committee's examination of the prewar assessments—as I say, it took us over a year, 22 professional staff members; we interviewed over 220 analysts—the creation of a strong national intelligence director will prevent group-think in the intelligence community. A strong director will ensure a level playing field in which the analysis of all agencies will be given full consideration and equal consideration based upon the quality of the analysis when intelligence community assessments are being developed. If anyone has studied the committee's Iraq report—and I encourage Senators to read it, 511 pages—they know that the lack of a level playing field was a major problem.

Mr. President, with that I am going to conclude my remarks. I urge Members to support the Specter amendment.

The Specter amendment has been described as a ''bridge too far.'' This well-known term is a product of the tragic Battle of Arnhem, Holland, in 1944.

Many historians see the tragedy of Arnhem as a combination of errors, i.e., the undertaking, for some political

reasons, of an ill-advised military campaign opposed by American commanders; i.e., and a massive intelligence gap that failed to detect a large concentration of German armor in the area.

Mr. President, the ''bridge too far'' analogy is apt, but it cuts in favor of the Specter amendment. We must not, for political reasons, fail to make the hard decisions that are necessary to ensure a strong, in-charge national intelligence director.

These decisions are difficult. They are hard. But these decisions are critically needed. The changes we make today have one overarching goal: to prevent another intelligence failure on the order of Arnhem and September 11. Because of those failures, the allies suffered 17,000 casualties and, obviously, on September 11, 3,000 died.

Failure to approve the Specter amendment may be seen by historians as a tragic half-measure that led to another Arnhem or another September 11.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that Senator BOND immediately follow me in order.

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

Mr. HATCH. Mr. President, I associate myself with the remarks of the distinguished chairman of the Intelligence Committee.

I rise today to support the amendment offered by Senator SPECTER. This amendment has the support of Senators SPECTER, SHELBY, and ROBERTS—two former chairmen of the Intelligence Committee, as well as the current chairman of the Senate Select Committee on Intelligence. I have had the pleasure to work closely with these colleagues, and I respect their experience and their independent thinking on intelligence matters.

This amendment is also cosponsored by a bipartisan group of Senators from the Intelligence Committee. This amendment establishes the goals set forth by 14 Senators who addressed a letter to Chairman COLLINS and Senator LIEBERMAN on September 20, 2004, in which they sought to ensure that the national intelligence director has the ability to control the day-to-day operations of all of our national intelligence assets.

I consider myself privileged to serve as a member of the Intelligence Committee during these difficult and historic times. Yet I can also say that during these years I have heard too many excuses for intelligence failures. I have seen firsthand the damage that comes when the head of the intelligence community lacks the ability to effectively lead our national intelligence agencies.

The chairman and the ranking minority member of the Governmental Affairs Committee have taken on a monumental task, for which I am grateful. They have been charged with writing a bill that modifies the National Security Act of 1947, to give the national intelligence director greater budget control and stronger authority to manage the intelligence community. This task, as we all know, has been extremely complicated.

It is particularly difficult when one considers the broad authorities that the National Security Act of 1947 already granted to the Director of Central Intelligence, as head of the intelligence community.

Under that act, the DCI was given substantial authority to develop a budget for national intelligence activities, to set election requirements and priorities, and to direct intelligence analysis. The Intelligence Committee has observed over time, however, that the DCIs cannot exercise their authorities because they do not have actual control over the operations of the national intelligence agencies. This is because the National Security Agency, the National Reconnaissance Office, and the National Geospatial-Intelligence Agency report operationally to the Secretary of Defense, and DCIs have had to negotiate and cajole to ensure that their operational initiatives were met. As a result, to keep from hindering this day-in/day-out negotiation, DCIs were unable to effectively exercise their broad budget authorities.

There is no greater example in my eyes—or at least modern example—than in 1998, when former DCI George Tenet recognized that we needed to direct all of our intelligence resources to defeating al-Qaida. This was his famous ''declaration of war'' against al-Qaida, and he declared that no resource of intelligence would be spared to defeat al-Qaida. He was ignored by the intelligence community that he was in charge of leading.

For example, the National Security Agency retooled for a different signals intelligence mission, not for the war on al-Qaida. We simply cannot ignore this example of unused DCI authorities. We cannot forget the lessons of past intelligence failures. I am concerned that the best intentions of the Governmental Affairs legislation will never be fulfilled and that the good authorities granted to the national intelligence director under the legislation will never be effectively exercised.

The debate we are having today about the authorities of the national intelligence director versus the Secretary of Defense has occurred in this town over and over again since the National Security Act was first passed back in 1947. As the intelligence community grew, the authorities of the Director of Central Intelligence were diluted as the Secretary of Defense gained a greater share of control over our intelligence agencies.

We have a unique opportunity in the next few weeks to establish a structure that puts someone truly in charge of our national intelligence mission. I think we have to take this opportunity to clarify the confused chains of command that have handcuffed past Directors of Central Intelligence.

With a national intelligence director empowered to ''supervise, direct and control'' our national collection assets, we will implement real reform, not just establish another bureaucratic level and finally have one person who is actually accountable to the President and to Congress. Only with the Specter amendment's clear chains of command will we give the national intelligence director the authorities necessary to meet his vast responsibilities.

Some will argue that the Specter amendment goes too far; that it is just too hard to separate the NSA, NRO, and NGA from the Department of Defense; that it will hinder intelligence support for the warfighters. The argument made has not been compelling. Why are clear chains of command a bridge too far, as some have suggested? That is a clear image, but it does not illuminate the argument. Why should we rely on a mishmash of budget and personnel controls to put a national intelligence director nominally in charge when we know that real control and accountability will only come with a clear chain of command to the director? We have all been saying that for months and so has the 9/11 Commission. Why are we talking about current provisions of law to show that these combat support agencies can't be separated from the Defense Department?

Let's not let arguments about current law confuse the issue. We are talking about putting a national intelligence director in charge. We are debating a bill that would change current law. If the Specter amendment requires, we can accommodate other necessary provisions.

Finally, no one believes that the NSA, NRO, NGA, and DIA would stop supporting the warfighter if this amendment is enacted. Really, does anybody? The answer to that is no. If I believed that, I would not support this amendment. Why would a national intelligence director turn off the intelligence support upon which our warfighters rely so much? I have never known a DCI to do such a thing. No national intelligence director would ever shortchange the warfighter. No President or Congress would ever permit that. In fact, the Specter amendment recognizes the unique position of the Department of Defense as an intelligence consumer—giving the Secretary of Defense the right to prepare annual performance evaluations for the Directors of the Central Intelligence Agency, the NRO, NSA, NGA, and DIA, and maintaining the Joint Chiefs biannual review of the combat support plans of the NRO, NSA, NGA, and DIA.

What the Specter amendment does not do is maintain the current confused chains of command for the national intelligence collectors within the Department of Defense. The Specter amendment recognizes that accountability and effective management are only possible with clear chains of

command. The blunt tool of budget control is not an effective mechanism for flexible midcourse corrections in intelligence collection that a national intelligence director must be able to make, without having to negotiate or consult for his or her priorities.

If the confused chains of command of the status quo are an effective mechanism for control, we should ask the Secretary of Defense if budget control would be sufficient for him to ''coordinate'' a war. If the Secretary of Defense only controlled the Army's budget, would that be sufficient command of the Third Infantry Division? If he only controlled the Navy's budget, could he order an aircraft carrier from one ocean to another and expect it to move? If the answers to those questions are no, then why should we settle for anything less than full direction, supervision, and control of national intelligence collection for the national intelligence director?

I support the Specter amendment. I know everybody on this floor is sincerely trying to resolve these problems as best they can. I commend the distinguished committee for the work it has done in bringing this bill to the floor and the two leaders on the floor. But I think we should support the Specter amendment. I urge all my colleagues to do the same.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the Chair and appreciate the words of my colleagues.

In spite of years of recognition that intelligence was in dire need of reform, the catalyst of this year's reform initiative was the tragedy of September 11, 2001. The intelligence failure of Iraq's WMD programs only underscores this point.

I applaud many of the provisions of the Collins-Lieberman bill. However, I stand in support of the Specter amendment as a means to provide absolutely essential powers to the national intelligence director. For those who may just happen to be listening for the first time, the national intelligence director is now known as the NID. But this NID must have powers to bring together fully and effectively our national collection efforts.

In spite of my respect and admiration for the efforts of my colleagues, I remind the Senate that now is the time for bold action. This deliberative body must be prepared to stare down very powerful executive branch bureaucracies—and a few of our own—that are instinctively protecting their turf. Three thousand dead Americans should be a message to all of us that we must make significant changes.

A witness before the Senate Intelligence Committee put it well. She said:

> History's lesson is to make the most of reform opportunities when they arise because they do not arise often and they do not last long. We have one of those rare windows of opportunity now. And if the past is any guide, there will not be another chance for a generation. These realities mean that reforms should be sweeping because they will be lasting. The choices we make will be with us for decades to come.

I fear we are not being as bold in the underlying bill as circumstances demand. We all agree that the 9/11 Commission published a great report outlining in detail the events of September 11, 2001.

We could not and we should not detract from their efforts. However, one fundamental concern I have in this is that it is now 3 years after 9/11, and we are only now taking action, largely based on the recommendation of a panel not specifically chartered to focus on the intelligence failures leading to 9/11.

I am concerned that a commission directed by law to investigate the ''facts and circumstances relating to the terrorist attacks of September 11, 2001,'' has become the only basis for intelligence reform.

Well, there is a lot of work that has been going on in this body and in the other body about intelligence reform that is not covered in the 9/11 report.

Just since the end of the Cold War, there have been many major studies of intelligence reform, staffed by intelligence professionals. They include the joint Senate/House inquiry into 9/11, the Aspin-Brown Commission, IC21 study, the House Permanent Select Committee on Intelligence study, the Scowcroft review, and many others.

As I listen to the debate on this Collins-Lieberman bill, I am concerned that the truly meritorious recommendations and thoughts from these other commissions have been largely disregarded. Rather, I seem to hear—behind most of the key provisions in the bill—the rationale that ''the 9/11 Commission said so.'' Well, we do respect and take seriously the work of the 9/11 Commission, but we must be sure that we consider the other recommendations of studies specifically examining the intelligence process. I happen to think that many of those are more accurately reflective of the needs of the intelligence community.

Recommendation No. 1, from the joint Senate/House inquiry into the 9/11 intelligence failure was:

> Congress should amend the National Security Act of 1947 to create and sufficiently staff a statutory director of national intelligence who shall be the President's principal advisor on intelligence and shall have the full range of management, budgetary, and personnel responsibilities needed to make the entire U.S. intelligence community operate as a coherent whole.

The House Permanent Select Committee on Intelligence's staff study entitled, ''IC21,'' or ''Intelligence Community in the 21st Century,'' stated:

> The [intelligence community] would benefit greatly from a more corporate approach to its basic functions. Central management should be strengthened, core competencies (collection, analysis, and operations) should be reinforced and infrastructure should be consolidated wherever possible.

The 9/11 Commission's Vice Chairman, Lee Hamilton, for whom I have a great deal of respect, admitted to our committee in open session that they really had not even considered more bold reform. He said the Commission simply looked at things they thought they could accomplish. I believe the word he may have used was ''pragmatic.'' They simply did not consider more bold reforms, so maybe we ought not to consider their recommendations as final. It is up to us. We have the ultimate responsibility of passing this bill. Are we going to pass what is pragmatic, what seems to be the least upsetting to the bureaucracies or do we want to be bold and pass something that will make the intelligence community work? Count me in the latter category.

Yesterday, my good friend, the chairman of the committee writing this bill, alluded to some of the concerns I have. When responding to concerns about DOD being shortchanged by the NID's budget authority, she reminded us all that ultimately the President determines the budget. That will always be the case. Let us not also forget that the bureaucracies of the OMB and many committees of the Senate and the House also determine the budget. There is simply too many ways to water down the limited real authority that budgetary powers provide. More real day-to-day authorities are needed, especially if we are to hold a NID accountable for our intelligence efforts. As bothersome as the OMB is in the effective operation of Government—I say that only half facetiously—does anybody think the OMB runs the agencies of Government? They mess them up sometimes. There are a lot of areas I can tell you where the OMB has shortchanged vitally important activities. But run them? I don't think so. Budgetary authority is not the same thing as running an agency.

The way I read the bill, it seems as though any agency or department that didn't want to chafe under a powerful NID has found a way out. This bill leaves the door open for several key agencies, such as the State Department's Bureau of Intelligence and Research, INR; major portions of the FBI'S intelligence operations capabilities; the Department of Energy's Office of Intelligence; the Treasury Department's Office of Terrorism and Financial Intelligence, and others, to avoid the authority of a NID. So under the Governmental Affairs bill, a NID who declares war on al-Qaida—as referenced by Chairman ROBERTS of the Intelligence Committee a few minutes ago—will have even fewer troops to try to muster for this war, and little additional power that doesn't already exist today.

Let us recall that every knowledgeable voice on this issue is adamant: If you create a NID, he must be given power; otherwise, you create an intelligence czar and have made the problem worse. We have created a drug czar

and all kinds of czars, but they are not able to get the job done. As I continue to listen to DOD proponents, I am concerned that insufficient authorities are granted in the GAC bill, and they will be even further eroded, putting us one step closer to creating an intelligence czar with a great title and very little authority.

One of the recurring themes we always hear on the Intelligence Committee—on which I have had the pleasure to serve for only a year and three-quarters—is the reluctance of the agencies to share information with those who need to know. We know all too well there are many legitimate reasons not to share intelligence. We understand the need to protect sources and methods. We also understand that decisions not to disseminate some information may rightly involve protecting U.S. civil liberties. But parochialism, poor information architectures, and bureaucratic confusion should not be included amongst the reasons to squirrel away intelligence that we need by cognizant analysts throughout the community.

Three years after 9/11, and after dozens of hearings in which intelligence community management describes ''seamless'' intelligence sharing, we end up prying a little deeper to find out that it simply is not the case. While there have been improvements in some areas of intelligence sharing, they are often done under duress. As soon as the ''heat'' is off, you can bet that those parochial agencies will return to intelligence hoarding, not intelligence sharing. We must empower a NID to force appropriate intelligence sharing even in times when the congressional and executive spotlights are not on the issue.

I believe it has already been referred to on the Senate floor that at a recent hearing, the intelligence committee was truly dumbfounded as we listened to different agencies talk about a specific threat. Two agencies had a very different view of the severity of that threat when they started talking to each other at the witness table.

One of the agencies said: We have information that you don't have.

They were supposed to be working on the same threat. I asked a dumb question. I said: Why didn't you share it? They said it was sensitive information. Well, wait a minute. They were trying to give us a recommendation on a very serious matter, and the two agencies that were supposed to work together on this serious matter didn't want to share information with each other? I used to think when we worked on a need-to-know basis, if you have a sensitive collection system, you need to keep the name and identity very closely guarded. They were happy to tell us in the Intelligence Committee the reason they were keeping a particular source on another matter in confidence was because it was so sensitive. I will tell you one thing. If you have ever seen a sieve, it looks too much like the Intelligence Committee. We don't need to know the names or even the identifying features of an intelligence source in the committee. But if that is the essential element on which the analysts are going to determine whether this particular source is reliable, they ought to be sharing it on a very limited basis with all of the people involved in the task.

I understand that the information that was gathered by the Iraqi Survey Group after the war was very effective because they brought in collectors and analysts from different agencies who were working on the same problem and they put their heads together. What a wonderful thing. They must have had a table. They laid out the information on the table. They did what informally is called ''red teaming'' and they came up with better estimates.

The NID, the national intelligence director, needs to be able to take care of this himself, not to negotiate with the positions with other departments or go to the White House and Congress and say, will you get these guys together to talk?

This reluctance to share information appears to be so deeply ingrained that only direct orders to do so are adequate, not budgetary influences.

Let me be candid. As a member of the Intelligence Committee I am convinced that the worst offenders of not sharing intelligence are the CIA and the NSA, but there are others. Arm twisting that is largely limited to budgetary problems and powers will not solve the problem. We know getting the information shared among agencies, red teaming, as they say, is very important. In other words, if the players are at the table, they are going to get their best result when everybody turns over their cards and shows what they are holding, but right now some of the agencies are going to the table and keeping their cards face down, saying, boy, we know some stuff, it is in our hand, and we are not going to show you.

Budget authority alone is not going to get them to turn over the cards. Red teaming cannot be successful unless the cards are turned over and the red team knows what cards the CIA is holding, for example.

Full deference should be given to civil liberties concerns, and I hope that the Collins-Lieberman provisions for improving information architectures within the intelligence community will allow for getting the right intelligence to the right people, and in the case of very sensitive intelligence or any other critical, possibly damaging intelligence, only to the right people. But it has to be gotten to the people who need it.

Some have argued that the Specter amendment will lead to too much centralized control, therefore group-think. Not likely. Let's be clear. The Specter amendment deals with national collection, entities of the NSA, NGA, portions of the DIA and CIA. This will help streamline collection and reduce inefficiencies. It will allow the NID truly to harness the collection capabilities against our Nation's primary threat: The terrorists.

This leaves capabilities organic to the DOD currently funded under the Joint Military Intelligence Program, JMIP, and the Tactical Intelligence and Related Activities, somewhat glamorously acronymed the TIARA, still firmly under DOD control, as they should be. DOD will not be shortchanged and our Nation will have a more effective collection effort.

Today, the DOD is the most voracious consumer of intelligence. That is why they have the lion's share of the intelligence budget and significant organic collection assets whose sole function is support to the warfighter. However, national collectors must be unified in an effort to meet national needs which include those of the key intelligence entities in our war or terror: DOD, CIA, FBI, and the Department of Homeland Security, where the appetite for terrorism-related intelligence collection will only continue to grow.

I heard debate yesterday on the combat support agencies. Nobody denies that these agencies, the NRO, the NSA, and the NGA, are still combat support agencies, but as their name suggests, they also serve national interests. When we examine this in a larger light, we realize that having these agencies report directly to the Secretary of Defense solely made sense during the Cold War. However, as I mentioned earlier in this statement, the decisions we make today will be with us for decades to come.

The world has changed. The war on terror is not going to go away soon. While DOD is still a voracious consumer of intelligence, it is now a partner with the CIA, FBI, the Department of Homeland Security, and others in the war on terrorism. As other agencies continue to join CIA and DOD as coequals, it makes sense to have a national intelligence director who can see to the needs of all of these agencies and best harness all national collection capabilities to meet our national needs.

Again, we need to look decades down the road. We must recognize the need to empower a NID to meet these needs. I believe Chairman ROBERTS has already mentioned this several times, but let me state that the Directors of the National Security Agency and the National Geospatial-Intelligence Agency stated that having their agencies transferred to the control of a NID would not degrade their level of support to the military. Considering their testimony, as well as other commentary and the maintenance of DOD's military intelligence collections, the Pentagon need not fear the Specter amendment in any way.

It so happens I have a personal interest in this. As many of my colleagues know, my son is a young ground intelligence second lieutenant in the Marine Corps. I certainly do not want to

do anything that would interfere with his or his comrades' ability to get the information, the intelligence, the estimates, and the tactical intelligence they need to leave them hanging out without adequate cover. My colleagues can bet I would never do that.

I conclude by giving some thoughts from Dr. David Kay, the interim head of the Iraqi Survey Group, who testified before us many times and who was a real bright light in gathering intelligence. He is certainly not afraid to speak the truth in spite of whom he may offend. He told the Intelligence Committee:

> I am concerned, however, that simply creating a national intelligence director, even one that seems to have—and we think has—real powers . . . and we think budget and personnel authority is real power, we will not end up addressing the real problems . . .

Well, budget and personnel authority is some power but, as Dr. Kay indicated, it is not real power.

Dr. Kay further stated:

> I think you need to place the national intelligence director in charge, charged by you, Congress, with ensuring that all of the collection assets of this government work to support the national intelligence strategies and priorities.

Dr. Kay recognizes the need for a unified collection effort. We cannot afford to waste or misuse scarce collection assets. I think Dr. Kay also knows the frustration of fragmented control quite well. He was a DCI special adviser on Iraq and then, as I have noted, headed the intelligence efforts of the Iraq Survey Group, or ISG. He wrestled with authorities quite frequently. In large part, this was due to the limited powers of the DCI vis-a-vis other department heads, but when they made progress is when they coordinated and cooperated and the agencies worked together.

I urge my colleagues to support the Specter amendment. This is a key fix to give the NID some of the powers he or she will need if we are to ask the NID to be accountable for our national intelligence effort.

I yield the floor.

Mr. SHELBY. Mr. President, I rise to express my strong support for the Specter amendment currently pending before the Senate. However, I want to first take a moment to commend Senator COLLINS and Senator LIEBERMAN for their hard work and dedication to this important legislation. These are difficult issues and I believe that we all strive to reach the same goal—a safer, more secure America. The question before us now is how we best accomplish that goal.

I have long advocated for significant overhaul of the intelligence community in order to change the way it operates and specifically who controls the community and its assets. For too long, the intelligence community has lacked a strong leader with the ability to command and control the multitude of agencies that operate as independent parts without a focused direction.

I do not believe that Congress's action in 1947 intended to create the intelligence framework we currently have—a framework where no one has the ability to direct the actions of the community as a whole. I believe that Congress intended to create a Director of Central Intelligence with clear lines of authority and accountability within the intelligence community—one that is much like what we are attempting to create now with a national intelligence director.

The underlying bill does take some important steps toward the creation of a national intelligence director with the power and authority to chart a path for real reform within the intelligence community. Unfortunately, I believe that the underlying bill fails to provide the national intelligence director with all of the authorities required to provide the unity of leadership and accountability necessary for real reform.

I believe that clear lines of authority between the national intelligence director and our national intelligence collection agencies, extending beyond budgetary control, are critical to our success in countering national security threats of the 21st century. The national intelligence director must have the ability to direct, supervise and control the elements of the intelligence community.

There must be no doubt in anyone's mind that the national intelligence director is in charge. Without the additional authorities that are provided in the Specter amendment, there will be doubt.

The Specter amendment seeks to eliminate any question about who is ultimately in charge of the intelligence community. With the additional authority included in this amendment, there will no longer be an opportunity for finger pointing and excuse making.

Ultimately, the national intelligence director will either be congratulated for the success of the intelligence community or held accountable for their failures.

I believe that budgetary authority is an important part of the overall structure of a strong national intelligence director. But beyond that, he or she must have day-to-day operational control of all elements of the intelligence community performing national intelligence collection missions, including the Central Intelligence Agency, the National Reconnaissance Office, the National Security Agency, and the National Geospatial-Intelligence Agency, and the humint parts of the Defense Intelligence Agency.

Giving the national intelligence director budget authority but not day-to-day operational control will leave the intelligence agencies serving two masters and will inevitably maintain the status quo that has continuously failed us. Fundamental change is a must if we are going to work to prevent any further attacks.

I believe this amendment serves as a perfect complement to the actions taken in the National Intelligence Reform bill. This amendment simply enhances the authority of the national intelligence director.

I continue to believe that change for the sake of change will do nothing to accomplish our goal. A powerful national intelligence director is a vital part of our future fight against the terrorists that have dedicated their lives for the purpose of destroying America and its citizens. If we truly want to create a strong national intelligence director who has the authorities necessary to command and control our intelligence community and its assets, we must pass the Specter amendment.

I urge my colleagues to take advantage of this opportunity and support this amendment to ensure that true change is possible through the enabling of a powerful national intelligence director.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I oppose the Specter amendment and I will take a few minutes to explain my opposition. I think all of us are in favor of bold moves, of having a powerful new national intelligence director and having analysis that is independent and objective, much more so than has been the case in the last few decades and recently, to have that analysis done by a group which can bring together all of the information and come up with a coordinated position which is independent and objective, and the NCTC is able to do that.

This amendment would place the National Security Agency and the National Geospatial-Intelligence Agency, the NSA and the NGA, and the National Reconnaissance Office, the NRO, under the direction, supervision, and control of the national intelligence director and would do the same for the Director of the Defense Intelligence Agency regarding the national intelligence collection mission of the DIA.

In doing so, this amendment would have the national intelligence director basically be substituted for the Secretary of Defense in the military chain of command. There are thousands of uniformed members of our military who are currently in those agencies.

To break the chain of command and to say for the first time we are going to take thousands of uniformed personnel and put them under the supervision, direction, and control of a civilian agency head would create havoc inside of the military, would create a very unfortunate precedent, and would in the process be creating a new agency, a new agency that would require a supervisory staff similar to the supervisory staff that now exists in the Office of the Secretary of Defense for the agencies which would be transferred.

Those are the two major reasons I have problems. There is a third I want to talk about in a moment. But the two major reasons I have are that it would require the creation of a whole new supervisory bureaucracy for these

agencies in the national intelligence director's office. You cannot supervise these agencies, from the national intelligence director's perspective, without having people to engage in that supervision the way the Office of the Secretary of Defense now supervises and overseas these agencies. So we would be creating a new bureaucracy.

We should be breaking down walls between bureaucracies, not building up a new bureaucracy.

When the 9/11 Commission reached its conclusion and when they testified in front of us, they told us they decided not to create a department. They thought that would be overcentralization. They were bold. I don't think anybody can successfully argue here that the 9/11 Commission was not bold. They were bold. They made some major shifts, in terms of budget execution authority and in terms of personnel authority. In shifting those authorities over the agencies which we are debating here to the NID, they made a major decision relative to power, relative to control. But they decided they would not go toward a more centralized new agency; that they would rather coordinate with the budgeting personnel power in a new powerful NID but not create a new bureaucracy in the process.

There are many reasons why their decision—and I focus on the 9/11 Commission recommendation at our hearing—was a wise one. Their approach was not just bold in terms of recommending the transfer of budget and personnel authority, but it was wise in not creating a new bureaucracy in the process.

The chain of command is such that we now do not put large numbers of our uniformed military people outside of the chain of command and under the command and control of civilian supervisors. We do not do that. There is a purpose for having a chain of command from your commander inside the military, which is clear, which you must abide by. That is what you sign up for when you join the military and that is what is so essential to military effectiveness, that the chain of command be solid and that it not be broken in the way this amendment would break a chain of command.

These agencies we are talking about today are integral parts of the Defense Department. They are recognized for the support they provide to combat operations. Indeed, when the Congress adopted the Goldwater-Nichols Reorganization Act of 1986, we created the concept of ''command support agencies.'' Pursuant to that legislation, the DIA and the National Geospatial-Intelligence Agency have been designated by law as command support agencies. We hear that designation will continue. But it is pretty hard to square that with what this amendment proposes, which is that they would not be inside the military chain of command. They would still have the label but not the reality. They would be called combat support agencies, but they would not be in the chain of command of the Department of Defense.

The combat support functions of the DIA and the NSA and the NGA have been recognized in law. The Chairman of the Joint Chiefs of Staff is required by law to evaluate periodically, and not less often than every 2 years, the responsiveness and readiness of these agencies to support operating forces in the event of war or threats to national security. The pending amendment would preserve the form of the periodic review. That periodic review by the JCS Chairman of the combat support agencies of the intelligence community would be retained, but it would be a report which is in form only because it is the Secretary of Defense who is charged with being responsible for the combat capabilities of the Armed Forces.

The NID, the national intelligence director, does not have the responsibility that the Secretary of Defense has for the combat capabilities of our Armed Forces. So to simply say, well, there will still be a periodic review by the Chairman of the Joint Chiefs of the combat support agencies of this community, but then to say that report goes to the NID, the national intelligence director, instead of going to the person who we make responsible for the combat abilities of the Armed Forces, is a hollow gesture. It says that one thing will continue to be true, we will still call them a combat support agency, but when it comes to the real world of where that review goes, it will go to the person, the national intelligence director, who is not the person responsible for the combat capabilities of the Armed Forces. So we have a break in the chain of command, which is unprecedented, which creates all kinds of problems inside the military in terms of military effectiveness, which weakens not only the power of the Secretary of Defense but which undermines his responsibility to make sure we have full combat capability inside of the Department of Defense.

For these reasons, that we should not be creating a new bureaucracy, we should be breaking down walls of old bureaucracies; that this amendment would require new supervisory staff over these entities if they are going to be transferred to the national intelligence director in order to help him perform the supervision of these agencies, which is now performed by the Office of the Secretary of Defense; and because this would represent an unprecedented break in the chain of command that now exists, and which is so critical to our military effectiveness, I believe the 9/11 Commission reached the right balance. Their balance was one which was conscious and conscientious; it was bold but it was wise.

I have one other thought which I want to share and then I will yield. These agencies now do analysis on their own. We got some very important analysis before the Iraq war, in fact, from the Defense Intelligence Agency, analysis which was different from the analysis produced by the Central Intelligence Agency. If we are serious about wanting alternative views relative to intelligence; if we are serious, as the 9/11 Commission urges us to be and as I hope we are, about ending the politicization and misuse of intelligence to support policy positions; if we are serious about promoting objectivity and independence of analysis, we would want these agencies not to be shifted because their analysis should not be under the control of the national intelligence director. Their analysis should be independent and objective. For these agencies to be shifted outside of where they now are, separate from the national intelligence director, and put underneath his umbrella, is going to make us weaker when it comes to the most critically important reform we should be producing, which is to have objective, independent analysis of intelligence which can be provided to the policymakers and not shaped to support policies of the policymakers.

To remove these agencies that now are in a position to provide alternative analysis and to put them under the aegis of the national intelligence director will make that many fewer sources of independent, objective intelligence that will be available to our policymakers. That is a real loss.

There are other provisions in this bill and other provisions I hope will be added during the amendment process to promote the objectivity and independence of intelligence analysis.

We have had too much abuse in this area. We have had too much shaping and exaggeration, going back at least as far as the Gulf of Tonkin Resolution, when intelligence was misused, to the Iran-Contra years when intelligence was misused, shaped, and exaggerated in order to support particular policy positions, and the same thing happened before the Iraq war. We have to find ways to break down any kind of group-think, any kind of a monolithic approach to intelligence, and we have to make it more difficult for a national intelligence director to be doing the shaping, to be in total control of the analysis of intelligence.

That is why having an NCTC office separate from NID is so important. Having an NCTC director who is subject to the confirmation of the Senate is so important. That is why some of the other provisions which we were able to add in committee to promote the independence and objectivity of the intelligence analysis are so important.

We should not be reducing the numbers of sources of independent analysis of intelligence, as this amendment would do, by putting these agencies that now produce intelligence analysis under the aegis, supervision, and operational control of the national intelligence director. It is too much concentration of that critically important analysis power under one person. We

should be wary of doing that. We should be moving in a very different direction.

We should be finding ways to plot independence and objectivity of intelligence so we don't have a repeat of the fiasco we just saw where we had 500 pages, according to a bipartisan Intelligence Committee report, of instances where intelligence was shaped, stretched, and exaggerated, and they all moved in one direction. All those intelligence changes and all the shaping was moved in the direction of supporting a particular policy of the administration. That is a great danger.

This amendment, because it concentrates or would concentrate agencies that are currently involved in intelligence analysis under the NID, increases the danger rather than reduces the danger of having intelligence which is shaped to support policy rather than provide support for objective information and objective estimates to the policymakers.

I oppose this amendment. I hope it will be defeated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator DEWINE be added as cosponsor of the pending amendment.

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

Mr. SPECTER. Mr. President, I am advised that Senator SHELBY would like to speak to the bill. He is now chairing the Banking Committee, which is hearing from the 9/11 Commission. I have talked to the manager of the bill. I ask unanimous consent that the pending amendment be set aside so we might start utilizing the time of the floor on another amendment which I intend to offer.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3761

Mr. SPECTER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mrs. FEINSTEIN, proposes an amendment numbered 3761.

Mr. SPECTER. 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 specify a term of service for the National Intelligence Director)

On page 10, between lines 16 and 17, insert the following:

(d) TERM OF OFFICE; REMOVAL.—(1) The term of service of the National Intelligence Director shall be ten years.

(2) An individual may not serve more than one term of service as National Intelligence Director.

(3) Paragraphs (1) and (2) shall apply with respect to any individual appointed as National Intelligence Director after the date of the enactment of this Act.

(4) If the individual serving as Director of Central Intelligence on the date of the enactment of this Act is the first person appointed as National Intelligence Director under this section, the date of appointment of such individual as National Intelligence Director shall be deemed to be the date of the commencement of the term of service of such individual as National Intelligence Director.

On page 10, line 17, strike ''(d)'' and insert ''(e)''.

On page 11, line 3, strike ''(e)'' and insert ''(f)''.

On page 11, line 5, strike ''subsection (c)'' and insert ''subsection (e)''.

Mr. SPECTER. Mr. President, this amendment would give the national intelligence director a 10-year term, the same kind of a term the Director of the Federal Bureau of Investigation now has. The debate on this bill generally has stressed—and appropriately so—the need for a strong, independent national intelligence director.

The interest of having policy determinations guide our new intelligence estimates has been stressed repeatedly. There is a very broad, historical precedent of the desirability of taking steps to guarantee to the maximum extent possible that the intelligence estimates will be independent and will not be in line to try to promote some specific policy objective.

The 10-year term, as I say, is modeled after the term of the Director of the Federal Bureau of Investigation.

When I offered this amendment in committee, I had a provision for removal only for cause. After considering the matter, I have stricken that provision because I believe it is unnecessary. I believe by analogy to the FBI Director, the inference is plain that the removal can be only for cause.

I will refer very briefly to comments by Senator BYRD on July 26 of 1976 when the FBI Director was given the 10-year term. Senator BYRD said, ''The setting of a 10-year term of office by Congress would as a practical matter preclude or at least inhibit a President from arbitrarily dismissing an FBI director for political reasons.''

Senator BYRD goes on to note that obviously a successor would have to be confirmed by the Senate. But there could not be the removal of the FBI Director for political reasons. The implication is pretty clear that removal can only be for cause.

The additional views of Senator LEVIN on the national intelligence reform bill which he submitted on September 27 contain a very good summary of authorities on this proposition generally. I am going to cite a number of the authorities which Senator LEVIN referred to in those additional views. I complimented Senator LEVIN a few moments ago on the floor of the Senate for the quality of his views which he submitted and said I was going to quote him. He said it was unnecessary, but I believe in the interest of full disclosure that it is good to give Senator LEVIN that credit.

The references to what happened with the Gulf of Tonkin Resolution where that intelligence reports were used—and inappropriately used—for representations about intelligence to support the administration's position are well known historically. The Secretary of Defense at that time, McNamara, cited classified information to support the passage of the Gulf of Tonkin Resolution which President Lyndon Johnson wanted. Those citations were made to support the conclusion that the Gulf of Tonkin Resolution ought to be adopted.

The analyst for the National Security Archive, John Prados, said that Secretary McNamara used the intercepts as a ''trump card'' during the 1964 hearings to ''silence doubters.'' According to the views of Mr. Prados, Secretary McNamara asserted that ''intelligence reports from a highly classified and unimpeachable source reported that North Vietnam was making preparations to attack our destroyers, and ''the attack was underway.'' Finally, ''The North Vietnamese lost two ships in the engagement.'' Those materials turned out to be unsubstantiated, as a matter of fact.

It was notorious that Central Intelligence Director William Casey misrepresented intelligence during the Iran-Contra period. The bipartisan Iran-Contra report specified that Director Casey ''misrepresented or selectively used available intelligence to support the policy that he was promoting.''

In former Director of the Central Intelligence Agency, Robert Gates' memoirs entitled ''From the Shadows: The Ultimate Insider's Story of Five Presidents and How They Won the Cold War,'' former CIA Director Gates said or referred to Bill Casey as a DCI who had his own foreign policy agenda and had the estimating program as a powerful instrument in forcing the pace of the policy area.

Former Secretary of State George Shultz, in his memoir ''Turmoil and Triumph, My Years as Secretary of State,'' published in 1993, referred to former Director of the CIA Bill Casey, who had very strong policy positions and was so ideological that they inevitably colored his selection and assessment of materials, once again, using the position of intelligence director to have a determination of policy.

Former Director of the CIA and also former Director of the FBI William Webster testified before the Senate Governmental Affairs Committee on August 16 of this year and said:

With respect to relations with the President, while the leader of the intelligence community must be the principal adviser on intelligence to the President, he must work hard, very hard, to avoid either the reality or the perception that intelligence is being framed or that is read, spun, to support a foreign policy of the administration.

The 10-year term, so it does not coincide with the term of the President, is designed to give the national intelligence director the reality of independence and certainly to avoid the

perception that the intelligence is being spun for the interests of the chief executive.

Two days after Judge Webster testified, the Senate Select Committee on Intelligence heard from former chief weapons inspector David Kay, who said:

> Intelligence must serve the Nation and speak truth to power even if in some cases elected leaders choose, as is their right, to disagree with the intelligence with which they are presented. This means that intelligence should not be part of the political apparatus or process.

A 10-year term would seek to ensure, guarantee, that the national intelligence director was independent, and was not a part of the political process or apparatus.

Mr. Kay went on to say:

> This is, I think, if you move forward on a national intelligence director legislation, is going to be the hardest thing to communicate, that the national intelligence director must serve the national security objectives of the Nation, and he serves whoever is the President best by giving him unvarnished truth, which will often not be welcome.

Again, a 10-year term would guarantee that kind of independence to the national intelligence director.

On the same day, former GEN Charles Boyd told the Intelligence Committee of the enormous pressures that political appointees are under to ''give the President what he wants rather than what he doesn't want but needs,'' and the upshot of what General Boyd had to say was that rather than seeking a special and close relationship to the President, General Boyd articulates a standard for an intelligence director ''ought to be his distance from the President, his independence of the President, his professionalism and be respected as such.''

Again, a 10-year term would promote that.

A few days ago, on September 21, the very distinguished Center for Strategic and International Studies, a group consisting of former Senators and former Secretaries of Defense, former Directors of the Central Intelligence Agency, and two former Secretaries of State, had this to say:

> When intelligence and policy are too closely tied the demands of policymakers can distort intelligence and intelligence analysis, can hijack the policy development process. It is crucial to ensuring the separation that the intelligence community leader have no policy role. A single individual with a last word on intelligence and some policy as well could be a dangerously powerful actor in the national security arena using intelligence to advocate for particular policy positions, budget requests, or weapon systems that often lack the knowledge to challenge.

Here, again, the citation of authorities supports the concept that the national intelligence director ought to be objective, ought not to be seeking to promote any special policy of the chief executive and all of that would be enhanced by the 10-year term.

The amendment which I offer, I do so on behalf of the Senator from California, Senator FEINSTEIN, and myself.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I certainly understand the intent of the Senator from Pennsylvania in offering this amendment. Indeed, he offered it during the markup of the Governmental Affairs Committee. It was debated at length.

Initially, in considering this issue, I, too, was inclined to believe that the new national intelligence director should have some sort of term of office. However, the testimony we heard through our eight hearings changed my mind in this regard.

Under our legislation, S. 2845, the NID serves as the principal adviser to the President. The individual not only manages the intelligence community and heads up the new national intelligence authority, but serves as the principal adviser to the President. I am stressing that role because I believe that is key to why the director, in fact, should not have a fixed term. It is essential that the NID enjoy the full confidence and trust of the President of the United States. That was a point made by the 9/11 Commission chairman, Tom Kean, at our very first hearing on July 30. But we heard that repeated time and again by our witnesses. All of the former DCIs who came before the committee, representing a variety of times and administrations, were unanimous in their view that the new NID should serve at the pleasure of the President.

The then Acting Director of the CIA John McLaughlin made the point at our September 8 hearing that for the NID to successfully clarify our assignment of serving as the principal adviser to the President, he must enjoy the President's trust and confidence.

Consider a situation where the Presidency changes parties during that 10-year-period. It would be very awkward for a new President of a different party to inherit the national intelligence director from the previous administration. Their world views and philosophy may have nothing in common. Yet the President has to have a close and trusting relationship with the national intelligence director. The President should be able to choose his or her own person for that critical post.

Proponents of having a 10-year term have frequently compared this proposal to the 10-year term of the Director of the FBI. I would note that I asked Director Mueller whether he thought the new NID should have a 10-year term similar to his. He said he did not think a 10-year term or any fixed term was appropriate for the national intelligence director. He said the role of the FBI Director is very different from the role of the national intelligence director.

Over and over again during our hearings, Senator LIEBERMAN and I raised this question with the witnesses because we, too, were trying to reach the right determination. Over and over again, the advice was the same, whether it was the 9/11 Commission, the Acting Director of the CIA, the former Directors of the CIA, or Director Mueller of the FBI. Over and over again, they advised against setting a term.

So we need to create a position where the individual will enjoy the full confidence and trust of the President of the United States. That is the only way that individual can effectively carry out the role he is assigned in this legislation to serve as the President's principal intelligence adviser.

For these reasons, I urge my colleagues to oppose the amendment of the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I also rise to oppose this amendment by the Senator from Pennsylvania. This is, as Senator COLLINS has indicated, a matter we discussed in what I thought was a very thoughtful discussion in our committee deliberation on a similar amendment.

There are good arguments on both sides. The objective here is to balance the independence we want our national intelligence director to have with the importance of having a trusting relationship with the President of the United States. In the end, I concluded it would be wrong to give a fixed term to the national intelligence director for the reason to which I just heard Senator COLLINS refer.

Remember, we have given the national intelligence director two main responsibilities. One is to administer the intelligence community. The other is to be the principal intelligence adviser to the President of the United States. In fact, one could argue, although the national intelligence director as administrator has many customers, if you will, for intelligence, the No. 1 customer is the President of the United States as President and certainly as Commander in Chief. So that is a relationship that must be a trusting relationship.

The danger is that an incoming President will be given someone in whom he does not have that kind of confidence. Unfortunately, history—recent history—gives us an example of that, without attributing blame. President Clinton and then-Director of the FBI, Mr. Freeh, had a relationship that was not mutually confident, and, therefore, he had somebody in that critical position who had very little contact with the President of the United States. He was Director of the FBI, not the principal personal intelligence adviser in the sense of giving advice personally to the President of the United States.

The concern about the independence of the national intelligence adviser is an important one. I feel very strongly that in this bill Senator COLLINS and I offer, and our committee offers to the Senate, we have done a lot to protect the independence of the national intelligence director.

For instance, contrary to the original proposal of the 9/11 Commission, which proposed that this office of the national intelligence director be in the White House, we said no, that may raise questions and in fact problems with regard to the independence of the NID if he or she is just down the hall from the President. That ought to be out of the Executive Office of the President and established as an independent agency.

We went well beyond that in a title particularly that was added in our committee, most of the work of which was done by Senator LEVIN, which is all about the independence of the office, the objectivity of the intelligence that the adviser, the director gives to the President, to the country, to the agencies he serves, independence even to the extent that we say the national intelligence director should be like the Chairman of the Federal Reserve Board in this sense: that he does not need administration approval to testify before Congress, does not need his testimony cleared, if you will, by the OMB.

So there is a lot built in here that is meant to guarantee, as best a statute can, the independence of this office, without hamstringing—if that is the right phrase here—a President with a national intelligence director in whom he does not have trust or in whom he loses trust as time goes on.

But this is that critical a position. I would not want to give a national intelligence director a set term any more than I would want to give a Secretary of Defense, Secretary of State, Director of OMB, or National Security Adviser fixed terms. These are positions that must every day be filled by people who enjoy the confidence and trust of the President of the United States.

For that reason, I oppose the amendment and urge our colleagues to do so as well.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I think Senator LIEBERMAN has advanced an argument in support of my amendment. If I could have the attention of Senator LIEBERMAN, when I quote him, I want to quote him to his face. I want him to hear what I have to say.

I say to Senator LIEBERMAN, we agree more often than we disagree, although we are at odds on two of my amendments today.

But when the distinguished Senator from Connecticut cites the relationship between President Clinton and FBI Director Freeh, I think he is supporting my argument. He is supporting my argument about the need for independence. There was an investigation being conducted by the FBI on campaign finance irregularities, and the President—I would not call him a subject, but he was a part of those who were being looked into on the soft money issue.

Then, without unduly belaboring the point, on this floor we had the impeachment proceeding. Issues involved were obstruction of justice and perjury. So the kind of independence the Director of FBI had by virtue of a 10-year term, I think, served the Nation well.

Going back to the administration of President Nixon, without going into any detail, you had activities by the FBI Director which led to this 10-year term to insulate the Director from the appointing authority by the President.

When the chairwoman refers to a philosophy of having the national intelligence director, appointed by a preceding President, serving the President, I suggest this is not like a Cabinet officer, such as the Secretary of State or the Secretary of Defense, who is supposed to carry out the policy of the President, who is supposed to have the same philosophy. Here we have a national intelligence director who is supposed to tell the President what the objective facts are on intelligence. It is inevitable in human relations, if you know what somebody wants to hear, an inclination to tell somebody what that person wants to hear, especially if that person is the appointing power.

So on the question of confidence and trust, I think the American people would have more confidence and trust in a national intelligence director who is independent from the President.

When the talk and the argument is made about an adviser, here again, the national intelligence director is not an adviser like the Secretary of State or the Secretary of the Treasury or the Secretary of Health and Human Services, carrying out the President's policies and seeking to give him advice to carry out those policies. Here we want somebody who will be strong and independent and objective and tell it like it is, even if it is not what the President wants to hear, and even if it contradicts the policies which the President wants to carry out.

This bill does contain some elements stressing the independence of the national intelligence director such as not requiring permission to testify before Congress, putting affirmative obligations on the national intelligence director to keep the Congress informed as well as the chief executive informed.

I think this is an important addition, to have a strong, independent, objective national intelligence director.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, first let me say to Senator SPECTER that he is quite right, we do, much more often than not, agree on matters. Unfortunately this amendment is not one of them, notwithstanding the arguments he just made.

There is an interesting historical note we are familiar with that when the 10-year term for the FBI Director came into effect, I was not here, but I gather it was as a matter of reform as against the effective lifetime term that the former Director, Mr. Hoover, had. So that was in that reality.

Here is the circumstance I am worried about. We have done everything we can in this bill to create independence in the national intelligence director position and to set standards that say: You have to level with the President. The worst thing that can happen is if you feel you have to create a good personal relationship and satisfy policy desires. In fact, we have language in here that is quite remarkable that says the national director ''must provide intelligence to the President that is timely, objective, independent of political consideration, and based on all sources available to the intelligence community, information that has not been shaped to serve policy considerations, that comes from a variety of intelligence assessments and analytical views.''

I am quoting directly from our proposal.

We have set up the office of ombudsman, a very unusual office, and, thanks to a combination of Senator ROCKEFELLER and Senator SHELBY, created within it an analytical review unit which will do a kind of quality control on the work of the intelligence director, again to try to ensure that there is a real independence and objectivity and willingness to speak the truth.

The situation I would worry about, if we have a director for a fixed year term of 10 years, would be that the President simply loses confidence in that director for one reason or another. So on critically important questions such as we have seen in our time—do you send American troops into combat, what foreign policy do we adopt toward threatening nations such as Iran and North Korea—if you have a President lacking confidence or trust, and it could be in the competence of the individual or in his or her dispassion or objectivity, you leave the President either without adequate intelligence advice on matters of great national importance or you encourage the President to end-run the national intelligence director, go directly to the head of the CIA and other agencies. That is not a healthy situation.

Of course, it totally undercuts exactly what we are trying do to do, which is to create a national intelligence director who will oversee the total intelligence community. For those reasons, in this situation, I continue to oppose the Specter amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I ask unanimous consent that at 2 p.m. today, the Senate proceed to a vote in relation to the Specter amendment No. 3761, regarding a 10-year term, provided that no amendment be in order to the amendment prior to that vote. I also ask consent that following that vote, the Senate proceed to a vote in relation to the Specter amendment No. 3706 regarding the NID consolidation, again with no second degrees in order

to the amendment prior to the vote on the first degree. And finally, I ask that the order with respect to the statements of Senator HARKIN and Senator STEVENS begin following those two votes.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, could we change that request to 2:15 p.m. rather than 2 o'clock?

Ms. COLLINS. I would so modify the request.

Mr. REID. The other is in the form of a question. What could happen here is one person could get the floor and keep it until 2:15. We need some ability to make sure there is an equitable distribution of time during the next 2 hours. I am wondering if the chairmen have an idea how we can divide the time. I see a couple of Senators on the floor. Any one of them could get the floor and talk until 2:15.

Ms. COLLINS. I would say to the Senator that we would welcome people coming to the floor with their amendments. Generally, these amendments are not breaking down along party lines.

Mr. REID. We have two votes set at 2:15. My question, though, is, are we going to divide the time prior to that or just let things happen as they will? That is fine with us.

Mr. LIEBERMAN. Madam President, if I may answer the question, my hope is—and I believe it is the chairman's hope—that we will stay on the bill and people will come over and introduce more amendments, that we have more debate between now and 2:15.

Mr. REID. Is my friend saying the debate is basically completed on these two amendments?

Ms. COLLINS. Senator SHELBY and Senator DEWINE wish to speak.

Mr. REID. If the two managers don't have a concern, I don't either. What we would do is, if the statements are completed, there would be nothing wrong with people setting the amendments aside and offering other amendments.

Mr. LIEBERMAN. Absolutely.

Ms. COLLINS. I believe we are very near the end of the debate.

Mr. REID. I have no objection.

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

Ms. COLLINS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, I come to the floor to support the Specter amendment. I would first like to congratulate my colleague from Maine for the fine job she has done. This is a very difficult bill to put together. It has taken a lot of work. She and Senator LIEBERMAN are certainly to be congratulated.

I would call everyone's attention to the fact that the 9/11 Commission was not the first commission to point out the need for more power in the person who is in charge of our intelligence. Just about every commission that has looked at intelligence reform has come to this conclusion.

Beginning in 1947, the period right after World War II gave birth to the modern intelligence community. Ever since then, this has been a problem. There was a grand compromise that was made at that time and that compromise set us on this path. The situation, though, has gotten worse and worse as time has gone on. And as some of my colleagues have pointed out, we have reached the point where, when George Tenet knew and understood, as frankly few people in this country did, about the threat from Osama bin Laden and al-Qaida and declared war, he looked around and frankly did not have the troops. And the reason he did not have the troops was he did not control the budget. He did not have the power.

He had the responsibility, but he did not have the power. So we have a problem and everybody, I think, understands that. My concern all along has been that we would create this new position, supposedly over the entire intelligence community. Yet this new position would not have the authority. I think Senator COLLINS and Senator LIEBERMAN have given that person authority, but I don't think, frankly, they have gone far enough.

If you look at the language Senator SPECTER has included in his amendment, it is a significant improvement over the language of this bill. I ask my colleagues to read the language. If you are concerned about giving this person authority, the Specter language is much better. The worst thing we could do would be to create this new position and think we have given him or her authority and not have given them the authority.

I wonder if I may get the attention of my colleague from Maine at this time, if I may explore with the Senator part of this bill. Again, I thank my colleague for the great work she has done on this bill. I believe she has done a very good job. I am trying to understand the language. As I have told her privately and I have told her again publicly, I prefer the Specter language. But I would like to clarify a little bit what this new position, the NID position—whoever occupies it—what he or she would be able to do under the Senator's bill. If I may pose a couple of questions.

If we can start with the NGA and the whole issue of the satellites, this has been a problem in the past. We don't have to on the floor today go over the problem of the moving of satellites. I ask my colleague this. Let's say that the NID did, in fact, want to move a satellite positioned on country A, and wants to get intelligence from country Z. What ability does that person have to do that? Can you point to the specific language in the bill that would get this done very quickly?

Ms. COLLINS. Madam President, I will find the specific language to show the Senator from Ohio. I have the language. The NID would establish collection and analysis requirements for the Intelligence Community, determine collection and analysis priorities, manage and issue collection and analysis tasking, and resolve conflicts in the tasking abilities of the intelligence community. So the language is very clear that the NID would have enhanced authority to resolve the kinds of conflicts that sometimes do occur now on the allocation of satellite resources, for example.

Mr. DEWINE. So it is the Senator's feeling that—and everything is very time sensitive—in a matter of hours this person could make the decision and basically order this to be done?

Ms. COLLINS. The Senator is correct. Perhaps it will be of some comfort to the Senator from Ohio to know that the language in this regard was suggested to our committee by Senator ROBERTS and comes from his bill. There is very strong language regarding the issue the Senator has raised.

Mr. DEWINE. I appreciate that. If my colleague could answer this: In a real-world situation, when we are dealing with satellites—and we will not go into the countries on the floor—if a decision had to be made in a matter of hours, if we need this information and we need to move from here to there, could that be ordered? I am using the word ''ordered.'' I am not talking about consultation or prayer together. I am talking about ordering it. Can that be ordered? Can this person order this to be done, saying it will be done, I don't care what anybody else says?

Ms. COLLINS. As I indicated to the Senator from Ohio—and I thought I was very clear in answering his question—it says the NID can issue directions in the collection and analysis tasking. I think the language is very clear that the answer is yes.

Mr. DEWINE. I appreciate what the language is, but I want to know, for the history we are establishing today, if my colleague believes that would include the term ''order.'' In other words, a direction that this will be done.

Ms. COLLINS. The term of art is the issue. That is the correct legal language to use. It is adopted from Senator ROBERTS' bill. My answer is yes.

Mr. DEWINE. I appreciate that.

Mr. LIEBERMAN. If the chairman will yield, these are very important questions the Senator from Ohio is raising. I want to assure him, first, that we raised the same questions during our committee's deliberation, including meetings with the heads of these national intelligence agencies that are within the Department of Defense. The Senator from Ohio is undoubtedly aware of the reality, which is that the current Director of Central Intelligence has the authority under law to convene a committee, an interagency committee, which every day apparently makes, as one witness said to us, thousands of decisions about where our signal intelligence and image intelligence assets go. In fact, one of the heads of an agency said he didn't remember a time when there was an inability to agree. There is also, clearly,

in the end, both in current law, as I understand it, and in the proposal we are making, if the rare situation occurs, you have to have somebody in power to make that decision. Now it is the CIA. Under our proposal, it would be the national intelligence director.

Mr. DEWINE. I appreciate the response. I was just saying to my colleague that my understanding of the reading of recent history has been that the power has not been adequate, with all due respect, and that the history has indicated there have been times when it has not been satisfactory, the results have not been where they should have been, which would indicate to me that the status quo is not acceptable. That is why I am asking whether the new language—I am trying to understand whether the new language is a significant improvement over the status quo. We are on the floor under the understanding that the status quo is not acceptable. I congratulate my colleagues for trying to improve the status quo. I know they are working to do that. That is why I asked that question.

Let me move on to another question.

Mr. LIEBERMAN. If the Senator will yield, if I may respond. I want to refer the Senator to page 14 of our bill in section 4, enumerating the powers of the national intelligence director. We say ''establish collection and analysis requirements for the intelligence community to determine collection and analysis priorities, issue and manage collection analysis tasking, and resolve conflicts in the tasking of elements of the intelligence community within the national intelligence program, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President.''

So this is language that completely mirrors existing statute for the Director of Central Intelligence. From testimony we heard, it is fortunately working very well that the conflicts, by the testimony of at least one head of one of the agencies, just do not occur; they work it out.

Mr. DEWINE. I say to my colleague that there are Members besides myself who can privately tell the Senator that there is a history that would indicate this does not work, that the status quo is not acceptable.

If what the Senator is telling me today is this is not really much change from the status quo, then I say to my colleague that we have a major problem.

I reference the language in the old law. I think my colleague may be right, and let me read the old law, which is the status quo today, and this is the power that the head of the intelligence community has today: establish the requirements and priorities to govern the collection of national intelligence by elements of the intelligence community; next, approve collection requirements; determine collection priorities and resolve conflicts in collection priorities levied on national collection assets, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President.

Just on its face, one would think that resolving these conflicts is already given to the DCI today, and that is why, frankly, I prefer the language of the Specter amendment which talks about the director overseeing the execution of the national intelligence program and to supervise, direct, and control the operations, which to me is the key language.

I yield to my colleague.

Ms. COLLINS. If the Senator would yield on that point, I do not want the Senator to mistakenly believe there are no changes in our bill with regard to current law. There is a very critical change.

Mr. DEWINE. If I could reclaim my time, the problem is the colleague of the Senator just told me there was not much of a change at all, and this is the problem with the language: One of the Senators saying there is a change and the other saying there is not much change. That is ambiguous, which is the problem, with all due respect to both of my colleagues, who are great friends. It is the language; it is not the Senators.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Perhaps it was my language that was confusing. I do not think the statutory language is.

The fact is, there is an addition of authority to the NID—there is no question about that—that the DCI does not have, and that is to issue and manage collection and analysis tasking.

What I was trying to say earlier, and I want to distinguish this, is the current law enables the DCI to convene the agency representatives, which they do every day, to resolve and decide where our national assets go, and then to resolve a conflict, as described in the language that I read from, which is what the current DCI has.

We have added, very importantly, and the Senator is right, the ability of the national intelligence director additionally to issue and manage collection and analysis tasking.

Mr. DEWINE. Reclaiming my time, so there is a change?

Ms. COLLINS. If the Senator will yield?

Mr. DEWINE. I will yield.

Ms. COLLINS. There is a very significant change, as I said to the Senator when he first raised this very important question. We recognize that the current Director of the CIA cannot issue tasking, cannot require the collection of information, under this section of the law. That is why we took language recommended by Senator ROBERTS, included it in the bill that I believe the Senator from Ohio may have cosponsored, which strengthened that authority by adding the language, ''issue and manage collection and analysis tasking.'' That is not in current law.

Mr. DEWINE. I appreciate that. I will have to go back and study this a little bit more.

I say to my colleague from Maine, I am happy with her answer when she responded to my question, can this be ordered, and her response, I believe, was yes. In other words, under her bill the NID could order the satellite to be moved. Because I think there is a problem.

The evidence is that in the past there have been some problems—I am not saying it is a problem that occurs all the time; it probably gets worked out most of the time—but there have been some problems and I think this needs to be a situation where there has been a problem or there might be a problem, be ordered, it has to be. So I certainly appreciate the response.

Let me ask another question, if I could. Moving to the area of signal intelligence, NSA, let us say the NID, under the Senator's bill, decided it was in our national interest to move the assets, move the resources, from listening to country X to terrorist Y organization. It is the same type of issue but again a real world issue. We are moving our assets; we have to make this decision very quickly in the real world. Could that person order that to be done?

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. If the Senator would yield for a response.

Mr. DEWINE. I yield.

Ms. COLLINS. My answer would be the same. The NID has the authority, has the power, to use the words of Senator from Ohio, to issue these orders, to task these agencies to carry out these directives.

I note that because the NID has the authority to manage the budgets of these agencies, he has a pretty big stick to use as enforcement.

Mr. DEWINE. If we can just talk back and forth a minute, let me interject and then the Senator can respond. I appreciate the progress the Senator has made in regard to the budget, and I think that is very important, but we have seen from our work on the Intelligence Committee, in looking at the intelligence community, a lot of these decisions that are being dealt with in the real world, are very time sensitive so when a budget change is made, we are talking about the next year or 2 years. Those are very important. They are changing directions. That is important. So I congratulate the Senator for making that change.

I am not concerned that the Senator has not done that in her bill. The Senator has done that. What I am concerned about is the execution. For example, I see in the Specter language: direct, oversee, execute the national intelligence program. Then he goes on to say: supervise, direct, and control the operations of the Central Intelligence Agency, the National Security Agency, et cetera.

So what I see in the Specter language that gives me a great deal of comfort is

''supervise, direct, control operations.'' To me, ''operations'' is the key language because now we are dealing with things that are very time sensitive.

What I worry about is not the long-term planning. I am convinced that the Senator has taken care of that and I congratulate her for that. What I worry about is real world examples that I have now, such as we are listening to one country, or we have assets over here that we need to move very quickly over here and target a terrorist organization, and say we have limited assets, can we do that. It is a hypothetical, but could that decision be made?

Ms. COLLINS. Madam President, I think the Senator from Ohio is raising excellent, important questions in this debate, but he is creating a misimpression of what the bill does with regard to budget authority.

This is not 1 year off or 2 years off. The NID has budget execution authority, not just putting the budget together for presentation and recommendation to the President; he executes the budget as the year goes by. He has strong authority to reprogram funds with congressional approval and notification, I hasten to say, and to transfer funds.

He has extensive authority to transfer personnel. He has the right under our bill to appoint the heads of these agencies with concurrence from the Secretary of Defense. That is a major change from current law.

If the Senator from Ohio is saying, as he is, that the NID should have direct line authority over the day-to-day operations of these combat support agencies, I disagree with the Senator from Ohio. I believe it does not make sense and, in fact, the NID could not handle running these agencies day to day. As Senator LEVIN indicated earlier, you would have to create an enormous supervisory staff within the office of the NID if you were going to transfer that authority from the Secretary of Defense. Clearly, the NID has the authority to direct the collection and analysis of information by the heads of these agencies, but I do not think he should be running them day to day.

Mr. DEWINE. If I could follow that up with a question, since the Senator raised it—and I think I know her answer, but I want to make sure I do understand her answer—talking about moving people around, according to the newspapers—this is what is published in the newspapers—there is a problem with a backlog apparently in listening to tapes of intercepts, at least that is what has been in the newspaper. Would the NID have the authority to move linguists from one agency to another to correct that problem? For example, if they had to, they could move them from the DIA to the CIA?

Ms. COLLINS. Absolutely.

Mr. DEWINE. This person, he or she, could pick up the phone and say: We are going to move 50 people, 100 people from over here to over there?

Ms. COLLINS. Absolutely.

Mr. DEWINE. This person does not have to call the SECDEF, does not have to do anything?

Ms. COLLINS. If the Senator will yield so I can respond to his question.

Mr. DEWINE. Surely.

Ms. COLLINS. There is very strong authority for the NID to transfer personnel who are working within the national intelligence program throughout the Federal Government and, indeed, I would envision the staffing of the National Counterterrorism Center would come from the NID taking linguists, analysts, operatives, collectors—all sorts of expertise—from the various intelligence agencies. And I know for a fact we need to give the NID that power because I visited with the head of the Terrorist Threat Integration Center who does not have that power and finds it very difficult to get the personnel resources he needs.

Mr. DEWINE. I appreciate the answer. So the Senator is saying this person can actually go in to DIA and say: I want those people. I want them. We are going to take them from DIA, and we are going to put them over here at CIA because I know best what the priorities need to be, and this is national security, and we are going to get it done.

Ms. COLLINS. Will the Senator yield for a response?

Mr. DEWINE. I certainly will.

Ms. COLLINS. The DIA employees who are part of the national intelligence program, yes, the answer is yes. DIA employees who are part of DOD's tactical intelligence programs, which are outside the scope of the authority of the NID, the answer in that case would be no. So it depends. But if they are part of the national intelligence program, which thousands of DIA employees are, the answer is yes.

Mr. DEWINE. I appreciate that. What I do not understand, though, is what I thought I heard earlier on about the Senator's distinction between tasking and control. That does sound like control to me. The Senator from Maine is saying they can task but they cannot control. Basically, that sounds like control to me if you can move someone.

Ms. COLLINS. I disagree with the Senator, so I do not know how to respond. I was saying the NID does not run the day-to-day, daily operations of the NSA, for example.

Mr. DEWINE. And I appreciate that. But in direct response to my question, the Senator is saying that person could, in fact, make that command decision, pick up the phone and say, ''We are moving 50 people,'' and that would be done, and that would be it. I want to make sure on the record because I think it is going to be very important 2 years from now or 18 months from now, and I would hate for the NID person to come before our committee and say: ''I can't move people around.''

Ms. COLLINS. If the Senator will yield for a response.

Mr. DEWINE. I am happy to yield.

Ms. COLLINS. Madam President, I direct the Senator from Ohio to the exact language in the bill. On page 27, starting on line 21:

> (C) in accordance with procedures to be developed by the National Intelligence Director, transfer personnel of the intelligence community funded through the National Intelligence Program from one element of the intelligence community to another element of the intelligence community;

I think that language is crystal clear that the NID could, indeed, take a linguist from the counterterrorism division of the FBI and transfer that individual to the National Counterterrorism Center, or an analyst from DIA who is funded through the national intelligence program and shift that individual to the counterterrorism center. I think it is very clear.

Mr. DEWINE. I thank my colleague from Maine for answering these questions. As always, she is very eloquent and has been very thoughtful in her questions and her work on the bill. I congratulate her for the good work she has done.

Madam President, I do appreciate my colleague's answers. I will be voting in favor of the Specter amendment simply because I think it is more clear. I think it adds something to this bill. I think it makes it more specific. It is clear. When we are done with our work, then it will be up to the great bureaucracy, the men and women who are out there to defend us—and I do not use ''bureaucracy'' in a derogatory way at all; these are great people doing wonderful work out there who are defending us—it will be up to them to make this work. We have an obligation to do our best to give them something that will work and to give them the language that will allow the clearest lines of authority.

I believe if you take the Collins-Lieberman bill, which is good work, and you then add the Specter amendment, the Specter amendment makes it clearer, makes it more precise, and makes the lines of authority much easier to understand.

I believe it also will deal with a concern I have had for a long time, as we saw this reform coming, and that is my fear that we would create this new position, give them authority, and do a pretty good job, but not quite give them all the authority this person needs.

We have had the opportunity in the Intelligence Committee to listen to some of the things that have gone wrong for the last few years, and there have been a lot of things that have gone wrong. It is not only organization. It is not only line authority. It is not only the fact that the DCI did not have enough power, but that is part of it. This bill goes a ways to deal with that. I believe the Specter amendment improves it further and makes it clearer, and is the right way to go.

Somebody has to be in charge. The buck has to stop somewhere. Never

again do we want to be in a position where it is not clear who is in charge. Never again does this country want to be in a position where the top person in intelligence doesn't have all the authority he or she needs to protect us, to protect our children, to protect our families. The Specter amendment will make it very clear where the buck stops. The buck will stop with this person whom we are now calling the NID and who is called the NID under the Collins-Lieberman bill. So I will vote in favor of the Specter amendment. I urge my colleagues to vote in favor of it as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I wonder if the Senator from Ohio would address a question which his question raised in my mind, having spent a lot of time trying to figure out what the line is, in terms of supervision and control. Let me put the hypothetical this way. I would also appreciate the managers perhaps listening to it as well.

We have a new national intelligence director. The first question the Senator from Ohio asked, the first that I heard, at least, was: Can that director direct, order—in the words of the chairman, ''task''—the collection, let's say, of signals intelligence in Iraq instead of Afghanistan? Can he or she make that decision?

We only have certain resources. We have to allocate them. Can that director, after consulting, presumably—because these are day-to-day consultations, as the Senator from Connecticut says; these go on every single day, these decisions on allocations and priorities. But hopefully, after going through that process, can that NID, that director, say: OK, folks, I have heard it; we have to make a decision. We are collecting signals in Iraq; we are not going to do it in Afghanistan.

The chairman's answer was ''yes.'' It seems to me that ought to be very reassuring to folks.

The next question is, should that director be responsible for deciding which airplane it is that is going to do the collection? My good friend from Ohio says no, I think, shaking his head no. But that is what is left to the day-to-day operations. That is why you need to leave that decision on which airplane is going to go over Iraq to the day-to-day operational decisions inside of that agency. You can't transfer all of those decisions to a NID. That is where I think the Senator from Ohio would draw the line, I hope. That is clearly where I draw the line.

Mr. DEWINE. If I could respond?

Mr. LEVIN. I am happy to yield.

Mr. DEWINE. My colleague and I have, I think, the same objectives. My colleague from Maine and I have the same objectives. I think our differences are, frankly, down to what language accomplishes this. I think, also, I have more skepticism and bring to the table maybe more skepticism about how the world works. I am usually the optimist. But on this I am skeptical about the ability of this new position, someone whom we are now throwing into a newly created position, to be able to drive his or her agenda. I am concerned about it. I think it is a concern based on reason. There is a reason to be concerned about it, knowing the bureaucracy and how it works.

I think the Specter language is more clear, it is more precise: Supervise, direct, control operations. That doesn't mean picking planes or worrying about the day-to-day activities. That is not how I interpret it. It is not how I interpret it.

Mr. LEVIN. If the Senator will yield, I don't know any other way you can.

Mr. DEWINE. It is your time.

Mr. LEVIN. If the Senator will yield to respond, and I don't want to interrupt, but that is exactly what the words ''controlling operations'' mean. That is what the word ''operations'' means.

I think the Senator from Ohio is correct in pressing for clear answers to the wording in the bill. There are plenty of places where I have some similar questions which I will be raising by amendment, but I don't think this is one of them. I don't think this is one of the places. Because I think the bill is clear here that when the NID issues collection tasking, that is exactly what the Senator from Ohio wants, is to issue collection tasking, I believe.

But what I believe the Senator from Ohio does not want is to control the day-to-day operations as to how that task will be carried out. Yet that is what the Specter language results in.

Rather than clarifying this issue as between the order or the task, and how you are going to carry it out, it blurs the issue. Because once the Senator from Ohio says it is not his understanding of the Specter language that the operations which will now be assigned to NID include the day-to-day operations, then where is that line drawn? If it is not the day-to-day operations, if you are truly shifting those agencies to the responsibility and control of the NID, of course he is responsible for the day-to-day operations. Where is the line, where is the operations point divided between the NID who controls operations under Specter and the operations not controlled by the NID, under your understanding?

Mr. DEWINE. If I can respond, I understand my colleague's point. It strikes me that we have come a long way in this debate and the evolution of this bill. I think we have gone in the correct direction. I look at where we were 2 months ago or 3 months ago in this debate—it is all for the good. When every one of us speaking on the Senate floor, all four of us who are down here at this moment are basically saying we want the same thing and what we are now debating, I believe, is the language to get there. I think my colleagues, Senator LIEBERMAN, Senator COLLINS, my colleague from Michigan, would agree we are saying basically we want the same thing. I think that is good.

We are going to vote different ways on the Specter amendment, but I think this is progress because there is a consensus that has emerged that we want this head of intelligence in this country to be accountable, to have the control that person lacking them has, so the buck will stop with that person, so when they come in front of our committee we can't hear the excuses. It is going to be a great improvement.

I congratulate my colleagues for the great work they have done. I think this debate we have had here for the last 45 minutes has been a very good one. I think we have clarified some things and we clearly clarified, at least in my mind, the intent of the authors of this bill.

I think we created some interesting legislative history about what the power of this person should be. There should be no doubt in any person's mind in the future, NID or anyone who has to deal with him, what their powers should be in this area. I think that is all for the good.

I thank my colleague and yield the floor.

Mr. LEVIN. I thank my friend from Ohio.

In closing, I do have some questions about certain words in this particular paragraph which I will raise later on the floor, relative particularly to the establishment of requirements, because I think the consumer must establish the requirements and not the NID. I think there is also an issue about analysis, because I think we ought to be promoting greater numbers of analyses, and not getting into group-think. We should be promoting independent, objective analysis and I think this wording probably or unintentionally could concentrate or centralize that in a NID.

I think that is an unintended result, but we can discuss that later. But on this one issue that is raised in this amendment, it seems to me this amendment goes exactly in the direction all of us want, which is we need somebody to make a tasking decision, to have that power, and to do it exactly as our friend from Ohio said. You can't at a critical moment have that confused or diffused or uncertain. If something has to be done quickly, someone has to make a decision, and the person who makes a decision in this bill is clearly the NID on the tasking of the intelligence. That is where the decision, it seems to me, has to reside.

But again, I think the Specter amendment, because it goes into the operational side after the task is issued, goes too far, and rather than clarifying an issue will put the responsibility purportedly on somebody who can't handle that responsibility, who doesn't have the horses to handle that responsibility inside of his agency, unless you recreate the entire Department of Defense almost inside the NID

in order to carry out those day-to-day operations to effectuate the task collection which properly belongs with the NID.

Mr. LIEBERMAN. Madam President, before the Senator from Ohio leaves the floor, I want to thank him. Although we disagree on the Specter amendment, his questions have illuminated the details of the underlying Governmental Affairs Committee proposal in a way that I as one of the sponsors feel shows a balance, which is we are trying to do something the 9/11 Commission says we urgently and desperately need to do, which is to fill the gap where the Commission said there is no one in charge of America's intelligence today—a lot of great assets but no one in charge. It is like an army without a general or a football team without a quarterback.

So we are creating a national intelligence director. We are giving that position, that strength, which the current director of Central Intelligence doesn't have. We are separating that position from the Director of the Central Intelligence Agency. But we are not giving the director line authority over the constituent agencies. He is going to be there to call the plays, if you will, to resolve conflicts, to make sure all the assets of the intelligence community—here we do have totally shared goals—are serving the national interest and all of the customers of the intelligence community and, most importantly, serving the President of the United States who represents the national interest, but not in control with line authority over the constituent agencies.

As has been said, we think that will make, and the 9/11 Commission said it will create, a top-heavy organization. We don't need to do it.

I am quoting Secretary of State Powell's statement which he made to us on September 13 when he testified at a hearing. He said:

The director of central intelligence was there before but the DCI did not have that kind of authority.

I add parenthetically that is the authority we are giving the national intelligence director.

Colin Powell said:

> In this town, it is budget authority that counts. Can you move money? Can you set standards for people? Do you have the access needed to the President? The NID will have all of that. I think this is a far more powerful player, and that will help the State Department.

There is a substantial transformation of what exists now. But it doesn't remove day-to-day control over operations from the individual departments. It is that balance that is part of the strength of our proposal, I submit to my colleagues. There are those on both sides who are unhappy about our balance. Senator SPECTER is stating it much too simplistically and we didn't go far enough to give power to the NID, so his amendment would effectively create a secretary of intelligence with line control over all the constituent parts of the intelligence community.

There will be other amendments from people who feel we have gone too far, particularly with regard to the Department of Defense, because in fact we do change budget control authority from the Department of Defense to the national intelligence director, to strengthen that position for exactly the reason Secretary Powell says, acknowledging that the intelligence director serves the President and the entire Government insofar as Government agencies need good intelligence, including the State Department. And the Secretary effectively said to us, he explicitly said, he is confident that the State Department will get more and better intelligence which it needs to advise the President on the conduct of our foreign policy. It is critical. Obviously, the needs for the Defense Department and warfighters are also critical, but they are not the only ones who need intelligence in our Government. The new director will, I think, better be able to satisfy all of those customers for the best possible intelligence.

I think it has been a helpful debate. I hope our colleagues who are not on the floor are keeping an ear to the debate, or at least their staff is, because it reminds me of some of the debates we had in the Governmental Affairs Committee which ultimately led us to a point where there were many disagreements along the way, with almost 50 amendments filed, where the bill was reported out of committee on a nonpartisan vote, unanimous vote.

I don't have explicit hopes that will happen in the full Senate, but I look forward to as thoughtful an exchange as we have just had, leading to a resounding vote for the kind of transformational reform of our intelligence community that the 9/11 Commission recommends, which we all know is desperately needed as soon as possible to better protect the American people from the clear and present danger of terrorist attacks.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TALENT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, is there any time limit on speaking right now?

The PRESIDING OFFICER. There is no time limit.

Mr. STEVENS. There is a vote set for 2:15?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Mr. President, I come to the Senate to make extensive remarks on this bill. I do so with the full realization that my schedule prevented me from attending the hearings of the committee on which I am a member, chaired by Senator COLLINS and the ranking member, Senator LIEBERMAN. I commend them for their activities through July and August with the hearings they conducted. During that period of time, the Senator from Hawaii and I were in a parliamentary conference with the Chinese National Peoples Congress, and we had other events that prevented us from being in Washington while they conducted the hearings.

I preface this to say I voted for the bill to come out of the committee, but at the time I stated specifically to the managers of the bill that I would have some amendments in the Senate and whether I voted for the final passage of this bill would depend upon the outcome of some of those amendments.

Let me also say in this preface to my comments that as the staff reports were prepared by the 9/11 Commission, and my staff delivered those to me from the Internet and I read those—I also read the report when it first came out—and then, on the increased pressure that came from the members of the former 9/11 Commission to have early consideration of this subject, I reread the report and formed some very fixed opinions about this subject.

I have never seen members of a Commission, which went out of existence upon delivering the report, lobby the Congress so hard. My understanding is they raised a considerable amount of money, rehired some of their staff, and are currently lobbying the Congress. I do hope they have complied with the lobbying laws. In any event, this pressure has been significant and it is compelling the Congress to judgment in a very short period of time, in my judgment.

As I said, I have read and reread the 9/11 Commission Report. Last week, our Appropriations Committee held hearings on the report recommendations. We did that because when I returned to Washington I found there was a series of people who indicated they had not been heard by the Governmental Affairs Committee who wanted to have an opportunity to present testimony to the Congress.

We heard from Dr. Henry Kissinger; from three former military commanders in chief: GEN Joe Ralston, U.S. Air Force, retired, former commander of the U.S. European Command and supreme allied commander of Europe and NATO; ADM Dennis Blair, U.S. Navy, retired, former commander of the U.S. Pacific Command; ADM James Ellis, retired, former commander of the U.S. Strategic Command. Our committee also heard testimony from Dr. John Hamre, president and CEO of the Center for Strategic and International Studies and former Under Secretary of Defense. We heard from Judge Richard Posner of the Court of Appeals for the Seventh Circuit, and Dale Watson, former Executive Assistant Director of Counterterrorism and Counterintelligence for the FBI.

Our committee spent 2 days listening to the testimony on the 9/11 Commission's recommendations. Each witness who appeared was an expert in his field with years of dedicated service to the Nation. After listening to their thoughts and suggestions, I have come to the conclusion we have only begun to scratch the surface for what needs to be considered by the Congress before we finally act on this subject.

Copies of the hearings we held before the Appropriations Committee have been given to every Senator and to all intelligence-related staff of the Senate. They are available to anyone who wishes. They were printed as a public document.

Since the passage of the National Security Act in 1947, at least 19 commissions, committees, and panels have made recommendations aimed at reorganizing our Nation's intelligence community. Those proposals have led to changes in internal agency direction, precedence, or directive, and to new statutes, but none of those reports were adopted in their entirety or in this type of timeframe or context.

During last week's hearings before our committee, Senator INOUYE asked whether it would be wise for Congress to make a decision about restructuring the intelligence community in the next 2 weeks. Judge Posner, who is a very erudite professor of law at the University of Chicago in addition to being a Federal circuit judge—he also recently authored a very thoughtful article on intelligence reform in the New York Times—testified he thought it would be ''unwise and most unfortunate.'' He expressed doubts that the analytical problems could be resolved in that timeframe and expressed concerns that the Presidential campaign and politics should not be the right setting for this reform.

I agree with Judge Posner. However, I have approached this legislation as a committee member with an open mind, and I am hopeful that the Senate will move forward on some reforms during this year.

I do have concerns about current efforts to restructure the Nation's intelligence community. For starters, the witnesses I heard last week revealed serious issues with the underlying document for these efforts. That was the 9/11 Commission Report. The Commission's recommendations do not reflect their own account of what happened on September 11. As Judge Posner said before our committee:

> The first 338 pages of the commission's report are an extremely detailed and thorough narrative of the background to the attacks themselves, and the immediate response.
>
> It is a very fine job. . . . Then after that, the commission goes off on what is really a different tangent in considering organizational change because it is not clear, from reading their narrative, that the problems were organization[al] problems for which organization[al] solutions or reorganization would be indicated. So I think there is a mismatch between this very detailed narrative and a rather more summary discussion of organizational change that really does not match the problems that the report itself had identified.

That is the end of Judge Posner's quote.

Because the Commission's recommendations are somewhat divorced from its own account of what happened on 9/11, the Commission adopts, in my view, a flawed vantage point from which to suggest reforms. For example, one of the concerns Judge Posner expressed in our hearings last week was that the report—and again I quote—

> . . . really is oriented toward preventing not new threats, but a repetition of 9/11. Now, an exact repetition of 9/11 is extremely unlikely because that has already happened. We know about that. What I think we have to worry [more] about [is the threat of] biological terrorism, nuclear terrorism, agricultural terrorism because, you know, destruction of agriculture by biological weapons could be as destructive as biological warfare against people. So we ought to try to think about the disasters that have not happened, but that is very difficult to do, so we tend to think about what has already happened.

That is the end of Judge Posner's comments about that.

As we debate this legislation, one of the things we must keep in mind is there have been substantial changes in our intelligence-gathering methods and operations since 9/11. We personally witnessed those on trips to Afghanistan and Iraq during this past year. The situation we faced in the morning of 9/11 is not the situation we face today, and the threats, although related, are not identical. Efforts to reorganize the intelligence community must take into account the current state of operations and the broad scope of the risks we face. We cannot be mesmerized by just one threat.

As I said, I am not opposed to intelligence reform. But any changes should reflect the current context of intelligence. Since 9/11, many members of the intelligence community have testified before Senate committees, and they have told us they are doing things differently, that today there is a free flow of ideas that did not exist before 9/11. Congress should not take any action that might—intentionally or unintentionally—stifle that progress.

I support many aspects of this legislation. I am in favor of the creation of a national intelligence director who can serve as the President's primary intelligence adviser. I also support the creation of a national counterterrorism center. However, I am very concerned about the way the NID's role is defined in this legislation. I urge Members to read it. Read it. Look at the pages. There are nine and a half pages that describe the powers of this person. It would do well for people to understand what it says, what the real context of this is. This person is going to be a very unique individual. What I fear is, this person is going to assemble underneath the NID a series of staff people who will be telling other people what to do based upon their understanding of what the director of NID intended to do. Quoting from the bill:

> The National Intelligence Director shall—
>
> determine the annual budget for the intelligence and intelligence-related activities of the United States by—
>
> providing to the heads of the departments containing agencies or elements within the intelligence community and that have one or more programs, projects, or activities with the National Intelligence program, and to the heads of such agencies and elements, guidance for development [of] the National Intelligence Program budget pertaining to such agencies or elements. . . .

It goes on, all the way through. The national intelligence director is in charge of preparing the annual defense budgets, including those for the Department of Defense related to military intelligence programs, with the concurrence of the Secretary. He would be in charge of ''collection and analysis requirements'' for the entire intelligence community. He is going to have to ''provide advisory tasking on the collection of intelligence to elements of the United States Government having information collection'' activities. He will have the right to go to any Department or agency of the Federal Government and say, ''What are you doing?'' and have access to their information. He will ''manage and oversee the National Counterterrorism Center,'' which, again, I say, I do believe in that type of center, but can he manage that and be a director at the same time?

I urge the Senate to look at the job description of this one person. No person on Earth can do all those things. What he is going to do is assemble a whole series of subordinates who will tell the existing agency heads, many of whom are constitutional officers, Secretaries, confirmed by the Senate, to perform the functions of their Department. But this person is going to have assistants telling those Secretaries what to do and demanding they have access to information those Secretaries have collected through their own processes. Now, I think, if you read this, this is an enormous task for any individual. An NID is needed, but that type of bureaucracy that is set up by this bill is just overwhelming.

He also ensures ''that appropriate officials of the United States Government . . . have access to a variety of intelligence assessments and analytical views,'' protecting ''intelligence sources and methods,'' establishing ''requirements and procedures for the classification of intelligence.''

He is a czar, one person. Now, we know not one person can do all those things. This means to me a new level of bureaucracy, an appointed level, not described in this bill at all. But he is going to have a series of people working for him. I am told there will probably be 800 people in this office of national intelligence director. There is the flaw. There is the flaw, and the President's letter yesterday mentioned it.

This legislation also gives the NID authority to set security, personnel, and informational technology standards all the way across the intelligence

community. In other words, no matter whether you are the FBI, CIA, or DIA, you must follow the standards set by the NID to do your business. Unheard of, just unheard of.

This also includes the establishment and direction over information sharing. This person alone will determine who shares what information. Now, I believe this effort will create more problems than it solves. Judge Posner, again, addressed this in his testimony to our committee last week. He said:

> The commission thinks the reason the bits of information that might have been assembled into a mosaic spelling 9/11 never came together in one place is that no one person was in charge of intelligence.

He means at that time. But he said:

> That is not the reason. The reason, or rather, the reasons are, first, that the volume of information is so vast that even with the continued rapid advances in data processing it cannot be collected, stored, and retrieved and analyzed in a single database. . . .

That is an objective of this bill. Anyone in the industry will tell you it is not possible yet.

> Second, legitimate security concerns limit the degree to which confidential information can safely be shared, especially given the ever-present threat of moles like the infamous Aldrich Ames.

Now, Mr. President, still quoting Judge Posner:

> And third, the different intelligence services and the subunits of each service tend, because information is power, to hoard it. Efforts to centralize the intelligence function are likely to lengthen the time it takes for intelligence and analyses to reach the President, reduce diversity and competition in the gathering and analysis of intelligence data, limit the number of threats given serious consideration and deprive the President of a range of alternative interpretations of ambiguous and incomplete data—and intelligence data will usually be ambiguous and incomplete.

That is, again, the end of Judge Posner's comment.

Giving the NID information-sharing authority may actually prove to be counterproductive. The implications Judge Posner raises need full debate and discussion. I hope we will have some of that today. At the very least, we cannot assume that Congress has rectified this problem by simply vesting information-sharing authority in one individual, only one individual, because that is the process for information sharing.

What if, in a later administration, the NID wants more centralized control? What if that person shares the viewpoint of the prior administration that there should be walls between these agencies? He will determine when they learn what is going on between one agency and another. That is the implication of what we are hearing here. We took down the walls with the PATRIOT Act. We said no more walls. Yet here is one person who determines the total rules for sharing. And probably under the current atmosphere, the return to the walls is impossible, but this authority does not prevent walls.

There is no limit on the NID's concept of sharing. That person alone will determine what sharing is between agencies and who gets the information and who has access to it.

I am also concerned about the language in this legislation concerning the structure of the office of NID. I mentioned that before. We don't need to create a new bureaucracy here, and it seems to me this legislation risks doing just that. We need to delete or significantly revise the parts of this bill that delve into unnecessary or excessive detail about the organization of the office of NID. Again, I call the attention of Senators to the bill itself. It has greater detail concerning specific authority for one individual than I have ever seen.

The Statement of Administration Policy, dated September 28, specifically addressed this issue of creating ''a cumbersome new bureaucracy'' or ''legislated mandated bureaucracy will hinder, not help, in the effort to strengthen U.S. intelligence capabilities and to preserve our constitutional rights.''

Continuing from the administration's letter:

> The Administration urges the Senate to delete or significantly revise these problematic provisions.

We will have amendments to do just that at a later time.

I believe we must take time to carefully consider the people in the field now and how this legislation will impact them. I recently had occasion to meet with the chiefs of station of the CIA from around the world. I was most impressed with what they said about how long it takes to establish a position as a chief of station and how long it takes to develop assets who have the willingness and the ability to go into a neighboring country or in the same country they are in and try to obtain the information we need about developments that might threaten our future.

Currently there are 175,000 persons working in the intelligence community. One hundred fifty thousand of them are military personnel today. They do an incredible job with much personal sacrifice, many under difficult circumstances and far away from their families for years. The creation of the NID will have serious consequences for them and the Department of Defense intelligence personnel. The consequences for the Department of Defense intelligence personnel must be carefully considered as we adopt these reforms.

I don't believe you can alter one piece of this puzzle without having an impact somewhere else. I am concerned not only about the impact the legislation will have in terms of unintended consequences of the big picture but also the impact it will have on our career intelligence operatives who are working out in the field today.

I hope to go on to that later. We had a gap in our development of human intelligence, and it was a serious gap for a series of years. It takes more than 5 years to develop one of these people. Now we are operating with a group of human intelligence experts which is very limited.

This legislation says the NID will ''establish intelligence collection and analysis requirements for the intelligence community.'' This arrangement will centralize the prioritization and control of intelligence and, I believe, could detrimentally affect military leaders outside Washington, DC.

The NID would inevitably focus on the current crisis in Washington—I assume, this doesn't say anywhere, that NID will be here, somewhere near the President—possibly shortchanging the long-term collection and analysis needed for intelligence preparation for battlefields in distant regions.

Currently there is a diversity within intelligence. I do believe in a NID, but I believe in more of a coordinator than a commander. This creates a new commander in chief of intelligence. The Constitution didn't create one. I do believe this is a very difficult proposition the way it is described, what the powers and authorities will be.

When combat occurs, intelligence could swing into full force to support the troops, but by then it would be too late. We need a consistent peacetime intelligence effort to ensure that we can either avoid conflict or give U.S. forces high-quality information when they must engage an enemy.

I am also concerned about the nature of the NID position. Right now we have one agency that deals with domestic threats and another that deals with foreign threats. There are reasons for this division.

Domestic and international threats are distinct and require different intelligence tactics and strategies. The NID collapses international and domestic intelligence concerns into one position, one control, one definition authority, and one access authority. I do believe that this is the kind of situation Judge Posner warned us about last week where we would have an intelligence community that is too rough on our citizens or too gentle with foreign threats because it needs to adhere to uniform policies across the domestic and international context. If that is not the intent, the bill should so state.

There is a reason for different approaches to foreign threats than those that are internal within our constitutional authorities. I believe Judge Posner's warning ought to be listened to by the Senate. We do not need an intelligence community that is too rough on our own citizens and too gentle with foreign threats.

I believe the NID position should reflect what Dale Watson, another witness before our committee, recommended last week. He has a long service in the FBI intelligence division. This was his judgment:

> This position must be a job and not a position. The individual who has this responsibility of being the NID needs to work within the NID and within the intelligence community. The NID should not be a public relations job. The NID should not be on the

speaking circuit or conducting liaison. The NID should be a central-focused individual that looks at where [we] are across the board in all areas. . . . I think the NID ought to be a term appointment. I think the NID has to have the responsibility and be able to do the task.

What we are really saying is, Congress should not rush to implement the recommendations put forth in the 9/11 Commission report. For my part, I hope to spend more time in the Chamber listening to my colleagues and exchanging views on this legislation.

As of now I am inclined to support a course that creates a national intelligence director and a national counterterrorism center, gives them 6 months to get up and running, and then invites them to come and tell those of us in Congress who must make the final decision what additional authorities and changes they actually need. This director ought to become familiar with what we have now before he tries to fix it.

That is one of the things we learned as young men, I thought. If the watch is running and it works, you ought not to try to fix it until you know that there might be some way you can improve it.

This situation is just the opposite. I do think we ought to look forward in this week to a debate that is one that will be productive so that the changes in the administration's letter we received yesterday are not only listened to but they are accommodated to the maximum extent possible.

I have a series of questions that I want to read into the RECORD. These are questions I intend to ask the managers of these bills as we go through this process. It is a long list of questions, I will say. The first is in regard to military personnel.

Based on the fact there is no differentiation between civilian and military personnel in your bill, could the NID have the power to hold military personnel for more than their stated rotations, more than their career path that they are on? For example, could they hold a military person at the National Counterterrorism Center longer than is detailed from the Department of Defense? If they could, what is the effect on their ability for promotion in the future? If needed for a military mission, how would the Secretary of Defense or one of the service chiefs be able to have that military individual returned to a nonintelligence program or position?

Is it true that once in the NID, the NID has control over the individual person's future, particularly when, I remind the Senate, again, 80 percent of the people we are talking about are Department of Defense people, most of whom have career programs, are on a career path, and part of that path involves being an intelligence official for a period of time?

Also, based on the educational requirements designated for personnel in the national intelligence program by the national intelligence director, how would this be reconciled for those military personnel who must complete military education courses for the advancement of their careers?

Periodically, particularly the officers, and some noncommissioned officers, must complete additional military education courses in order to move upward, have upward mobility in their particular service.

Also, how much control would the DOD have over military personnel assigned to the NID? Would the NID control their assignments and their careers? How would the NID ensure that they have the requisite training and assignments to remain competitive for promotion within their parent military service? What role does the Secretary of Defense have in meeting the statutory responsibilities in title 10 and title 5 for the Armed Forces personnel?

I have heard comments that this new national intelligence director organization could, as I said, be in excess of 800 people. If that is true, it would seem that this legislation will create a new bureaucracy to deal with intelligence.

So I asked the managers directly, how large will the national intelligence director organization be? Does the NID have unlimited ability to hire people? Where would the personnel for such a structure come from? There is already a shortage of intelligence people in the intelligence community. Where are these people going to come from? Is he going to take them from the CIA or the DIA? And if he does, do they lose their career path? Is everybody subject to the control of the NID? Can he tell them you must come? I thought intelligence was a volunteer organization. I think it must be if we are to be successful.

Why does this legislation single out the FBI for the NID's ability to fix the rate of pay? This bill gives only the NID the power to fix the rate of pay for the FBI and the intelligence section. Why doesn't it extend this to all personnel involved if he is to be so powerful? It seems to be a very strange section.

The number of qualified personnel in the intelligence field is fairly limited. Will the creation of the NID and this organization dilute the numbers? How long would it take to build and to grow the additional numbers if they are required in order to create and fulfill the obligations of the director under this reorganization?

I have some questions about the Department of Defense directly. If the national intelligence assets are transferred to a new national intelligence director, how do we ensure to our military commanders that national assets will be reliably available to them before a conflict? They have control under this bill when the conflict comes, when they have the right to obtain their own intelligence. How will the Department of Defense relate to its defense support agencies, such as the NRO, National Reconnaissance Agency, or NSA, or the National Geo spatial-Intelligence Agency, NGA, if they are effectively under the national intelligence agency? Will they still be combat support agencies, subject to the military leaders, as they are now—the Joint Chiefs of Staff and the Secretary of Defense? Where does this fit in? Will the NID have the power to convert current military positions into civilian positions? Where does he recruit from?

Within this bill, I would like to have an answer as to whether you have altered the definition of ''joint military intelligence programs.'' I do not see such a definition, but it is a very important segment of intelligence.

As to the budget, am I correct in understanding the NID controls the budget of the NSA, NGA, NRO, and that the NID recommends nominees to be directors of these entities, with the concurrence of the Secretary of Defense? What happens to the current directors? Is this some time off in the future? Can he immediately clear the deck and put new people in charge of the agencies? These agencies, along with DIA, are both national and combat support agencies. How will the proposed bill ensure these agencies remain responsive to the military forces they support if their funding and personnel are controlled by another department?

How does the National Security Advisory and Office of Management and Budget fit into the overall role of coordination or budget coordination envisioned by this legislation?

Particularly, how would the national intelligence director, with strong budgetary and personnel authority and the ability to control the dollars, 85 percent of which are now controlled by the Department of Defense, still maintain a relationship with the DOD? Does it control the whole 85 percent or just the part that is related to the defense agencies specifically mentioned? Currently, I assume the committee knows that the payroll for all of those people comes through the Department of Defense. This assumes, I take it, that the payroll will now come through the budget of the NID. Which ones are you going to pay? Who will make the separation, the Secretary of Defense or NID, as to which ones NID pays and which ones the Department of Defense pays? That is going to be a headache, in my opinion.

The bill provides the national director, in terms of an organization, with the power to reach into other departments to manage personnel, budget, and acquisition programs. Is this on a day-by-day basis, or on the basis of a plan or the formation of a divide-and-command authority? It seems to be that. It seems to be an invitation for turmoil that will cause operational problems as soon as it is created. He is supposed to reach in and tell them I will manage your personnel, your budget, and your acquisitions? A series of things is on the books that envisions particular acquisitions by various agencies over the period ahead. Some of those laws, apparently, will have to

be changed if this person's authority is to be effective, because it will conflict with existing laws, if they are not changed.

How do the benefits of centralization of the intelligence function impact the benefits of diversity and competition in the production of useful intelligence? Does the committee believe that diversity in competition is not needed and that is intended by this bill?

Is it possible to link the national intelligence director to the National Security Council and place it under the control of the national security adviser? Is that possible? Today, the President is in control of those entities within the executive branch, and they are personally responsible to him. That is what the letter we received yesterday says. I hope we think twice about the lines of authority and what are the prerogatives of the President as Commander in Chief and as President of the United States under the Constitution.

Currently, national intelligence priorities are established by the President and the National Security Council. Does a national intelligence director with such powers weaken the NSC process and the roles of the National Security Adviser and the Secretary of State? Will they still have the same role, notwithstanding this national intelligence director is going to have the authority to tell them and make the decisions on what intelligence they need in carrying out their authorities as constitutional advisers to the President?

Could some of the objectives sought by the reorganization be achieved by strengthening the existing institutions? I am not sure that has been considered adequately. That seems to be the compelling rush of the 9/11 Commission—throw everything out and set up something new. There is not even a period for transition in this process. This cannot happen overnight. The reorganization proposed by this bill would take at least a year. During that process, what happens to careers and to people's morale? Why can we not build on what we have, rather than creating something so new that has the extreme power to invade every agency that even touches any piece of intelligence?

Does this legislation create a system in which intelligence is reported to two masters? For example, would the members of the intelligence community be under the control of the national intelligence director and their own agency bosses? I assume that is the case. How does it work on a day-to-day basis if they are not? I assume persons employed by one agency are responsible to the person who hired them. This bill now envisions, I take it, that the NID has the right to hire and fire in any of the agencies involved.

Will the system envisioned by this legislation create conflicts in collection and analysis tasking? Currently, there is a working relationship between these agencies as to who is going to pursue one subject or another, as they task the analysis of information coming in on a daily basis. I don't see why the system creates other conflicts in that process.

The 9/11 Commission report highlighted that there was a lack of information sharing within the intelligence community. But evidence points out this was just as serious within agencies as it was across agencies. How can problems of sharing within agencies be solved by layering another set of controls over all of the agencies?

We ought to think about what happens to the agencies that exist now and how they should transition into this national intelligence director realm, and not assume it is automatically created as soon as the bill is passed.

Would the national intelligence director's role in crafting intelligence policy supplant that of other Cabinet Secretaries? Under this bill, would the Cabinet Secretaries lose their own organic capability to do intelligence analysis? Are we telling the Secretary of State he cannot hire somebody to do intelligence that he thinks he needs? If so, would this undercut Cabinet Secretaries who are constitutional officers of the Government charged with managing the instruments of foreign and security policy for the country?

I do not think we should proceed to create a national intelligence director that has the power to tell those Cabinet Secretaries what they can do in terms of gathering intelligence and analysis.

How would these same Cabinet Secretaries fulfill the constitutional authority vested in them by Congress unless they have the power to make an independent judgment about what is the proper conclusion from the intelligence available to them?

Could the national intelligence director function without having the analytical branch of the CIA placed under his or her direction? I say that again, the only analytical branch we really have is the CIA, and this bill seems to say that the NID gets that analytical branch of the CIA. If it does not, will we have duplicate analytical branches? What is the role of CIA under this concept, as far as analysis is concerned?

If the essential relationship between analysts and operators is weakened, does the operational branch become rudderless and the analytical branch too academic? Would the CIA become an organization for conducting clandestine activities only?

I do not think this bill tells us what we expect from CIA in the future. It says what we expect the NID to do, but it really does not reaffirm the role of any existing agencies that I have defined.

Creating an intelligence czar with domestic surveillance authority that is not under the Attorney General, and measures that separate domestic intelligence from law enforcement, go against all the lessons learned by democratic governments the hard way. What are the concerns and dangers of merging domestic and foreign counterterrorism operations under one organization?

Again, I refer to extensive comments Judge Posner made to us before our committee. How will competing views on intelligence be brought to the President's attention? Indeed, how will competing views merge at all in a structure that is so centralized and under the control of the NID?

Much of the bill which stems from the recommendations of the 9/11 Commission report seem to be directed only to the threat of Islamic terrorism, which I agree is a tremendous threat. But does this legislation enable us to better deal with the growing worldwide threats of proliferation of weapons of mass destruction and other very serious problems in terms of intelligence gathering and analysis?

How much will congressional oversight be reduced if this bill becomes law? It appears to point toward one committee but has total budget authority, total reorganization authority dealing with one person who has total authority in the intelligence community. It eliminates diversity. It eliminates even the opportunity for a separate think. It is going to be a two-group thinks, and if they work together, where is the diversity in this community? Where do we get accurate analyses if we can have only the one that is made by the NID?

We created the Department of Homeland Security in an election cycle. I think the experts are telling us now that the transition has not been successful, and the current organization falls short of its goals, as far as homeland security. But isn't that the same environment we face right now, Mr. President? Can we avoid some of the same mistakes we made and have experienced through the Department of Homeland Security and its legislation and development of this legislation?

Would the National Counterterrorism Center be involved in operations? Why would there be a director of operations listed in this organization unless it is involved in operations? If it is, doesn't that complicate planning for operations that currently go on within the Department of Defense, CIA, FBI, and other agencies? Are they all subject to the control of the NID, even in terms of operations?

I do not think that is the intent, but again I do not think it is clear. It is my understanding that the inspector general would have authority to conduct investigations of the relationships among elements of the intelligence community within the national intelligence program and the authority to investigate relationships among elements of the intelligence community within the national intelligence program and other elements of the intelligence community.

If a close reading of this bill grants authorities to the inspector general of this community far greater than other

inspectors general—I was asked that question once and was told it is just the same as the others; that it was just the same. I challenge that now because I do not think other inspectors general have the authority to investigate relationships between the communities, nor do I think the inspector general should have the authority to audit interagency processes in addition to the programs and operations within the national intelligence authority. It presumes we can find an inspector general and his staff that will have the right to complete access of all the intelligence to which the national intelligence director has access. I seriously question that in connection with intelligence.

Does the authority to investigate interagency processes create a tension between the inspector general of the NID and inspectors general of other agencies? I do not see anything that says the Department of Defense inspector general or all of the inspectors general in the intelligence community—and they all have them—is subordinate to all of them, yet this person has authority to investigate interagency processes that are really relationships between agencies, not how the agencies function, not whether something is going on, but whether they are getting along. Who is getting along with whom? What are you going to do with existing IGs? What is their role under this bill?

I do not think it is spelled out at all. I think the bill authorizing the inspector general of the NID to provide policy direction to improve the effectiveness of interagency process, without consulting the Secretaries of Cabinet departments, without consulting agency heads, and without consulting the inspectors general in the agencies themselves, has not been thought through at all.

I do believe the authority to provide policy guidance politicizes the position of inspector general to NID and it would endanger the IG's independence, which I believe is critical to conducting fair and unbiased audits in investigations. I also think there ought to be some statement of the relationship we expect to exist between the NID and the inspector general and the inspectors general of individual agencies that are subordinate to the NID.

Those are just a few of the questions that came to my mind as I read through this bill and report and the comments that have been made. I do hope we have time to explore some of those questions because I think they need to be answered. I do think we need to take care of what the relationship is between this NID and particularly the Department of Defense.

I hope we can work together and find a way to answer the requests made by the administration that were stated yesterday. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska yields the floor. Who seeks recognition? The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 3766

(Purpose: To ensure the availability of electromagnetic spectrum for public safety entities)

Mr. MCCAIN. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 3766.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. MCCAIN. Mr. President, I ask unanimous consent that my amendment be set aside to allow Senator LAUTENBERG to propose an amendment and to speak for no longer than 10 minutes, at which time I will return to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator yields the floor. The Senator from New Jersey is recognized.

AMENDMENT NO. 3767

Mr. LAUTENBERG. Mr. President, I thank my colleague from Arizona for his patience. I send my amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 3767.

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

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

The amendment is as follows:

(Purpose: To specify that the National Intelligence Director shall serve for one or more terms of up to 5 years each)

On page 10, line 2, insert ''(1)'' after ''DIRECTOR.—''.

On page 10, line 5, insert '', for a term of up to 5 years'' after ''Senate''.

On page 10, after line 5, insert the following:

(2) The National Intelligence Director may be reappointed by the President for additional terms of up to 5 years each, by and with the consent of the Senate.

Mr. LAUTENBERG. Mr. President, first, I commend the chairman of the committee and our esteemed ranking member and say I am pleased to see that we have a chance to wrap up discussion on this reform attempt in the time we are presently allowing.

I offer an amendment to establish a 5-year term for the national intelligence director. Our colleague from Pennsylvania has put forward an amendment to extend the term for the national intelligence director, to put in place a term that is 10 years in length, and I salute the Senator's attempt to try to assure objectivity for the new intelligence chief. The Senator from Pennsylvania and I share the same goal and that is to do all we can to make sure the national intelligence director is as independent and nonpartisan as possible.

My specific proposal differs from the approach used by the Senator from Pennsylvania. Mine would establish a 5-year term, not a 10-year term, for the national intelligence director. Under my amendment, if the President wants to reappoint that person, he could, as long as he sends the nomination to the Senate and we confirm him or her.

Under Senator SPECTER's amendment, the director's term would be limited to a single 10-year term. I think a formula of 5-year terms that could be renewed is more practical. If we are serious about objective intelligence, then we have to provide a national intelligence director with as much independence as we can, that allows him to tell the President things the President may not generally want to hear. The NID should be able to provide information and analysis to the President without necessarily worrying about job security.

During one of our hearings in the Governmental Affairs Committee on intelligence reform earlier this month, I asked interim CIA Director John McLaughlin what he thought of a limited term for the national intelligence director. His response was that it may be yet another way to ensure the objectivity and nonpolitical character of whoever holds that office.

Interim Director McLaughlin is on target. A term for the national intelligence director will bolster objectivity and help keep politics out of our intelligence data.

Some of my colleagues have voiced concern that they want to make sure the director is someone the President trusts, and I wholeheartedly support that. I agree it is critical that the individual and the President have a relationship built on trust. I believe my amendment bolsters that trust. With an independent, objective national intelligence director, the President can trust that the data he gets is objective.

When it comes to intelligence data, a President surely does not want a simple yes-man. The President needs independent, clean, quality analysis.

Unlike the amendment that has been proposed, my amendment does not restrict the director to only one term. If the President wants to renominate the same person to serve in the post again, then he may do so, and the Senate will then decide whether to confirm the person for another term.

I want to be clear that while the amendment provides a degree of independence to the NID, it is not absolute. Under my amendment, the President could certainly dismiss the NID if he

did not have further confidence in his ability to perform. In fact, all it takes for the President to remove the director is the will to do so. So I believe my amendment will help improve the quality of nominees for the position of national intelligence director. With a 5-year term in place, there will be an expectation that the individual serve both Democrats and Republicans. Given what I hope will be a nonpartisan mandate, we will see much more objective and nonpartisan nominees.

I urge my colleagues to support this amendment, and I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Maine.

Ms. COLLINS. Mr. President, I know the Senator from Arizona is in the Chamber to offer his amendment so I will speak only very briefly. Senator LAUTENBERG's amendment is an improvement over the amendment offered by the Senator from Pennsylvania because it is a shorter term and it does allow the President to remove the NID without specifying a cause, but I still find it problematic.

We are talking about the individual who is going to be the principal adviser to the President. The witnesses were virtually unanimous in advising us that that individual has to have the trust and confidence of the President and that it would be a mistake to set a term.

I argue further against this amendment in the context of the Specter amendment. In light of the fact that the Senator from Arizona is waiting, I will not repeat those arguments at this time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I believe under the previous unanimous consent agreement that Senator LAUTENBERG's amendment will be set aside and we will return to the consideration of my amendment.

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

Mr. MCCAIN. I also understand that at 2:15 there will be votes as previously ordered.

The PRESIDING OFFICER. Under the previous order, the vote will occur at 2:15 in relation to the Specter amendment No. 3761.

AMENDMENT NO. 3766

Mr. MCCAIN. Mr. President, I would like to use the time between now and the time the vote is ordered to briefly talk about the amendment, but before I do I will say I understand there is controversy associated with this amendment. I do not intend, nor do I believe, that we should hold up the progress of this legislation and I would be more than willing to agree to a time agreement immediately upon completion of the pending votes to give the opponents of this amendment time to consider that.

I would also point out to both proponents and opponents of this amendment this issue is very well known. There may be some Members who are not that familiar with this amendment, but it goes all the way back to 1997 when we had hearings before the Commerce Committee on May 15, 1997, where following the Oklahoma bombing there was, in the view of the witnesses, an urgent requirement to get spectrum to the public safety community as quickly as possible. That was 7 years ago. The same arguments are being used today as were used 7 years ago after the Oklahoma tragedy. So I believe this amendment addresses, as Senator LIEBERMAN and I had committed to do to the families and to the members of the 9/11 Commission, the fact that we would act one way or another on all 41 of their recommendations.

This addresses the following recommendation made by the 9/11 Commission:

> Recommendation: Congress should support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes. Furthermore, high-risk urban areas such as New York City and Washington, D.C., should establish signal corps units to ensure communications connectivity between and among civilian authorities, local first responders, and the National Guard. Federal funding of such units should be given high priority by Congress.

What we are talking about is not only addressing the expedited aspect of their recommendation but also increased assignment. That is why, in this legislation, all of those who are presently using analog spectrum would be required by a date certain, December 31, 2008, without exception, without loophole, to move off of the analog to digital spectrum.

To take care of those who are still using over-the-air broadcasting, $1 billion would be set aside from the auction of this spectrum in order to provide the provision of set top boxes for those Americans who are still using over-the-air television as their primary way of receiving television signals. This is a small amount compared to the immense value of the spectrum itself.

This amendment is supported by the 9/11 Commission. I have a letter from them and statement in support of it.

It says:

> We write in support of your amendment to S. 2845 regarding public safety spectrum. Your amendment provides for the expedited and potentially increased assignment of spectrum for public safety purposes. By creating a funding mechanism to aid first responders in the purchase of new equipment, it also recognizes that spectrum alone is insufficient to address the deficiencies in public safety interoperability. In this way, your amendment squarely addresses the needs of public safety cited in the 9/11 Commission report.
>
> We urge your colleagues to support this amendment, because it takes significant steps to addressing the urgent needs of police, fire, emergency medical, and other public safety agencies. By establishing a firm date of December 31, 2007, for the return of spectrum long promised to public safety, your amendment provides much-needed certainty with respect to access to this spectrum. And by establishing a firm date of December 31, 2008, for completion of the digital television transition nationwide, your amendment creates an essential funding mechanism for the purchase of public safety equipment using proceeds from the auction of the broadcast analog spectrum. This latter deadline also ensures that the return of broadcast spectrum for public safety occurs with minimal risk of litigation, minimal impact on consumers, and with maximum flexibility of the Congress to allocate additional spectrum to public safety if it concludes such an allocation is necessary.
>
> Finally, we urge the Senate to reject efforts to weaken your amendment by adding loopholes purporting to offer ''flexibility'' to the assignment of spectrum to public safety entities. The need for this spectrum is too great; the stakes are too large; and the time is too pressing to succumb to efforts to delay these critical measures for first responders everywhere.

I will talk about the successful efforts orchestrated by the National Association of Broadcasters to delay indefinitely the transition from analog to traditional spectrum. Now that my friend from Montana is in the Chamber, I will quote from a speech he made in 1997, 7 years ago, which basically lays out the same concerns he and the National Association of Broadcasters have today.

It is time we acted. It's time we gave these people the spectrum they deserve. We can do that, along with providing those who are now and will only receive over-the-air television a set top box, which will allow them to receive digital television signals.

Mr. President, I think we are close to 2:15.

The PRESIDING OFFICER. The Senator has half a minute remaining.

Mr. MCCAIN. I understand, as I said before, that there is controversy associated with this. I will be more than happy to agree to a time agreement, a very reasonable time agreement to debate this issue and vote on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that there be 2 minutes equally divided between the two votes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. There will be 2 minutes, equally divided.

Mr. DOMENICI. Between the votes. Not on the first amendment.

Ms. COLLINS. Prior to the second vote.

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

AMENDMENT NO. 3761

Ms. COLLINS. Mr. President, under the previous order we are now going to proceed to a vote on Senator SPECTER's amendment, No. 3761. That is the amendment that would set the 10-year term for the national intelligence director. I move to table the amendment.

I ask for 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 legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 93, nays 4, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—93

Alexander	Dodd	Lincoln
Allard	Dole	Lott
Allen	Domenici	Lugar
Baucus	Dorgan	McCain
Bayh	Durbin	McConnell
Bennett	Ensign	Mikulski
Biden	Enzi	Miller
Bingaman	Feingold	Murkowski
Bond	Fitzgerald	Murray
Boxer	Frist	Nelson (FL)
Breaux	Graham (FL)	Nelson (NE)
Brownback	Graham (SC)	Nickles
Bunning	Grassley	Pryor
Burns	Gregg	Reed
Campbell	Hagel	Reid
Cantwell	Harkin	Roberts
Carper	Hatch	Rockefeller
Chafee	Hollings	Santorum
Chambliss	Hutchison	Sarbanes
Clinton	Inhofe	Schumer
Cochran	Inouye	Sessions
Coleman	Jeffords	Shelby
Collins	Johnson	Smith
Conrad	Kennedy	Snowe
Cornyn	Kohl	Stevens
Corzine	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lautenberg	Thomas
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wyden

NAYS—4

Byrd	Specter
Feinstein	Stabenow

NOT VOTING—3

Akaka	Edwards	Kerry

The motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3706

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a vote in relation to Specter amendment No. 3706. There will be 2 minutes of debate equally divided prior to the vote.

Who seeks time?

The Senator from Maine.

Ms. COLLINS. Mr. President, I would like to split the 1 minute on the opponents' side, 30 seconds for myself and 30 seconds for the Senator from Connecticut.

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

Ms. COLLINS. I ask the Senator from Pennsylvania, do you want to go first?

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this amendment gives the national intelligence director authority to supervise, direct the kind of managerial authority which is indispensable if the national intelligence director is to be effective.

Of those of us who have dealt with the Central Intelligence Agency, Senator ROBERTS, the current chair of the committee, is forcefully in favor of this amendment, as is Senator SHELBY, former chairman of the committee, as am I. Very forceful arguments were made today by members of the committee—Senator HATCH, Senator BOND, Senator DEWINE.

But if we are really to bring the intelligence community under management, if we are really to have the kind of coordination, to have all of the information in one locale, where 9/11 could have been prevented, and to have accountability, it is indispensable to do more than give budget authority, which is all the committee bill does, but to give the national intelligence director the authority to supervise, direct real management authority to get the job done.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Maine.

Ms. COLLINS. Mr. President, in deciding to keep the NSA and the NGA within the Department of Defense, we were mindful of the fact that these agencies are combat support agencies. We do not want to sever the link between these agencies and the Secretary of Defense. We have already given the NID strong power in terms of budget, in terms of appointing the heads of these agencies, with concurrence from the Secretary of Defense. I urge opposition to the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I also urge opposition to the Specter amendment. The fact is, our committee has found a balance. We have created someone in charge of the intelligence community who is not there now, giving that person the authority Senator COLLINS has referred to, but leaving line control over the agencies of the intelligence community, including the Department of Defense, within the Department of Defense and those existing agencies.

The fact is, this amendment goes too far and goes too far politically because if this amendment should pass, this bill is not going to go anywhere in the House, and we will end up leaving ourselves vulnerable.

The PRESIDING OFFICER. The time has expired.

The Senator from Maine.

Ms. COLLINS. I move to table the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 78, nays 19, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—78

Allard	Dorgan	Lieberman
Allen	Durbin	Lincoln
Baucus	Ensign	Lugar
Biden	Enzi	McCain
Bingaman	Feingold	McConnell
Boxer	Feinstein	Mikulski
Breaux	Fitzgerald	Miller
Bunning	Frist	Murray
Burns	Graham (FL)	Nelson (FL)
Byrd	Graham (SC)	Nelson (NE)
Campbell	Grassley	Nickles
Cantwell	Gregg	Pryor
Carper	Hagel	Reed
Chafee	Hollings	Reid
Chambliss	Hutchison	Rockefeller
Clinton	Inhofe	Sarbanes
Cochran	Inouye	Schumer
Coleman	Jeffords	Sessions
Collins	Johnson	Smith
Cornyn	Kennedy	Stabenow
Corzine	Kohl	Stevens
Daschle	Kyl	Sununu
Dayton	Landrieu	Talent
Dodd	Lautenberg	Thomas
Dole	Leahy	Voinovich
Domenici	Levin	Warner

NAYS—19

Alexander	Crapo	Santorum
Bayh	DeWine	Shelby
Bennett	Harkin	Snowe
Bond	Hatch	Specter
Brownback	Lott	Wyden
Conrad	Murkowski	
Craig	Roberts	

NOT VOTING—3

Akaka	Edwards	Kerry

The motion was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa, Mr. HARKIN, will be recognized for 15 minutes.

Mr. HARKIN. Mr. President, how much time does the Senator from Iowa have?

The PRESIDING OFFICER. The Senator will be recognized for 15 minutes under the previous order.

Mr. LIEBERMAN. Mr. President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IRAQ AND AL-QAIDA

Mr. HARKIN. Mr. President, there is no longer any doubt about President Bush's reelection strategy. It is the same strategy that was used in the election 2 years ago: They invoke the images of the 9/11 attacks and warn that new terrorist attacks are imminent. They stoke Americans' fears and anxieties. And, of course, they accuse their opponents of being weak on terrorism, not willing to defend America.

The events of 9/11 were traumatic, and we all understand Americans' fear

of a new terrorist attack. But it is despicable to politicize this fear. It is despicable to exploit people's anxieties for political advantage. But this administration has done this again and again.

This is exactly what Vice President DICK CHENEY was up to when he warned that if JOHN KERRY is elected President, then ''the danger is that we'll get hit again, that we'll be hit in a way that will be devastating.''

You have to appreciate the pure Orwellian beauty of that statement. It was on President Bush's watch that we suffered the September 11 attack, a real attack, not a hypothetical one, and that attack happened despite multiple warnings to Mr. Bush from the CIA that al-Qaida was planning to attack America. Yet now his attack dog Vice President has the gall to warn that if JOHN KERRY is elected President, the terrorists will hit us with a ''devastating attack.''

As I said, this is the administration's reelection strategy: Fear and smear; politicize the terrorist threat; exploit people's fears and anxieties for political advantage.

Late last week, President Bush and his allies escalated this strategy to a new level. They are now saying, in effect, that Senator KERRY is giving aid and comfort to the terrorists, and that as Republican Representative TOM COLE crudely put it:

> If George Bush loses the election, Osama bin Laden wins the election.

Last Tuesday, the senior Senator from Utah, and a good friend of mine, Senator HATCH, said that terrorists ''are going to throw everything they can between now and the election to try and elect KERRY.''

Last Monday, Deputy Secretary of State Richard Armitage said terrorists in Iraq ''are trying to influence the election against President Bush.''

Last Thursday, President Bush said Senator KERRY's statements on Iraq ''can embolden the enemy.''

And Vice President CHENEY called Senator KERRY ''destructive'' to the war on terrorism.

This morning our colleague from Arizona, Senator KYL, criticized an earlier floor statement by Senator KENNEDY. Senator KYL said that Senator KENNEDY's criticisms of the President's policy in Iraq were ''giving confidence to the enemy.'' That was said just this morning on the floor of the Senate.

This is disturbing. Since when is an entirely legitimate and justified criticism of the President's policy in Iraq ''giving confidence to the enemy.'' This is an outrageous accusation. It has no place on the Senate floor for legitimate debate.

I remind the Senator from Arizona of the wise words of President Dwight Eisenhower who said that criticism and dissent are the bedrock of democracy. This is what President Eisenhower said in 1954 at Columbia University:

> Here in America, we are descended in blood and in spirit from revolutionists and rebels—men and women who dared to dissent from accepted doctrine. As their heirs, we may never confuse honest dissent with disloyal subversion.

That was President Dwight Eisenhower.

So we will not be silenced by accusations of disloyalty or accusations that we are helping the enemy or giving confidence to the enemy. Is all we are supposed to do hush up and allow Mr. Bush's reckless policies to lead us deeper and deeper into the quagmire?

These gentlemen claim to have such excellent access to the terrorists' thoughts. It would be nice if they would turn that knowledge into an effective policy against the terrorists. Instead, at key junctures, this administration has made disastrously wrong choices and repeatedly these decisions have played into the terrorists' hands. Look at the record.

It is a fact that the September 11 attacks happened despite repeated warnings to the President from the CIA that al-Qaida was planning to attack America. Those warnings included an August 8, 2001, President's daily briefing which he received when he was on vacation in Crawford, TX, titled ''Bin Laden Determined to Strike in U.S.'' That is not a subhead or a sentence in the memo; that is the title of the memo: ''Bin Laden Determined to Strike in U.S.''

Let's look at the rest of the record.

President Bush botched the single best opportunity to capture bin Laden when we had him cornered in Torah Borah in Afghanistan, and yet the President removed intelligence personnel and predator aircraft from Afghanistan to put them in Iraq.

It was President Bush who 3 years ago pledged to smoke bin Laden out of his cave but has utterly failed to do so. Instead, by successfully defying the President, because we have been so bogged down in the quagmire of Iraq, bin Laden has become a folk hero across much of the Muslim world. He has attracted not only thousands of new recruits but dozens of imitators, new bin Ladens, forming their own terrorist organizations to attack America and Americans.

It was President Bush who diverted, as I said, our military and intelligence resources from the hunt of bin Laden in order to attack Iraq.

It was President Bush whose taunt of ''bring it on'' did indeed bring it on—a nationwide insurgency in Iraq, an urban guerrilla that has trapped our Armed Forces, as I said, in a quagmire.

It was President Bush whose unilateral approach on Iraq served to alienate many of our oldest allies and to turn world opinion against the United States.

It was President Bush whose invasion and occupation of the second largest Arab country has outraged much of the Muslim world and has been a recruiting bonanza for terrorism. Indeed, George W. Bush's policies—reckless and wrong—have been the best recruiting tool imaginable for al-Qaida.

This is an astonishing record of mistakes, misjudgments, miscalculations, and mismanagement. It is an astonishing record of George W. Bush again and again playing into Osama bin Laden's hands. It is sort of like watching the cartoon of Wile E. Coyote chasing the Road Runner, only it is not funny. It is a colossal tragedy that has put our Nation at even greater risk.

Ironically, President Bush's father, the first President Bush, warned against the folly of invading and occupying Iraq. On February 28, 1999, speaking to a group of Desert Storm veterans at Fort Myer, VA, he said:

> Had we gone into Baghdad—we could have done that, you guys could have done it, you could have been there in 48 hours—and then what? Whose life would be on my hands as the Commander in Chief because I unilaterally went beyond international law, went beyond the stated mission and said we're going to show our macho? We're going into Baghdad. We're going to be an occupying power—America in an Arab land with no allies at our side. It would have been disastrous.

That is not this Senator saying that; that is former President Bush in February 1999.

Now, of course, we heard the same pathetic warnings from Brent Scowcroft, James Baker, and other foreign policy specialists, but this President and his partner DICK CHENEY and their posse of neoconservative intellectuals thought they knew better. They reveled in words like ''slam dunk'' and ''cakewalk.'' And so now the disaster Bush 41 warned against has become a reality under Bush 43.

President Bush repeatedly says that his No. 1 job is to protect the American people. But the view of professionals on the front line is that he has failed to do so.

The Iraq invasion has set back, rather than advanced, the war on terrorism and al-Qaida. Osama bin Laden remains at large. Our Armed Forces are bogged down in Iraq with casualties rising above 8,000 and are not available to respond to real threats to the United States. In the wake of the Abu Ghraib prison scandals, our moral authority and credibility on the world stage are at rock bottom.

I was watching former President Jimmy Carter, winner of the Nobel Peace Prize, at the Carter Center just a few days ago saying that he has visited 120 countries around the world, and he believes that at no time in the history of our country has our esteem, credibility, and moral authority been at such a low point.

Despite President Bush's loud threats toward the so-called ''axis of evil'' on his watch, North Korea has acquired nuclear weapons. Iran appears to be proceeding with impunity to develop its own nuclear arsenal. Again, this is an extraordinary record of mistakes, misjudgments, miscalculations, and missed opportunities.

As a consequence of the choices made by this President over the last 4 years, I believe today America is weaker, less

secure, and more vulnerable. It is indeed time, past time, to change these policies.

I ask unanimous consent that at the termination of my remarks, two articles, ''Growing Pessimism on Iraq,'' Wednesday, September 29, Washington Post, and an article appearing on September 28 in the New York Times, ''Iraq Study Sees Rebels' Attacks as Widespread,'' be printed in their entirety in the RECORD.

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

(See exhibits 1 and 2.)

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Iowa has 3 minutes 40 seconds remaining.

Mr. HARKIN. I want to correct one other thing that was said this morning by the Senator from Arizona. He talked about the connections between al-Qaida and Iraq. He quoted Mr. Tom Kean speaking about that relationship, and I will quote, in its entirety, from page 66 of the report:

> The reports describe friendly contacts and indicate some common themes in both sides' hatred of the United States. But to date we have seen no evidence that these or the earlier contacts ever developed into a collaborative operational relationship. Nor have we seen evidence indicating that Iraq cooperated with al-Qaida in developing or carrying out any attacks against the United States.

Sure, it is true that al-Qaida had relationships with Iraq. They had relationships with Saudi Arabia. They had relationships in Egypt. They had relationships in a lot of countries. But as the report clearly shows on page 66, there was no operational relationship between al-Qaida and Iraq as determined by the Commission.

I yield back whatever time I have remaining.

EXHIBIT 1

[From the Washington Post, Sept. 29, 2004]

GROWING PESSIMISM ON IRAQ

(By Dana Priest and Thomas E. Ricks)

A growing number of career professionals within national security agencies believe that the situation in Iraq is much worse, and the path to success much more tenuous, than is being expressed in public by top Bush administration officials, according to former and current government officials and assessments over the past year by intelligence officials at the CIA and the departments of State and Defense.

While President Bush, Defense Secretary Donald H. Rumsfeld and others have delivered optimistic public appraisals, officials who fight the Iraqi insurgency and study it at the CIA and the State Department and within the Army officer corps believe the rebellion is deeper and more widespread than is being publicly acknowledged, officials say.

People at the CIA ''are mad at the policy in Iraq because it's a disaster, and they're digging the hole deeper and deeper and deeper,'' said one former intelligence officer who maintains contact with CIA officials. ''There's no obvious way to fix it. The best we can hope for is a semi-failed state hobbling along with terrorists and a succession of weak governments.''

''Things are definitely not improving,'' said one U.S. government official who reads the intelligence analyses on Iraq.

''It is getting worse,'' agreed an Army staff officer who served in Iraq and stays in touch with comrades in Baghdad through e-mail. ''It just seems there is a lot of pessimism flowing out of theater now. There are things going on that are unbelievable to me. They have infiltrators conducting attacks in the Green Zone. That was not the case a year ago.''

This weekend, in a rare departure from the positive talking points used by administration spokesmen, Secretary of State Colin L. Powell acknowledged that the insurgency is strengthening and that anti-Americanism in the Middle East is increasing. ''Yes, it's getting worse,'' he said of the insurgency on ABC's ''This Week.'' At the same time, the U.S. commander for the Middle East, Gen. John P. Abizaid, told NBC's ''Meet the Press'' that ''we will fight our way through the elections.'' Abizaid said he believes Iraq is still winnable once a new political order and the Iraqi security force is in place.

Powell's admission and Abizaid's sobering warning came days after the public disclosure of a National Intelligence Council (NIC) assessment, completed in July, that gave a dramatically different outlook than the administration's and represented a consensus at the CIA and the State and Defense departments.

In the best-case scenario, the NIC said, Iraq could be expected to achieve a ''tenuous stability'' over the next 18 months. In the worst case, it could dissolve into civil war.

The July assessment was similar to one produced before the war and another in late 2003 that also were more pessimistic in tone than the administration's portrayal of the resistance to the U.S. occupation, according to senior administration officials. ''All say they expect things to get worse,'' one former official said.

One official involved in evaluating the July document said the NIC, which advises the director of central intelligence, decided not to include a more rosy scenario ''because it looked so unreal.''

White House spokesman Scott McClellan, and other White House spokesmen, called the intelligence assessment the work of ''pessimists and naysayers'' after its outlines were disclosed by the New York Times.

President Bush called the assessment a guess, which drew the consternation of many intelligence officials. ''The CIA laid out several scenarios,'' Bush said on Sept. 21. ''It said that life could by lousy. Life could be okay. Life could be better. And they were just guessing as to what the conditions might be like.''

Two days later, Bush reworded his response. ''I used an unfortunate word, 'guess.' I should have used 'estimate.' ''

''And the CIA came and said, 'This is a possibility, this is a possibility, and this is a possibility,'" Bush continued. ''But what's important for the American people to hear is reality. And the reality's right here in the form of the prime minister. And he is explaining what is happening on the ground. That's the best report.''

Rumsfeld, who once dismissed the insurgents as ''dead-enders,'' still offers a positive portrayal of prospects and progress in Iraq but has begun to temper his optimism in public. ''The path towards liberty is not smooth there; it never has been,'' he said before the Senate Armed Services Committee last week. ''And my personal view is that a fair assessment requires some patience and some perspective.''

This week, conservative columnist Robert D. Novak criticized the CIA and Paul Pillar, a national intelligence officer on the NIC who supervised the preparation of the assessment. Novak said comments Pillar made about Iraq during a private dinner in California showed that he and others at the CIA are at war with the president. Recent and current intelligence officials interviewed over the last two days dispute that view.

''Pillar is the ultimate professional,'' said Daniel Byman, an intelligence expert and Georgetown University professor who has worked with Pillar. ''If anything, he's too soft-spoken.''

''I'm not surprised if people in the administration were put on the defensive,'' said one CIA official, who like many others interviewed would speak only anonymously, either because they don't have official authorization to speak or because they worry about ramifications of criticizing top administration officials. ''We weren't trying to make them look bad, we're just trying to give them information. Of course, we're telling them something they don't want to hear.''

As for a war between the CIA and White House, said one intelligence expert with contacts at the CIA, the State Department and the Pentagon, ''There's a real war going on here that's not just'' the CIA against the administration on Iraq ''but the State Department and the military'' as well.

National security officials acknowledge that the upcoming presidential election also seems to have distorted the public debate on Iraq.

''Everyone says Iraq certainly has turned out to be more intense than expected, especially the intensity of nationalism on the part of the Iraqi people,'' said Steven Metz, chairman of the regional strategy and planning department at the U.S. Army War College. But, he added, ''I don't think the political discourse that we're in the middle of accurately reflects anything. There's a supercharged debate on both sides, a movement to out-state each side.''

Reports from Iraq have made one Army staff officer question whether adequate progress is being made there.

''They keep telling us that Iraqi security forces are the exit strategy, but what I hear from the ground is that they aren't working,'' he said. ''There's a feeling that Iraqi security forces are in cahoots with the insurgents and the general public to get the occupiers out.''

He added: ''I hope I'm wrong.''

EXHIBIT 2

[From the New York Times, Sept. 29, 2004]

IRAQ STUDY SEES REBELS' ATTACKS AS WIDESPREAD

(By James Glanz and Thom Shanker)

BAGHDAD, IRAQ, Sept. 28.—Over the past 30 days, more than 2,300 attacks by insurgents have been directed against civilians and military targets in Iraq, in a pattern that sprawls over nearly every major population center outside the Kurdish north, according to comprehensive data compiled by a private security company with access to military intelligence reports and its own network of Iraqi informants.

The sweeping geographical reach of the attacks, from Nineveh and Salahuddin Provinces in the northwest to Babylon and Diyala in the center and Basra in the south, suggests a more widespread resistance than the isolated pockets described by Iraqi government officials.

The type of attacks ran the gamut: car bombs, time bombs, rocket-propelled grenades, hand grenades, small-arms fire, mortar attacks and land mines.

''If you look at incident data and you put incident data on the map, it's not a few provinces,'' said Adam Collins, a security expert and the chief intelligence official in Iraq for Special Operations Consulting-Security Management Group Inc., a private security company based in Las Vegas that compiles

and analyzes the data as a regular part of its operations in Iraq.

The number of attacks has risen and fallen over the months. Mr. Collins said the highest numbers were in April, when there was major fighting in Falluja, with attacks averaging 120 a day. The average is now about 80 a day, he said.

But it is a measure of both the fog of war and the fact that different analysts can look at the same numbers and come to opposite conclusions, that others see a nation in which most people are perfectly safe and elections can be held with clear legitimacy.

''I have every reason to believe that the Iraqi people are going to be able to hold elections,'' said Lt. Col. William Nichols of the Air Force, a spokesman for the American-led coalition forces here.

Indeed, no raw compilation of statistics on numbers of attacks can measure what is perhaps the most important political equation facing Prime Minister Ayad Allawi and the American military: how much of Iraq is under the firm control of the interim government. That will determine the likelihood—and quality—of elections in January.

For example, the number of attacks is not an accurate measure of control in Falluja; attacks have recently dropped there, but the town is controlled by insurgents and is a ''no go'' zone for the American military and Iraqi security forces. It is a place where elections could not be held without dramatic political or military intervention.

The statistics show that there have been just under 1,000 attacks in Baghdad during the past month; in fact, an American military spokesman said this week that since April, insurgents have fired nearly 3,000 mortar rounds in Baghdad alone. But those figures do not necessarily preclude having elections in the Iraqi capital.

Pentagon officials and military officers like to point to a separate list of statistics to counter the tally of attacks, including the number of schools and clinics opened. They cite statistics indicating that a growing number of Iraqi security forces are trained and fully equipped, and they note that applicants continue to line up at recruiting stations despite bombings of them.

But most of all, military officers argue that despite the rise in bloody attacks during the past 30 days, the insurgents have yet to win a single battle.

''We have had zero tactical losses; we have lost no battles,'' said one senior American military officer. ''The insurgency has had zero tactical victories. But that is not what this is about.

''We are at a very critical time,'' the officer added. ''The only way we can lose this battle is if the American people decide we don't want to fight anymore.''

American government officials explain that optimistic assessments about Iraq from President Bush and Prime Minister Allawi can be interpreted as a declaration of a strategic goal: that, despite the attacks, elections will be held. The comments are meant as a balance to the insurgents' strategy of roadside bombings and mortar attacks and gruesome beheadings, all meant to declare to Iraq and the world that the country is in chaos, and that mayhem will prevent the country from ever reaching democratic elections.

In a joint appearance last week in the White House Rose Garden, Mr. Bush and Dr. Allawi painted an optimistic portrait of the security situation in Iraq.

Dr. Allawi said that of Iraq's 18 provinces, ''14 to 15 are completely safe.'' He added that the other provinces suffer ''pockets of terrorists'' who inflict damage in them and plot attacks carried out elsewhere in the country. In other appearances, Dr. Allawi asserted that elections could be held in 15 of the 18 provinces.

Both Mr. Bush and Dr. Allawi insisted that Iraq would hold free elections as scheduled in January.

''The question is not whether there are attacks,'' said one Pentagon official. ''Of course there are. But what are the proper measurements for progress?''

Statistics collected by private security firms, which include attacks on Iraqi civilians and private security contractors, tend to be more comprehensive than those collected by the military, which focuses on attacks against foreign troops. The period covered by Special Operations Consulting's data represents a typical month, with its average of 79 attacks a day falling between the valleys during quiet periods and the peaks during the outbreak of insurgency in April or the battle with Moktada al-Sadr's militia in August for control of Najaf.

During the past 30 days those attacks totaled 283 in Nineveh, 325 in Salahuddin in the northwest and 332 in the desert badlands of Anbar Province in the west. In the center of Iraq, attacks numbered 123 in Diyala Province, 76 in Babylon and 13 in Wasit. There was not a single province without an attack in the 30–day period.

Still, some Iraqis share their prime minister's optimism when it comes to the likelihood that elections, and a closely related census, can be carried out successfully amid so much violence. ''We are ready to start,'' said Hamid Abd Muhsen, an Iraqi education official who is supervising parts of the census in Baghad. ''I swear to God.''

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, the Democratic leader, the managers of the bill, and the leadership on both sides have been in conversation over the last 30 minutes or so looking at the schedule for the bill that is on the Senate floor. It is a critically important bill. We have made good progress, and if we look at the way the day has been spent, it has been spent on very significant legislation. But if we project that out and look at the reality, we have 300 amendments that have been given to the managers and to leadership on a bill that we absolutely will finish before we depart.

We will finish reform of the executive branch, which is on the floor, and reform of the Senate, before we leave on October 8. There is also a lot of other business—the appropriations, the continuing resolutions, and the extensions.

With that recognition, we have 300 amendments. In a little bit, the Democratic leader and I will have a unanimous consent for a filing deadline tomorrow during the afternoon so that everybody will, as we said earlier this morning and late last night, get their amendments in, and language so that we can fully assess how many amendments we are going to really have to deal with. Our deadline that we set this morning at 10 did generate 300 potential amendments.

It is clear we are going to have to pick up the pace on issues that have been discussed thoroughly in committee. We are going to have to, in a very efficient way, have our managers deal with them on the Senate floor and go through the amendments in an orderly way. At some point it may be necessary for us to file cloture. It is not something we want to do, but if we file cloture we would still be able to have germane amendments introduced. That is not the intent, but unless we can work through the amendments, have the amendments submitted, have people come to the floor today, tonight, tomorrow, Friday, and Monday, it is something that at least we will have to consider. I say that, again, to give some sense of urgency that we need to have these amendments come forward. We need to see them, and we need to have the managers have the opportunity to debate them and vote on them expeditiously.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I add my voice of support for what the majority leader said. We want Senators who have amendments to come to the floor to offer them. As we get this filing deadline agreement, we are also going to ensure that Senators are protected. We know there is a backlog with the legislative counsel and that it will take a little time to draft them. So we will accommodate Senators with that practical consideration in mind, but we hope that Senators understand Friday is going to be a full day of work, and we need a lot of amendments offered on Friday.

We are going to have to have all of these amendments debated, and we will look at the circumstances at some point. I will support the cloture motion if we are not making adequate progress. So Senators need to offer their amendments, agree to time limits, and move this legislative process along.

We will get that filing agreement this afternoon, and Senators then will have the opportunity to be clearer as to their intention with regard to these amendments. It is not our desire to hold them precisely to the language of the amendment, but we need to know how many real amendments there are.

I support the majority leader's commitment to both the bill pending as well as to the organization of the legislative branch prior to the time we leave. Both of these matters have to be addressed, and I think as we continue to work as successfully as we have, we can accomplish this work before we leave. We just need the cooperation of all Members in that regard.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, we are making good progress. We will continue to come to the floor to give a perspective given the fact that we have so little time before we depart. Again, we are going to finish both the internal oversight as well as the external oversight before we leave because we need to keep working in an efficient, rapid, but obviously deliberative way. We both thank the managers for their tremendous job and leadership thus far.

The PRESIDING OFFICER. The Senator from Alabama.

AMERICAN CANNOT GO WOBBLY ON IRAQ

Mr. SESSIONS. Mr. President, I know we are in a political season, and I suppose that will impact our business in the Senate as we address the many issues that are before us. But the Senator from Iowa just made some comments about where we are in the war on terror that I think need to be discussed.

First, I remember when former President Bush called Maggie Thatcher to ask for her support for his action during the first gulf war. Saddam Hussein had invaded Kuwait and he asked for her support.

Maggie Thatcher said: Of course, Mr. President. Just do not go wobbly on me.

That phrase was discussed quite a lot at the White House. Everyone understood that once a commitment is made to do something like confront a tyrant like Saddam Hussein after he invaded the sovereign nation of Kuwait, that you could not go wobbly once action was undertaken.

Secondly, we spent weeks and months in this body discussing the problem of Saddam Hussein. I know my distinguished friend from Iowa was a military pilot and can appreciate the fact that our aircraft were being fired on over a thousand times as they enforced the no-fly zones over Iraq related to the U.N. resolutions that arose after Hussein's attack on Kuwait.

We were spending billions of dollars maintaining our aircraft in the region because we were concerned about Saddam Hussein. He was in violation of 16 U.N. resolutions, and we urged him to come clean several times. We gave him one last chance to join the civilized nations of the world. He was given those warnings in clear and unequivocal ways. This Senate discussed it and voted on it. We voted with a three-fourths majority to support the President and to authorize the President to make one final demand on Iraq and Saddam Hussein to renounce their weapons of mass destruction, to renounce their activities in violation of the U.N., and to demonstrate that he had complied with the demands of the civilized world.

Saddam Hussein rejected that opportunity, and we knew at the time if he did not comply, that hostilities would begin.

We are all grownups in this body and we knew what it meant when we voted. At the time, the distinguished junior Senator from Massachusetts and now the Democratic nominee for President voted for the resolution that authorized the President to commence hostilities. Now some want to go wobbly. They say that things are not going perfectly. Since we have an election cycle on, they believe they can just say anything they want even if it undermines our soldiers in the field or if it encourages the enemy. And I would add that these detractors will say that if anybody accuses them of harming the effort to defeat terrorism or complains about the impact to the morale of our troops in the field, why, they will just say it is free speech. They believe they can say whatever they want to.

Of course there is free speech. Any Senator in this body can come forth and say whatever they want to. I do not intend to impugn the motives of any who express their views about the hostilities in Iraq at this point. But I would just say this: Some things can hurt. When we have a Senator in an official hearing or on the floor of the Senate make statements before the world such as that the misbehavior that occurred and the illegalities that occurred in Abu Ghirab prison indicated that Saddam Hussein's prison had been ''opened under new management,'' I suggest to you that Senator is subject to being criticized for it. That is because he was wrong, No. 1, and No. 2, it encouraged and gave fodder for those who want to complain that the United States is on a mission to harm the Iraqi people and not to establish a sovereign, free, prosperous government, which is what we want to do. That is our goal.

So it is legitimate that we express concerns about some of the statements made by colleagues. That is an honest debate. If people, in effect, think we have Saddam Hussein's prisons under new management, they have a right to say so. But I submit we have had hearing after hearing, and the evidence clearly shows it is not true. It is not correct. We ought not be saying such falsehoods on the floor of the Senate.

They say things are so bad in Iraq and we are worse off at home. However, Iraqi Prime Minister Allawi recently said:

> ''It's very important for the people of the world really to know what we are winning. We are making progress in Iraq. We are defeating terrorists. Najaf, Samarra, Mosul, Basra are all live examples that a lot of progress has been made. And this is all because of the determination of the Iraqi people.''

They say that the elections can't be held in Iraq. We have heard that argument. This is what Prime Minister Allawi said:

> ''We are definitely going to stick to the timetable of elections in January of next year. We are doing our best to ensure that we meet the time of the elections. We are adamant that democracy is going to prevail, it is going to win Iraq. We are going to stick to this time, and I call upon the United Nations to help us in providing whatever it takes to make the elections a success in Iraq. January next, is going to be a major blow to terrorists and insurgents. Once we go through the democratic process, once we achieve progress towards democracy, the terrorists will be defeated.''

So said Prime Minister Allawi.

Here is what the Iraqi people say. An International Republican Institute poll in Iraq showed this: 87 percent of Iraqis polled nationwide indicated they plan to vote in the January elections. Eighty-seven percent planned to vote!

Most observers understand that it is not good if people won't participate in an election. You would rather have them vote. Whichever side of an issue you prefer, you still want to vote. But a massive boycott of an election would be something that would be serious and cause us concern if people weren't interested in an election. But 87 percent said they intend to vote. Seventy-seven percent said that ''regular, fair elections'' were the most important political right for the Iraqi people. Seventy-seven percent said that.

Here is what the critics say: The U.S. went to war without a ''broad and deep coalition,'' and this has ''divided our oldest alliance, NATO.''

But here are the facts. There are more Iraqi and non-U.S. soldiers on the ground stabilizing Iraq than there are U.S. forces. Besides the United States, there are 32 countries contributing approximately 25,000 soldiers to the coalition operating in Iraq; 15 of the 26 NATO countries have troops on the ground in Iraq. The Iraqi Government has approximately 154,500 soldiers and police forces on hand to provide security and stability throughout the country.

On 22 September, our NATO allies agreed to further implement the decision by the heads of state and government to increase the assistance to the Government of Iraq with the training of its security forces. General Patreus, commander of the 101st Airborne, is over there now. Actually, he was formerly the commander of the 101st. He led them in northern Iraq and Mosul, and he has now gone back to train Iraqi forces. He is a remarkable general with incredible capacity for work, and energy. I am confident that he will be successful.

I know there is much to be accomplished. We have a lot of high goals in Iraq. It is not an easy matter. It is going to be a tough battle, but we are making progress. We will prevail, and we must not go wobbly.

I yield the floor.

AMENDMENT NO. 3766

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment of the Senator, No. 3766, is the pending business.

Mr. MCCAIN. Mr. President, I would like to discuss my amendment. We are in some discussions right now with other staffs, and hopefully we may have an agreement that would then allow us to agree by voice vote to this amendment. But I want to talk about it because it is a very important issue. It is important to our first responders. It is important to our broadcasters. It is important to public safety.

There is a long history, going back at least to Oklahoma City, that the failure to have the ability to communicate costs the lives of innocent Americans. It really is not any more complicated than that.

I ask unanimous consent that a letter to me from the Association of Public-Safety Communications Officials-

International, the Congressional Fire Services Institute, the International Association of Chiefs of Police, the International Association of Fire Chiefs, Major Cities Chiefs Association, Major County Sheriffs' Association, and the National Sheriffs' Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 28, 2004.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN, we are writing to express our strong support for your proposed amendment to S. 2845, the ''National Intelligence Reform Act of 2004,'' to establish a firm date to provide additional radio spectrum for our nation's first responders.

As you know, police, fire, emergency medical and other public safety agencies face severe shortages of radio spectrum in much of the nation, and are often forced to operate on crowded radio frequencies that are incompatible with their neighboring agencies. Additional public safety spectrum would enhance our homeland security by promoting more interoperable radio communications, alleviating dangerous congestion on existing radio systems, and allowing for the implementation of state-of-the-art communications technologies to protect the safety of life and property.

In 1997, Congress required that certain television broadcast spectrum be reallocated for public safety use, but limited access to that spectrum until the uncertain end of the digital television (DTV) transition. Your amendment would establish a firm date of January 1, 2008, to make that already allocated public safety spectrum available nationwide, and end the DTV transition overall as of January 1, 2009. The amendment would also provide a source of funding for future interoperable radio communications, and create an opportunity for further public safety spectrum allocations.

We urge the Senate to reject amendments to your proposal that would add uncertainty for public safety spectrum availability. Without a firm date, state and local governments will not be able to proceed to plan, fund, or construct new interoperable radio communications systems.

Thank you for your continued support of our nation's first responders.

Sincerely,

GREGORY BALLENTINE,
President, Association of Public-Safety Communications Officials-International.

STEVE EDWARDS,
Chairman, Congressional Fire Services Institute.

CHIEF JOE POLISAR,
President, International Association of Chiefs of Police.

CHIEF ROBERT A. DIPOLI,
President, International Association of Fire Chiefs.

CHIEF HAROLD HURT,
President, Major Cities Chiefs Association.

SHERIFF MARGO FRASIER,
President, Major County Sheriffs' Association.

SHERIFF AARON D. KENNARD,
President, National Sheriffs' Association.

Mr. MCCAIN. Mr. President, I will quote from some of the letter. It says:

We are writing to express our strong support for your proposed amendment to S. 2805 . . . to establish a firm date to provide additional radio spectrum for our Nation's first responders.

What is the situation today? The situation today is that there are television stations that are on frequencies, channels 60 through 69, that will remain there forever under the present situation. In other words, in an appropriations bill—not through the Commerce Committee but in an appropriations bill—language was included that said that the broadcasters do not have to achieve a transition from analog to digital until 85 percent of the viewing audience in America had access to HDTV.

In testimony before the committee, Chairman Powell of the Federal Communications Commission said that is never. That is never, he said—or decades. We have to get this spectrum freed up so we will have it available for all of our first responders so in the case of a disaster or an attack, they will have the ability to communicate with each other.

As the letter points out, in 1997, and that was 7 years ago:

. . . Congress required that certain television broadcast spectrum be reallocated for public safety use, but limited access to that spectrum until the uncertain end of the digital television transition.

The problem is, for 7 years, since we assigned that date, we have not made that transition and, as I stated, if Chairman Powell is correct, we will never make that transition to the point where the analog spectrum would have to be returned.

The letter from these public safety and first responders states:

We urge the Senate to reject amendments to your proposal that would add uncertainty for public safety spectrum viability. Without a firm date, State and local governments will not be able to proceed to plan, fund or construct new interoperable radio communications systems.

That is the heart of it.

I repeat that the reason I am proposing this amendment is because the 9/11 Commission stated this as one of their urgent recommendations that needed to be acted upon.

I have been made painfully aware over the years of the power and influence of the National Association of Broadcasters. In 1997, they got billions of dollars worth of digital spectrum. They have sat before our committee and promised that by 2003 or 2004 all of it would be returned—all of their analog spectrum would be returned. And, of course, they were able to prevail time after time. I am not going to waste the valuable time of this body describing how they were able to do that. But we are now facing a situation where we have to get this spectrum freed up. We have to do it.

Some will argue it is not enough. We have had testimony before our committee that we need more spectrum for public safety; that we need more for first responders. But right now we don't have enough. Right now. We need to clear this up.

Let me also point out who is sitting on the spectrum channels 60 to 69. Unfortunately, a lot of it is Hispanic television. Some of it is religious broadcasters, and by moving them off that spectrum it obviously would be somewhat discriminatory. The spectrum is being used, as I mentioned, in television broadcasting. This amendment would authorize auctioning off the analog spectrum that is not used and the proceeds from that would be used to purchase set-top boxes for those individuals or families who are still only receiving over-the-air television.

I remind you again why the spectrum is so critical. It is not a new issue. In 1995, the Federal Communications Commission and the National Telecommunications and Information Administration established a Public Safety Wireless Advisory Committee to evaluate the needs of Federal, State, and local public safety officials through the year 2010. The committee included distinguished experts from public safety agencies, equipment manufacturers, commercial service providers, and the public at large. This organization filed its report on September 11, 1996, making key recommendations. The first recommendation was stated quite directly: ''More spectrum is required.''

The committee explained, ''In the short term''—talking about 5 years, talking about 1996 when their report was issued—''approximately 25 Megahertz of new Public Safety allocations are needed. The present shortages can be addressed by making part of the spectrum presently used for television broadcast channels 60–69 available as soon as possible.''

That was back in 1996.

Among other recommendations, the PSWAC noted, ''Funding limitations will remain a major obstacle in the adoption of needed improvements in Public Safety communications systems. At a time when government budgets are tight, alternative methods of funding future Public Safety communications systems must be identified. Otherwise the substantial benefits afforded by technology will not be realized.''

The recommendations of this distinguished commission are as true today as they were 7 years ago. And yet we have continued to fail to deliver this spectrum to public safety.

In 1997, I chaired a hearing examining public safety spectrum issues. My committee heard first-hand accounts of the troubles experienced a the Oklahoma City bombing. We heard chilling testimony from Oklahoma City Council Member Mark Schwartz about the day of the bombing. He said, ''We had our trailer command post, the State, the

county, the Feds: We were next door to one another, because we could not communicate in any other way in our crisis.'' He told the story of standing with an FBI agent whose cell phone was not operating. The only way the agent could communicate with Washington was through a friend of Mr. Schwartz in Florida who had two phone lines in his house. The friend used one line to talk to Oklahoma City and the other line to talk to the FBI in Washington. Mr. Schwartz explained, ''You could not use your cell phones, because they were jammed. Southwestern Bell at this time went down. . . . This is why this additional public safety spectrum has to be in place. Because it means saving lives. And I do not care where it is in this country, the public is entitled to it.''

That hearing was 7 years ago. We are no better off today. The 9/11 Commission report made the following observation: ''The inability to communicate was a critical element at the World Trade Center, Pentagon, and Somerset County, crash sites, where multiple agencies and multiple jurisdictions responded. The occurrence of this problem at three very different sites is strong evidence that compatible and adequate communications among public safety organizations at the local, State, and Federal levels remains an important problem.'' Nothing has changed.

What happened during those 7 years? Congress got the message, at least partially, following the PSWAC report. In the Balanced Budget Act of 1997, Congress allocated 24 megahertz to public safety. Big win for public safety, right? Wrong. The 24 megahertz was just an empty promise. Why? Because broadcasters insisted on an exception to this requirement. That exception continues to exist today with no end in sight. Under current law, public safety will not receive access to the spectrum until completion of the digital television transition. I asked FCC Chairman Powell at a hearing earlier this month, ''if neither the FCC nor Congress took any further action, when do you think the digital television transition would be complete? He replied, ''decades.''

We cannot wait decades. We cannot stand by while another Oklahoma City or Pentagon or New York incident occurs hoping for broadcasters to act in the best interests of the public rather than the best interest of themselves. We must act now.

The Wall Street Journal characterized the issue quite well on Monday: ''You would think that these days, Congress would be on a terrorism high alert, paying any price to keep the homeland secure. But there's at least one chink in Washington's antiterror resolve, as was evident in the U.S. Senate last week. It involves the broadcasting lobby and the high-stakes politics associated with the transition to digital TV. Most people have heard about big D.C. lobbies like the ones for tobacco and guns. Compared with the broadcasters, though, they're but a few suburban moms writing letters. Multichannel News, a trade paper, says the broadcast industry is 'so potent it's considered immune from the laws of political physics.' ''

The article proceeds to describe the SAVE LIVES Act calling it ''an easy and obvious solution.'' But the article aptly describes the fate of the bill last week in the Senate Commerce Committee: ''But the broadcasting lobby liked virtually nothing about the bill, and senators couldn't muscle up the political will to pass it. The Commerce Committee voted 13–9 against the McCain proposal, approving a vastly watered-down alternative. Only four channels would have to be returned by 2008, and even that handover could be delayed indefinitely if broadcasters could persuade the FCC that doing so would cause ''consumer disruption.'' The National Association of Broadcasters, the main lobby group, says it is only concerned about preserving the ability of millions of Americans to watch free broadcast TV; it also says it is moving as quickly as it can toward digital television. Maybe. It's also possible that Congress, in doing the broadcasters' bidding, has managed a striking bifecta: a ridiculous technology policy that leaves it open to the charge of being soft on terrorists.

I ask my colleagues: If there is another disaster—and I pray every single night that there never is—whether it be a terrorist attack, whether it be a natural disaster, with which we are now becoming unfortunately more and more familiar, will we be able to tell the first responders that we have taken every possible action to give them the ability to communicate with one another to save lives?

I hope I can work out an agreement with my friend from Montana, who has a different philosophical view on this issue, which I respect. I hope I can work out an agreement with him so that we can move forward and close this loophole that has been created, at the same time understanding there are legitimate concerns that broadcasters have in arranging for this transition to take place. But we cannot have it be endless.

I yield the floor.

Mr. BURNS. Mr. President, the Senator from Nevada has asked for 5 minutes. I will let him have his 5 minutes now and I will follow him.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, and I will not object, is that 5 minutes on the amendment or on another matter?

Mr. ENSIGN. On the amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, very briefly, I rise in strong support of what Senator MCCAIN is trying to do. This underlying bill is acting on a lot of the proposals the 9/11 Commission has brought forward. It has recognized some serious problems we face in this global war on terrorism and has asked Congress to address those—at least some of those problems—in this bill. Senator MCCAIN has tried with this amendment to address some more of those problems.

Frankly, we do have a problem with first responders. They do not have the spectrum they need to be able to communicate properly during disasters. We have seen that a few times in the past. The 9/11 Commission has strongly recommended we take the kind of action Senator MCCAIN is trying to take today and free up the spectrum from the broadcasters, the spectrum they have agreed to give up next year—frankly, the hard deadline Senator MCCAIN has put forward is actually years out from that—and the broadcasters are now saying they cannot do that. It would be too expensive for them and cause all kinds of problems.

The broadcasters have had this spectrum for free for a long time. In the agreement—forgetting the digital spectrum—they were supposed to get off of the analog spectrum, which is part of the spectrum we want to give to some public safety groups for better communication.

This is not just a question of radios being able to work. In the future, with the technology that is out there, we are talking about video, about broadband over some of this spectrum that will make our first responders much more effective in the jobs they are doing.

The amendment Senator MCCAIN has brought forward will not only help first responders in the case of a terrorism attack, but it will also do a lot of good things for our economy. Freeing up this much spectrum will probably raise, according to estimates I have seen, around $50 billion for the U.S. Government to help with the deficit. It will stimulate investment in America. It will create jobs.

There will be incredibly exciting new technologies brought forward that we cannot imagine today if this spectrum is freed up.

It also goes to the heart of American competitiveness. We are falling behind on a technology front from the rest of the world. We have to deploy broadband widely across America. Spectrum is a very important part of deploying broadband, and it is critical that we move this process forward, that we not let a special interest group block what will benefit virtually every American.

I rise in strong support of the McCain amendment. I am hopeful we can get this worked out, if not on this bill, on a bill in the near future.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is recognized.

AMENDMENT NO. 3773 TO AMENDMENT NO. 3766

(Purpose: To ensure the availability of electromagnetic spectrum for public safety entities)

Mr. BURNS. Mr. President, we do not want to prolong this debate because we have already discussed it in the Commerce Committee. I have a second-degree amendment that tightens that loophole down a little bit, but I want to set the record straight.

The 9/11 Commission recommendation read this way:

> Congress should support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes.

That is all it said. There is spectrum available if the FCC would only assign it.

When we accelerate the transition to digital we are taking the small market television people almost off the air. In fact, some would say that we are turning off about 73 million TV sets. As long as you set a hard date on a transition, those who would supply the equipment for that transition that you have to have, it seems as though the prices never come down.

I have been in the market a little bit. I might have rode in town on the last load of pumpkins, but I didn't fall off the load and break my head. As long as there is a date there, the price will stay high and some of the little stations will never be able to make the transition.

I have the smallest TV market in the United States called Glendive, MT. It is 258th in all the markets. They cannot afford that. In 1998, I sent a check down there to buy the time when I was running for the Senate, and the buy was the biggest buy they had all year. They called me back and wanted to know if I wanted them to send the deed to the station. They thought I had bought the station.

That is what we are looking at. Do we want to take off these little stations? We are talking about public safety—free over the air. Television does weather, a lot of announcements and public service in our local news. How many people could not take their eyes off the televisions in this market whenever these twisters were going around in advance of and behind all of the hurricanes and the leftover hurricanes that come through this area. Do we want to lose those free over-the-air broadcasters? I don't think so, not with the service they provide to our local communities.

We have talked with the first responders, and we have done a lot of work with the first responders. We have a bill on the Senate floor today called E 9–1–1, and the heart of that bill is to make sure that every time you pay your phone bill you pay a little tax, and that money goes to the States so that these communication centers can upgrade, modernize. When you dial 9–1–1 on your cell phone, they can locate you as if you dialed in on a wired line.

I think that is a no-brainer. It only took 4 years to pass the original bill. Now we have to make sure the money goes to the right place. Senator CLINTON of New York and I have been working on that for 2 years. And it still hasn't passed.

This underlying bill we are talking about, as recommended by the 9/11 Commission, this legislation should not even be on this bill because they are talking about intelligence. They are talking about if something bad were to happen in this country. We are talking about after it happens, and that is a whole new kettle of fish.

I am offering a second-degree amendment in the form of a substitute. Basically, it tightens up the loophole that the Senator from Arizona is so concerned about.

I will read it into the RECORD:

> (B) to the extent necessary to avoid customer disruption but only if all relevant public safety entities are able to use such frequencies free of interference by December 31st, 2007, or are otherwise able to resolve interference issues with relevant broadcast licensee by mutual agreement.

That is what we are saying, that the first responders have to ask for it. I will tell you, and I agree with the Senator from Arizona, we are going to lose some stations—and those channels, some of them are minority stations—as a result of this legislation.

I appreciate where the Senator from Arizona wants to go, but I will tell you, market forces usually do a better job in transitioning us into a new era than hard and fast dates do. They do it in an economical sense and let everybody, all competitors, compete and survive in the marketplace.

We know there is going to be demand for high-definition television. I can remember, in 1991, going to the Consumer Electronics Convention in Las Vegas. Do you know what they wanted to do? They wanted the Government to set the standards of high-definition television. My message then was: You do not want the Government to set standards, because when we put them in law, they are there for a long time. Your competition is international. You set the standards. The industry sets the standards, the standards in which they can compete and still make the transition to and use the new technologies that are to come.

That is basically what we are talking about. So I offer this amendment in the form of a substitute and ask for its adoption.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I presume we are about ready to perhaps dispose of this amendment.

The PRESIDING OFFICER. Is the Senator from Montana sending an amendment to the desk?

Mr. BURNS. I can do that.

Mr. LOTT. Mr. President, while the amendment is being sent to the desk, let me say I appreciate the way these two Senators and all involved have worked this out. I think this is a suitable arrangement. The spectrum issue and its availability to first responders is very important. But this loophole was an opportunity for the spectrum issue to be avoided, perhaps in perpetuity.

I think the language we have here is reasonable language. I commend my colleagues for being willing to work through it where we will not have an extended debate through the afternoon, which is the right thing to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I join with the Senator from Mississippi in thanking and congratulating Senator MCCAIN and Senator BURNS for this agreement. I also thank Senator LOTT for his part in securing this agreement. I know he was very helpful. They really reached not only an amicable but a meaningful compromise on how to accomplish one of the goals of the 9/11 Commission, which in its report describes the consequences of the inability of public safety officials to communicate at the World Trade Center, the Pentagon, and in Pennsylvania.

The Commission recommended, specifically, that the Congress ''support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes.''

Senator MCCAIN offered an amendment. The potential existed not only for disagreement about it but for very long debate which would have made it hard for the Senate to move forward expeditiously on the urgent underlying legislation. Senator BURNS and Senator MCCAIN have reached an agreement which is meaningful. It gets something done. I might say, I hope and believe that it may set a precedent for other amendments pending.

There are a lot of people who have said we face some intractable issues on this bill, but here we see clear evidence we can work through these issues and, in that sense, set a precedent for how we can work through the other pending issues on this bill.

I thank everyone involved. I will strongly support the amendment.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Burns amendment be proposed as a second-degree perfecting amendment to the McCain amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN. I think that clears up the parliamentary situation. So we are now considering the Burns second-degree amendment to the McCain amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS] proposes an amendment numbered 3773 to amendment No. 3766.

Mr. MCCAIN. 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 printed in today's RECORD under ''Text of Amendments.'')

Mr. MCCAIN. That clears up the parliamentary situation.

I thank my friend from Montana. I know how involved he has been on this issue. I was referring back to a hearing we had in 1997 on this issue. I do thank him. This compromise is certainly not what he wanted and it is not what I wanted. I also thank Senator LOTT for his good offices in helping, as well as the cooperation of the staffs, as well as that of Senator HOLLINGS and his staff.

Again, this is not what I wanted. This is not what Senator BURNS wanted. But this is a way to achieve the primary recommendation of the 9/11 Commission, which is to free up spectrum for first responders.

I will not quote again because I do not have it right here, but it is important we get this spectrum to our public safety and first responders so they will be able to communicate in case of a disaster or attack.

The compromise amendment modifies my proposal by eliminating the requirement that all broadcasters vacate the analog spectrum by a date certain. Significantly, this compromise still provides the certainty that public safety was seeking, that they will receive the spectrum they were promised in 1997 by January 1, 2008.

This was not my preference on how to proceed. I never believed in treating broadcasters differently. However, this amendment does so by requiring broadcasters on channels 62 through 69 to vacate their spectrum if there is a bona fide request made by public safety. The NAB is supporting this amendment and has decided to treat its members differently.

This approach has been agreed to by Senators BURNS, HOLLINGS, and myself. Again, it was not my preference to proceed in this discriminatory manner, but in the interest of ensuring passage this year, I thought this was a positive step for public safety. However, I remind my colleagues this disparate treatment should be reviewed by the FCC this year.

The FCC can remedy this discriminating treatment by completing its work toward ending the DTV transition. I urge the FCC to do so. I also urge the incoming chairman, Senator STEVENS, and Chairman BARTON of the Commerce Committee in the House to review this discriminatory treatment and the DTV transition upon Congress's return in January.

Lastly, I remind my colleagues that this approach does not provide public safety the much needed money for equipment or consumers, a subsidy to ensure all over-the-air viewers can continue to view television. It was not my preference to strand public safety or consumers in this manner. I hope in the near term Congress will readdress this need to support public safety equipment funding. I thank my colleagues.

Mr. President, I do not believe there would be any further debate. I think the Senator from Montana would agree to have a voice vote.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Arizona, the Senator from Montana, and the Senator from Mississippi for working on this issue. I very much appreciate that. I urge adoption of the amendment by a voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no further debate, without objection, the second-degree amendment is agreed to.

The amendment (No. 3773) was agreed to.

The PRESIDING OFFICER. Is there further debate on amendment No. 3766, as amended?

If not, without objection, the amendment, as amended, is agreed to.

The amendment (No. 3766) 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.

AMENDMENT NO. 3774

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. LIEBERMAN, proposes an amendment numbered 3774.

Mr. MCCAIN. 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 printed in today's RECORD under ''Text of Amendments.'')

Mr. MCCAIN. Mr. President, on behalf of myself and Senator LIEBERMAN I propose an amendment that includes a number of the national preparedness provisions recommended by the 9/11 Commission and is similar to the related proposal we introduced as part of S. 2774 on September 7. It does not address the issue of homeland security grants or spectrum allocation, as those issues will be addressed separately. I believe that this amendment will be non-controversial, and I hope that my colleagues will support it.

One of the lessons that we learned from the terrorist attacks of September 11 is that not only was our country not prepared to prevent the terrorist attacks, but we were not adequately prepared to immediately respond to the attack. One of the fundamental lessons learned is that we need to do more to prepare our first responders and the general public to respond to a terrorist attack.

The stories of the New York City Police Department not being able to communicate with the New York City Fire Department have led serious efforts to increase the amounts of money devoted to increasing interoperability. Lives of the brave men and women of the fire department and the people working at the World Trade Center were lost during the terrorist attacks due, in part, to a lack of communication and the lack of a coordinated strategy to respond to large scale disasters. We must continue to work to ensure that we equip our first responders with the equipment and training necessary to ensure both their safety and their ability to carry out their critical missions.

The Commission's report emphasizes the importance of teamwork, collaboration, cooperation, and the involvement of key decisionmakers. Their recommendations build upon these themes. The report recommends that emergency response agencies nationwide should adopt the Incident Command System to ensure that there is a command structure in place when responding to an emergency. This amendment expresses the Sense of Congress that the Secretary for Homeland Security require homeland security grant applicants aggressively implement the ICS and unified command systems. The amendment also would follow the Commission's recommendation to remedy the long-standing liability and indemnification impediments to the provision of mutual aid in the National Capital Region.

Consistent with the recommendations, the amendment also would direct the Secretary of Homeland Security to work with the Federal Communications Commission, the Secretary of Defense, and State and local government officials to encourage and support the establishment of consistent and effective communications capabilities in the event of an emergency in a high-risk urban area. The Secretary is also directed to work with the Secretary of Defense to plan for supplying additional back-up communications support in the event of an emergency.

As pointed out by the 9/11 Commission, the private sector controls approximately 85 percent of the critical infrastructure in the Nation, and the report therefore places particular emphasis on the importance of private sector preparedness. The Commission report endorses the American National Standards Institute, ANSI, and National Fire Protection Association, NFPA, voluntary Standard on Disaster/Emergency Management and Business Continuity Programs. The amendment would direct the Secretary of Homeland Security to establish a program to promote private sector preparedness for terrorism and other emergencies, including urging companies to adopt this ANSI/NFPA standard.

In striving to protect our Nation from the threat of terrorism, we must continuously analyze our weaknesses and prepare for the threats of the future. This amendment directs the Secretary of Homeland Security to fulfill this important responsibility by reporting to Congress regularly on his work to complete vulnerability and risk assessments, and the adequacy of the government's plans to protect our Nation's critical infrastructure.

As our Nation continues to stand vigilant against the threats of future terrorist attacks, this amendment takes on additional meaning. Despite all the work done since September 11, it is likely that we will be struck by terrorists again. We must continue to work to ensure that we are ready to respond to any attack. This amendment strives to get us closer to that goal.

Again, I believe that this amendment should be noncontroversial, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I commend the Senator from Arizona for his amendment. It would implement five important recommendations of the 9/11 Commission that would improve our national preparedness. This amendment would support efforts underway to ensure that Federal, State, and local entities all use what is known as the incident command system. I know that our first responders in Maine are leaders in the Nation in using and training with this system. They have told me how critical it is for effective response to terrorist attacks for there to be a working command structure in place. This can only be accomplished with training and organization before an attack or other such emergency.

Senator MCCAIN's amendment would enable the first responders protecting our Nation's Capital to save lives regardless of which side of the Potomac they happened to be on. It does that by establishing an interstate mutual aid compact in the Washington, DC area. It would encourage coordination and communication in urban areas. It would encourage private sector preparedness and help private industry to be better prepared for an attack as well. It would ensure that a nonregulatory, voluntary program be established to promote preparedness within the private sector, using a consistent methodology to address preparedness.

Finally, it encourages the Department of Homeland Security to take a hard look at critical infrastructure, which the Department is already doing, and report to Congress about its findings.

I urge my colleagues to accept the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am proud to be a cosponsor of this amendment with Senator MCCAIN. It is part of legislation that we introduced early in September, along with Senators SPECTER and BAYH and others, to implement all the recommendations of the 9/11 Commission. This definitely complements the core of the proposal that Senator COLLINS and I and the members of the Governmental Affairs Committee made to the full Senate.

The underlying bill would make historic changes to reform our intelligence community to do the best job we possibly can of knowing where our terrorist enemies are, what they are planning, and to strike at them before they can strike at us based on that intelligence.

We have to be prepared for occasions when terrorist attacks may succeed. That is exactly what this measure is all about. It is preparing our local communities to join in the prevention of attacks and then to improve the public and private infrastructures to be ready to respond in the best possible way.

The 9/11 Commission recognized that even big cities with first responders and public service systems that are highly well regarded can be overwhelmed by a terrorist attack as we saw on September 11. That is why this amendment would encourage people to come together, to work together to coordinate the capabilities of each of their communities into a greater unified force.

This amendment would, therefore, help promote integrated emergency command systems that give an array of response agencies at the local level clear roles and leadership in the event of a crisis.

Specifically, it encourages the Department of Homeland Security to condition its terrorism preparedness grants on evidence that the communities are adopting a so-called incident command system, a coordinated system which I have seen in effect in communities in Connecticut and around the country.

The amendment also calls on the Department of Homeland Security to help create emergency community capabilities in urban areas that are most likely to be targeted for terrorist attacks. This is the complement to the agreement between Senators MCCAIN and BURNS we just adopted.

Finally, the amendment urges the Secretary of Defense to regularly report on the plans and strategies of NORTHCOM, the northern command, the new command designed to defend, through the military, the U.S. homeland. We want to know more about the role envisioned for NORTHCOM, to ensure that the unique capabilities of the DOD are well organized, prepared, and available should the President need to activate them for the defense of our homeland.

Together these provisions are going to bolster our defenses against terrorism, even as the underlying bill—if I can put it this way—works to strengthen our offense, which is the offense of the best, most coordinated intelligence system we can have.

I strongly urge my colleagues to support this amendment.

Before I yield the floor, if there is no further debate, I believe this is a noncontroversial amendment, though a substantial one, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 3774) was agreed to.

Mr. LIEBERMAN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I rise this afternoon to address the question of intelligence reform and the future of our national security establishment.

I believe this is the single most important issue to be addressed by the Congress this year. Today, the Senate is considering legislation which would overturn the current structure of the intelligence community, primarily in response to the recommendations of the Commission established to review the tragedy of 9/11.

While I agree that improvements are needed, I urge all of my colleagues to approach this matter very cautiously. We live in interesting and very dangerous times. Many felt that with the collapse of the Soviet Union we had entered into a new era of world peace. I think most of us here recall that we, the President and the Congress, immediately proceeded to claim a peace dividend, and we sought to reap its benefits by cutting back on national security spending. Perhaps it was the right thing, in a world that had indeed fundamentally changed, to reduce our national security spending. Important programs in both defense and intelligence were curtailed.

In hindsight, some now question why certain areas of the budget were reduced. As the Cold War ended, it was clear we needed to review our national security programs. For 45 years, our defense and intelligence capabilities had keenly focused on the Soviet Union. We had devised weapons systems, strategies, and intelligence capabilities, all designed to counter that threat. Since the fall of the Berlin Wall, our leaders have been working to adjust the focus of our national security apparatus to de-emphasize certain elements of our strategy and accentuate others. These changes have taken a long time and some have met resistance. Those of you who know the military history might recall that during World War I, with the advent of tanks and other motor vehicles, it became apparent that the horse cavalry was obsolete; it simply had no place on the 20th century battlefield. Yet while that war ended in 1917, it took until the 1930s for the Army to completely eliminate the horse cavalry from its ranks.

In his highly acclaimed account of the Cuban missile crisis, ''The Essence of Decision,'' Graham Allison explains how President Kennedy was surprised when Khrushchev wanted to negotiate the removal of our missiles from Turkey, while he removed missiles from

Cuba, but President Kennedy had already directed that the Turkish missiles be removed.

After 42 years in the Senate, I am aware of how frustrating it can be to change the massive national security bureaucracy. It has frustrated the reformers in those agencies who recognize what needs to be done. Each Secretary of Defense and CIA Director since 1990 has worked to change the emphasis of these agencies from a Cold War focus, and they are succeeding, albeit very slowly.

The Congress can legislate changes, but that is only half the battle. As President Kennedy discovered, those who have to implement these changes must do so. We should not be fooled into thinking this bill will be fully implemented, unless it does right by the agency it seeks to change and is supported by them. As written, I do not believe this bill meets that test.

It is clearly our responsibility to make constructive recommendations that can lead to improvements in our national security bureaucracy. That is what the people expect of us. We must be sure that the bill we pass is in fact constructive and will not create greater problems than it solves. If we pass legislation that fundamentally alters the current intelligence structure, we can ensure that it will lead to a period of several years during which the new intelligence community will experience growing pains.

Furthermore, if, in our attempt to strengthen the control of the head of intelligence, we disenfranchise those it is supposed to support, the impact of this bill will clearly be adverse. I understand the frustrations of my colleagues and of all Americans who suffered because of 9/11—those who lost loved ones in particular, but in reality all Americans because our lives were changed by that tragedy.

Every Member of Congress wants to improve our defenses against any further terrorist attack. I say to each of my colleagues again, what is most important, what is absolutely critical is that we make changes that are positive, that improve our national security structure, and that do not have unintended consequences that could jeopardize our security.

We all recognize that we face a new enemy, one that knows no borders and operates beyond the norms of civilized society, but we also know that we have 130,000 troops standing in harm's way, who face a threat significantly different than the one we face here at home.

The new national security system we create must allow us to meet both of these challenges, as it must be able to protect us from the proliferation of weapons of mass destruction and from the threats of nations that might seek to harm us, our allies, or our interests around the world.

I often remark that we have the greatest military in the world, perhaps in the history of mankind. Our young men and women who put on the uniform of this country serve us magnificently. Let me remind you that it is only 1 percent of our citizens who serve in our Armed Forces to protect the remaining 99 percent of us. We are truly in their debt.

It is for them that I strongly support a robust budget to strengthen defense every year. It is also for them that we must ensure we do nothing to weaken the support they get from the intelligence community.

I would like to note that, in addition to our military, our Nation is lucky to be served by the men and women in our intelligence community.

They represent the best in public service. There are those who have criticized our intelligence community since 9/11, but the men and women in this field are truly dedicated, patriotic Americans. In seeking to change how we manage intelligence we must be sure that we remember those who serve in both of these communities.

We are focusing on intelligence reform in this bill because there is need for further improvement. The tragedy of 9/11 and the faulty intelligence which had many believing that Iraq had weapons of mass destruction demonstrate that our system is not perfect. It was exactly these problems which led the 9/11 Commission and many others to call for reforming intelligence.

Like all Americans I commend the Commission for its work. It did a masterful job of reviewing the facts, combing through the massive data, and presenting the results in clear and concise prose. Their report provides a great reconstruction of the events of 9/11 and why it occurred. However, some not that the conclusions they draw may not be fully justified by the facts they uncovered.

Last week, the Appropriations Committee received testimony from several expert witnesses. We heard from a distinguished jurist, Judge Richard Posner, who studied the 9/11 Commission report and was disturbed by its recommendations. He concluded that the Commission went way beyond the evidence presented.

The Commission contends that we had an intelligence failure, that it was a systemic problem as opposed to several mistakes being made by our intelligence community. They blame it on a failure to connect the dots and a lack of imagination.

In their analysis, and also cited by the Committee, for example, they note that several terrorists met in Malaysia and that a few proceeded from there to the United States and took part in the attack on 9/11. They conclude with hindsight that the CIA should have recognized that these terrorists were linked to the bombing of the USS *Cole* and should have informed the FBI and the State Department about the meeting.

It is this type of evidence which the Commission and the Governmental Affairs Committee both cite as the justification for an overhaul of our intelligence infrastructure.

We all wish that our analysts would have been prescient enough to recognize the relationship among these terrorists, and their connection to the *Cole* bombing, and the importance of the Malaysian meeting.

We all wish that these same analysts would have made that information available to the FBI and State Department where there exists a possibility that it would have triggered an investigation of their movements here. But I for one believe it would have taken a lot of luck for that to have happened—more than simply connecting the dots or having better imagination.

Consider this point. It has been more than 3 years since the attack on our Nation. In that time, we have devoted billions of dollars and we have sacrificed many young lives in the war on terrorism, but as far as we know, Osama bin Laden remains hidden from view directing the farflung al-Qaida network.

Would anyone seriously claim that we have not worked hard enough to connect the dots since 9/11?

Intelligence is a tough business. Like me, many of our colleagues have been involved in intelligence oversight for the Congress. I am not telling them something new.

We have witnessed advances in communications and in command and control and other technologies which have revolutionized intelligence. But, with all the highly sophisticated tools in our arsenal, we still can not find Osama.

Earlier this year, former CIA Director Tenet testified to the Congress that it would take another 5 years before we had successfully rebuilt an inadequate human intelligence capability in the war on terror. Some immediately held up the Director's statement as an indication that we have not addressed human intelligence requirements. And that is simply not the case.

For 50 years we promoted human intelligence, but our focus was on defeating international communism in places where it was taking root, primarily in Europe, Asia, and Latin America. In some cases it takes a generation to build a human intelligence network. When we took our peace dividend, we set back the efforts to refocus human intelligence on newer threats.

When the Director says it will take another 5 years, it is not because we haven't been responsive since the rise of al-Qaida. Should we have been working on this more vigilantly? Maybe. But I ask you: Who among us knew at the end of the Cold War that the greatest challenge we were likely to face in the future would come from the son of a Saudi construction magnate?

Had we known that at the time of Desert Storm, could we have convinced all of our colleagues that there should be no peace dividend because we needed to prepare for al-Qaida? We all know the answer to that.

So I ask you: How will changing the intelligence structure solve this dilemma? Will it allow us to grow our human intelligence capability overnight? Obviously not, but it could distort the working relationship among the various agencies so that intelligence support is harder for the agencies, such as the Defense Department, to get.

That could lead agencies with the financial wherewithal to provide that capability internally. That outcome would be expensive and very harmful.

The Commission looks at this issue only through the lens of terrorism, and seeks to ensure better coordination within the community.

In so doing, it fails to consider the varied responsibilities and needs of all the actors which depend on intelligence.

As you know, as ranking member of the Defense Appropriations Subcommittee, I have access to virtually all of our Nation's secrets, including those in the Defense Department and in intelligence programs as well.

Over the past 3 years our Committee has been informed of multiple threats, most of which have never been publicized. The intelligence community must treat each warning with utmost care. They must research and investigate each one to determine its veracity, and then respond appropriately to those incidents which are deemed credible.

In many cases what some call connecting the dots is really like searching for a needle in a haystack. And, just to make it more difficult, there are many hay stacks to examine and in some cases the needle looks exactly like hay. Sure the needles are there and theoretically they could be found, but should we really expect our analysts to find them every time?

Furthermore, I want everyone to realize that we are not standing still. We have come a long way in improving intelligence cooperation.

We created the Terrorist Threat Integration Center to bring analysts from various parts of the community to work together.

The enactment of the PATRIOT Act brought down a wall which had previously blocked information sharing between various parts of the intelligence community and the FBI. Our defense and intelligence leaders are working to break stovepipes and to ensure that information sharing is working.

Certainly more improvements are needed in intelligence cooperation and in new technology to improve information sharing.

Our Nation has the finest national security apparatus—defense and intelligence—in the world. It is not perfect and it never will be. Some areas can be improved. But it is a critical capability.

Our warfighters—our young men and women who, as we speak, are serving in harm's way—depend on seamless intelligence. It is our solemn duty to ensure that we can continue to provide them the best. We must make sure that we do not inadvertently take actions which could sever the link between our defense capabilities and intelligence support.

We cannot take the Secretary of Defense out of the loop simply because we seek to strengthen the head of the intelligence community.

So what changes shall we make to improve the intelligence capability of this country?

First, I would suggest, as recommended by the Commission and the Governmental Affairs Committee, that we establish a national counterterrorism center.

The one real failing of the intelligence community in preparing for 9/11, be it in the FBI, the CIA, the NSA or other organizations was the inability or unwillingness to share terrorist intelligence and analysis completely and seamlessly among the disparate parts of this community.

Many improvements have already been made, but the one reform that truly can respond to the cries from the families of 9/11 victims is to address this issue, and to address it now. This is the most critical change that needs to be legislated and our Intelligence and Armed Services Committees need to follow up to make sure it is implemented and is effective in conducting it mission.

That center needs to be the clearing house for all intelligence on counterterrorism, both foreign and domestic. It needs to work across disciplines and agencies, and it needs to have the support of all of the intelligence community. It needs to be the analytical capability for the community in the field of counterterrorism.

We need to join foreign and domestic analysis together to be sure that we get the full intelligence picture. However, because this Nation believes that foreign and domestic intelligence programs must be separated to ensure that civil liberties and the rights of all Americans are safeguarded, I would urge my colleagues not to give this organization any operational role.

It certainly should conduct analysis and strategic planning, but operational planning and operations should continue to be handled as they are today through other parts of the intelligence community working with the Defense Department overseas and the FBI working here at home in conjunction with other relevant domestic agencies.

I believe that as we establish this new organization, the national intelligence director's charter should ensure that this national counterterrorism center receives the resources it needs and that the director should focus his efforts on this one challenge in its first year of existence.

I agree with the managers of the bill that other intelligence centers may need to be created, but I believe the decision to do so should come from the President based on the recommendation of the national intelligence director with the concurrence of the National Security Council and the Congress.

Most important, we have to make sure we come up with the right solutions for the rest of the intelligence community. What may be right for counterterrorism may not be the solution that best serves our intelligence needs for weapons proliferation or for our military. For those reasons, I am not comfortable with rushing this process.

Some criticize the community for a ''group think'' outlook. They say that the analysis that indicated that in all probability Iraq was in possession of weapons of mass destruction is an example of group think. I am one who questioned the results of that analysis.

With hindsight, I speculate that the community failed because it tried to provide policy makers the answer they wanted rather than a fair interpretation of the facts. Nonetheless, if group think was a problem, how will that be improved by greater centralization of the analytical capabilities in the community? Won't that only exacerbate that problem?

And by creating a more powerful intelligence director with a closer tie to policy making, won't that likely lead to more attempts to sway analysts to reach politically acceptable conclusions?

These are the troubling facts that were not addressed by the 9/11 Commission and are not adequately considered in this bill.

Last week, the Appropriations Committee received testimony from seven witnesses, all of whom are experts in the field of national security and counterterrorism. Included among them were Dr. Henry Kissinger, the current head of the Center for Strategic and International Studies, and former Deputy Secretary of Defense, Dr. John Hamre.

I do not believe I would be overstating their views to say they were quite concerned with the legislation being proposed by the Governmental Affairs Committee.

Their counsel was to be cautious. Dr. Kissinger recommended that Congress study this issue more carefully.

He urged us to take another 6 months before we moved forward on what is the most significant Government overhaul since the National Security Act of 1947.

Last week, noted experts in national security, including former Secretary of State George Shultz, former CIA Director William Gates, former Secretaries of Defense Bill Cohen and Frank Carlucci, and former Senators Nunn, Hart, Bradley, Rudman and Boren, all recommended that the Congress proceed cautiously. They urged all of us to remember the old medical adage: First, do no harm.

This is a most important debate and a most important issue. I know some of my colleagues worry that if we do not

act now we will lose the opportunity for significant change. I recognize this concern. But enacting bad legislation in haste because there is a popular demand to act is not the proper way for this body to respond.

The Senate was created to cool the passions of the people. Our history, our culture, even our rules are all deeply instilled with the concept of proceeding cautiously.

I urge my colleagues to agree with those of us who recommend beginning the process of reform by establishing a new central authority for intelligence, a national intelligence director, any by responding to the specific challenges raised by the events of 9/11 with the creation of a national counterterrorism center.

But I believe we need to give a new administration and Congress more time to determine how the rest of the national security apparatus will be structured. Let us use the coming year to determine how we balance the additional responsibilities and share power among the various components of our national security agencies.

This matter is too important to rush through in 2 weeks in the heat of a Presidential campaign. Please let us act responsibly.

I yield the floor.

Mr. LIEBERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

Ms. COLLINS. Mr. President, I want to give my colleagues an update on an amendment that was offered yesterday. It is an amendment that was offered by Senator WYDEN on behalf of himself, Senator SNOWE, Senator GRAHAM, and Senator LOTT. I believe we have reached an agreement on a compromise to that amendment, which deals with declassification. Actually, I recall the Presiding Officer, Senator CORNYN, is also a cosponsor of the amendment.

We have been able to work out an alternative to the amendment. We are just waiting for language to come from legislative counsel. It is my hope, and I believe the hope of Senator LIEBERMAN, that we will be able to dispose of that amendment this afternoon.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the chairman. That is certainly my hope. I am grateful that all the parties have come together about this amendment. I think we have a solution that doesn't create another board but does realize the goals that Senator WYDEN and the other bipartisan sponsors of the amendment have, to have a reasonable means of asking for a second look, if I can put it that way, at a classification decision made by the executive branch with regard to congressional access to intelligence information. I am very pleased about that and I hope we can get the language here and do it this afternoon.

I also say to our colleagues how important is the announcement made earlier today by the bipartisan leadership, Senator FRIST and Senator DASCHLE. I hope people will respond to it. First, I thank the two of them for the extent to which they have worked in support of the effort Senator COLLINS and I are making and that they are together in support of the effort, which is exactly the standard that needs to be set as we work on this critical national security matter.

Second, there is a clear message, which is that Senator FRIST and Senator DASCHLE may together move to invoke cloture unless there is a steady movement of Senators to the floor introducing their amendments, because there is an excessive—there is an indication of an intention to file over 200 amendments. Senator FRIST has made clear that we are not going to depart from Washington until we finish this bill and take action on the report of the working group, led by Senators MCCONNELL and REID, with regard to reform of congressional oversight of intelligence, as urged on us by the 9/11 Commission.

I am very grateful for that statement of policy by the leadership. We ought not leave here until the Senate completes its work on these two critically important matters. These are urgent. There would simply be no excuse to our constituents, to the American people at large, to have left for political campaigns while the Nation is under clear and present danger of terrorist attack, with a certain unsettling imminence suggested as we lead up to our national elections.

I join with Senator COLLINS in thanking our colleagues who have come to the floor with amendments; those, as was the case with Senators MCCAIN and BURNS, who worked out a very significant and real compromise on what could have been a long distraction on the road to adopting our proposal.

I hope people will now come to the floor. We will be here for a while more today. Obviously, we will be here tomorrow. Leadership told us we will be here Friday and Monday. The sooner we get these amendments in and consider them and dispose of them, the sooner we are going to pass this bill, move on to legislative reform, and recess.

With thanks for the pace we are setting so far and for the support we are receiving, I urge Members who have amendments to come to the floor and offer them at this time. We are open for business.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. 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. DURBIN. Mr. President, I ask unanimous consent I be recognized as in morning business for 15 minutes.

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

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

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized for 2 minutes as if in morning business.

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

COMMODITY CHECK-OFF PROGRAM

Mr. INHOFE. Mr. President, I think we are all familiar with what the Commodity Check-Off Program is. It is a program that is voluntary in all commodities. It allows people to donate to the USDA a small percentage of profits in order to promote their product. This is something that has worked especially well, and something we are having a little problem with now because the USDA says if they change this amount, they do not have the authority to do it.

I will introduce a bill that will give them that authority. It is supported by all farm organizations, by the administration, by the Farm Bureau, by the Farmers Union. There is no opposition. I anticipate that it will be taken up on the floor, and I will introduce it in time.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I have asked the two managers of the bill if I might speak in morning business for a few minutes. Let me ask for 7 minutes, and if they need the floor to do business on the 9/11 Commission bill, I will give up the floor. I want to speak of something I think is very important.

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

DISASTER AID

Mr. DORGAN. Mr. President, first I will talk about disaster aid. I will talk specifically about disaster aid for family farmers in the northern Great Plains who have been hard hit.

We have been talking a lot about disaster aid for people who have been victims now of four successive hurricanes in the Southeast. God bless those people who have been victims of the hurricanes. They have had a difficult time. Perhaps none of us can understand how

awful it has been for them. Those storms have swept a wide tract across the southeastern corner of the United States.

I have always believed, in my service in the United States Congress, that for those who need help because of natural disasters, the Congress should help. I have always voted for assistance, when I served in the both the House and the Senate. The people who await the aid need to understand we want to make certain we provide this assistance during this difficult time.

In recent days, I have been reading reports about the disaster aid that the Senate included in the Homeland Security Appropriations bill. In that bill, the Senate included legislation dealing agricultural disaster assistance for family farmers around the country, not just in the Southeast. Now some are saying maybe the disaster aid we put in the Homeland Security appropriations bill will have to be stripped out. I want to talk about that for a moment.

It is critically important that we provide disaster aid not only for those people and those farmers in the Southeast, but also for other farmers around the country who have lost their entire crops due to weather-related disasters.

I was reading an e-mail from a young woman. She wrote an e-mail that I will paraphrase. It describes the culture of family farming and describes why I care so much and why some of my colleagues are so passionate about this issue. Her name is Annie. She writes that her dad is a farmer and was diagnosed with an inoperable brain tumor that proved to be cancerous. He has now been taking aggressive treatment. The prognosis is not great. She said: When we found out about dad's cancer, our neighbors told us not to worry about the farm. She said: My youngest brother was trying to manage the farm on his own this summer, but on August 25, 100 neighbors showed up at the farm with combines, grain carts, trucks, and semis to harvest the wheat. The local Case dealership donated some manpower and some machinery. The local crop insurance agency catered an outdoor barbecue to feed 150 people who worked.

She sent pictures of her dad, who is suffering from a brain tumor, but more importantly a picture of all the combines that came over, all the trucks, all donated, all from folks who showed up because they knew a neighbor was in trouble. It is part of the culture and the value system of family farming. The network of farms that dots the prairies in this country, especially in the northern Great Plains that I know so much about in terms of family farming, is part of the culture of this country.

A wonderful author named Richard Critchfield talked of the origin of family values that originated on family farms, and moved to small towns and big cities to refresh and nourish family values in this country. That is why family farms are so critically important.

In my part of the country this year we did not have hurricanes, but in the spring we had torrential rains. These are pictures of the same State. This is the southwestern corner of my State. It looks exactly like a moonscape, or perhaps the surface of Saturn, as we have seen in pictures. There is no vegetation, nothing growing. There has been a protracted drought. I had people tell me north of Hettinger, North Dakota, they had 2.2 inches of total moisture from January 1 to July 1—6 months, 2.2 inches of total moisture. Their land was destroyed; no vegetation at all.

This picture is the same State, the State of North Dakota, with a farmer standing in his field inundated by water. There were 1.7 million acres in North Dakota not planted this year. Let me say that again: 1.7 million acres could not be planted. Farmers like this farmer standing in the middle of his field risk everything. When they cannot plant their entire farm, they will go broke if they do not get some help. Drought and inundated by torrential rains, they could not plant 1.7 million acres, and in August, when the corn and beets needed heat units to grow, we had a freeze. It was a very unusual occurrence in North Dakota, but it froze in August, a frost that damaged some of these crops.

The Senate passed a disaster aid package for victims in the Southeast recovering from the hurricanes, and also passed an agricultural disaster aid package on the Homeland Security bill. We need to finish that job.

I hear and now read in the National Journal and Congressional Quarterly that some are saying it is likely we will not keep the agricultural disaster package in the Homeland Security bill through the conference committee, because we have some people who do not want that to happen. I would say to those people: There is not a difference between the reimbursement for a crop that was lost in northern Florida or a crop that was lost in northern North Dakota due to a weather-related disaster. They both occur in counties that are disaster counties. They both occur in a way that is devastating to the family farmer and will injure that family in an irreparable way unless this country says, We are here to help you.

I want to tell those who are saying this cannot be done: this must be done. We will help those folks who have been injured by the four hurricanes, but we will also insist on helping others across a wide band of this country who were injured by torrential rains and by a protracted drought in the heartland and parts of the West. There is a broad consensus in the Senate that disaster aid must be helpful also to family farmers in other parts of America. We cannot allow this to be dropped. We must continue to impress upon those who would not include this assistance that when we provide disaster aid, it must include all of those who have been affected and devastated by weather-related disasters.

If I might mention one additional point. We are currently dealing with homeland security and terrorism in the Senate. I commend the managers of the bill on both the Republican and Democrat side. I have watched the debate and the discussion. I think it has been wonderfully done, very professionally handled.

NATIONAL REGISTRY OF CONVICTED SEX OFFENDERS

Mr. President, terrorism comes in many forms. Within our country, one form of terror is perpetrated by sex offenders.

I have introduced a piece of legislation to deal with this problem. I would like to describe why it is important that the Senate Judiciary Committee act on this legislation. And let me, at the outset, thank Senator HATCH, the Chairman of the Judiciary Committee, for his support of it.

Not quite one year ago, a young coed at the University of North Dakota was working at a shopping center in Grand Forks, ND. At about 5 in the afternoon, she left her job to walk out to her car. She was abducted and brutally murdered.

The alleged murderer is now in jail. He will be standing trial. This man had been incarcerated 23 years for violent sex offenses in Minnesota, and then let out of prison. He was considered a high-risk offender, but he was let out of prison to go back on the streets, with no monitoring of any sort.

That afternoon, when this young woman named Dru Sjodin walked out of that shopping center, her assailant was free to roam that parking lot, to abduct her and to brutally murder her.

After this tragic crime, I found out that there was a serious flaw in the way that sex offenders are tracked in this country. If you were living, for example, in Grand Forks, ND, as this young college coed was, and you checked the North Dakota sex offender registry, you would not know that violent sex offenders had been let out of jail in Minnesota and were living in your area, just a few miles across the state line.

I think there ought to be a publicly available national database of convicted sex offenders who are released from prison, so people are able to get a meaningful list of sex offenders in their area, including offenders across state lines.

I also think when a high-risk sex offender is about to be released from prison, the local State attorney ought to be notified, to determine whether to seek further incarceration for the protection of the public.

Third, if a high-risk sex offender is, in fact, released from prison, then there ought to be intensive monitoring following that person's release, for a period of at least one year.

In this case, a high-risk, dangerous offender was released from prison after

23 years. He was under zero supervision. A wonderful young coed from the University of North Dakota walked out of a shopping center. She was abducted at knifepoint and then brutally murdered.

Maybe we save some lives with a bill, which would be known as Dru's Law, that would require a national database to be made available to the American public through the internet.

Maybe we can avoid future circumstances where high-risk sex offenders are turned loose with zero supervision.

I thank Senator HATCH and Senator LEAHY. They have both reviewed this legislation, and both think it has merit. It is not something that would cost very much. It is something that has a great deal of common sense to it. I also thank Senators DAYTON, COLEMAN, CONRAD, JOHNSON, LUGAR, and DURBIN, who on a bipartisan basis have cosponsored this legislation.

I passed a piece of legislation very much like this about 2 years ago. A young woman named Jeanna North, who was 11 years old, was murdered in Fargo, ND, by a man named Kyle Bell. He was being hauled around the country by a private company that was contracted by the State to haul prisoners from one facility to another.

I do not think a convicted murderer should ever leave the arms of law enforcement, and turned over to a private company. But I found out it is done all the time. If they are going to haul a convicted murderer, a violent offender, they will often contract with a private company.

It turns out, they contracted with a company that took this man named Kyle Bell, this murderer, and hauled him around the country. They stopped for gas. One guard was asleep, the other was in buying a cheeseburger, and Kyle Bell crawled out of the bus and walked into a parking lot of a shopping center, wearing his street clothes, mind you.

That will never happen again. There is now a law on the books. It says if you are a private company hauling violent offenders, then there are certain responsibilities with respect to the restraints to be used, the clothing the prisoners must wear while being transported—bright orange clothing—and the Justice Department of the United States must establish consistent rules.

So what happened with Kyle Bell, the fellow who murdered young Jeanna North, is not going to happen again. Someone is not going to walk into a shopping center in street clothes because a private contracting company was transporting a convicted murderer and one was asleep in the van and the other was buying a cheeseburger and the convicted murderer walks off. That is not going to happen again.

Sometimes it is just a matter of common sense. It seems to me with respect to this issue of Dru's Law, dealing with high-risk convicted sex offenders, we can do much, much more, and we should do much, much more.

I, once again, say to Senator HATCH and Senator LEAHY, thank you for your cooperation. I know you have been working to see how we might move this legislation. I am looking forward to having it a part of other legislation that moves from the Judiciary Committee.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3704

Mr. LIEBERMAN. Mr. President, the Senator from Oregon, Mr. WYDEN, along with a very impressive bipartisan group of cosponsors, introduced an amendment of real import 2 days ago. We said we would try very hard to work it out. I am quite delighted and grateful that we have worked it out in a way that is acceptable to all involved and it accomplishes a very significant public purpose. I thank the Senator from Oregon for all he did to bring us to that point.

I happily yield the floor to him.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I express my appreciation to both the distinguished Senator from Connecticut and the chairman of the committee, Senator COLLINS. As I said on Monday, the Senate is well served by having this bipartisan duo that has long practiced good government steering us on this important piece of legislation.

The Senator from Connecticut is absolutely right; the three of us have worked very cooperatively over the last few days. Senator LOTT also has made a valuable contribution, as well as Senator CORNYN, Senator DAYTON, and Senator SNOWE. A bipartisan group of Senators has been concerned about this issue. I believe the legislative counsel's office will have the actual language to bring to the Senate very shortly, probably in 10 or 15 minutes.

With the agreement of the Senator from Connecticut, I will take a few minutes to outline what the distinguished Senator from Maine, the Senator from Connecticut, myself, Senator LOTT, and our group have agreed to.

The ability to stamp a Government document secret is one of the most powerful tools in our Government. The backdrop for this whole debate was best summed up by Governor Kean, who did such a good job in chairing the 9/11 Commission, who said three-quarters of all the documents he saw associated with his work on the 9/11 Commission that were classified should not have been classified. The power to stamp, in effect, Government documents secret is now a power wielded by people in the belly of 18 Federal agencies where they now classify more than 14 million new documents each year. This is a power that costs taxpayers about $6.5 billion a year, and it is a power that is simply out of control.

Senators on both sides of the aisle recognize that the system used to classify information for national security purposes is broken. It has been the premise of our bipartisan group that it is possible to fight terrorism ferociously, aggressively, and at the same time make sure that the public's right to know information the public is entitled to is addressed.

When we look, for example, at the Senate Intelligence Committee—Senator LOTT, Senator SNOWE, Senator BAYH and I serve on that committee—had it not been for the exceptional work of Chairman ROBERTS and Senator ROCKEFELLER, much of what we tried to do with respect to our bipartisan report on prewar intelligence would have simply been censored. It would have all been drowned in a sea of black ink. So what we need to do is bring some common sense to this area which is now a hodgepodge of laws and regulations and directives. We are now in a position to outline the changes we have agreed to in our legislation.

First—most importantly—this legislation establishes an independent body known as the independent national security classification board which would review existing or proposed classification of any document or material. They would, in effect, be part of an effort for the first time to ensure that there would be an independent board to which there can be an appeal of classification decisions. Although right now an executive agency has had an appeals body, it has been off limits to congressional requests. For the first time, there will be an independent board that will look at these classification issues and there will be a right of the Congress to appeal a decision.

The distinguished chair of the committee was not on the floor, but I want to express while she is here my appreciation to her. What this has been all about from the very beginning is not a Democratic or Republican issue.

This has been about righting the imbalance between the executive branch and the legislative branch with respect to classification decisions. That is what we have been able to do. It ensures that any President's prerogatives as Commander in Chief are maintained. That is essential with respect to national security issues.

We will also have a chance to bring some real independence to the process of how Government documents are classified by ensuring that for the first time there is an independent route to have a classification decision reviewed.

That process will come after we have had a top-to-bottom review of the standards and processes used to classify information. The chair of the committee and I have talked about this in the past. What has been striking is we have never even done a review of the processes that are now used to classify

documents. People such as those who run the National Archives have said that has been a factor in our having such a chaotic system.

So for the first time, again, Congress would have input into the scope of the review that would take place with respect to how Government documents are classified as well as the guidelines or standards that would be issued as a result of the review.

The independent national security classification board the amendment establishes would assume the duties of a group now known as the public interest declassification board. The new board would be made up of nine individuals, five of whom are appointed by the President and four of whom are appointed by the Senate and the House leadership. This is an effort to try to maintain a new kind of balance between the legislative branch and the executive branch.

In order to make sure that balance is maintained over time, the new board may recommend changes in the classification of all or portions of documents, but the President does not have to accept them. However, the key feature here is, if the President chooses not to accept a recommendation of the independent national security classification board, the President would have to submit to Congress in writing the justification for a decision not to implement the recommendation.

To reiterate, there would be an independent body to which Congress can appeal national security classification decisions, but at the same time, if the President doesn't see it in the same way the independent board does, the President, as Commander in Chief, still has the power to exercise the constitutional prerogative as the President determines, but for the first time it would have to be done in writing. I do not subscribe to the view that there is an inherent conflict between the executive branch's accountability to Congress and the American people on one hand and the constitutional role of the President as Commander in Chief. We have long needed a balance in this area, a balance between the public's need for sound, clear-eyed analysis, and the executive's desire to protect the Nation's legitimate security interests.

In my view, there is no room in this equation for the use of classification to insulate officials and agencies from politics. That was essentially the motivation that got Senator LOTT and Senator SNOWE and a bipartisan group of us in the first place. We have seen this abused again and again.

Senator Moynihan did exceptional work years ago, documenting how so many documents have been classified largely because they were trying to provide political cover rather than protection for this country's national security. Senator Moynihan was a mentor to me because when I came to the Senate, I said I was interested in making changes.

Senator COLLINS has been very helpful. She has also been helpful on some of the other issues we will take up in the course of this legislation, particularly the data mining area, where she and Senator LIEBERMAN have a great interest as well.

But Senator LOTT, Senator BOB GRAHAM, Senator CORNYN, Senator SNOWE—the group who worked on this issue—are very appreciative of the help we received from the chair and the ranking minority member.

This amendment involves millions of Government documents. It involves more than $6 billion that is spent on the classification system each year.

I think we are starting now to lift this kind of fog of secrecy—changing a classification system that rewards secrecy and discourages openness. We will have the amendment actually before the Senate probably in a few minutes. In the interest of time—I know the hour is late and Senators have amendments—I wanted to speak about this, and I wanted to describe what it was that we have agreed to.

Senator COLLINS's staff and Senator LIEBERMAN's staff have put in a lot of hours with us over the last few days. I am very appreciative and particularly pleased that it would be possible to make these kinds of changes. Senator Moynihan was right years ago when he advocated a process that brought some real independence and a right of appeal to a classification decision. The amendment we will offer tonight does just that.

I see the distinguished chairman of the committee in the Chamber. I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I express my appreciation to Senator WYDEN. He is always so good to work with on so many issues, and we have enjoyed working on this one as well.

I want to recognize that Senator LOTT was also very involved in the negotiations and working with Senator LIEBERMAN and me to modify this amendment in a way to preserve the goal of the amendment, and yet to address some concerns we had about creating a new board, unnecessary bureaucracy, or some duplication.

As I indicated when Senator WYDEN first offered his amendment, I believe he is addressing a very real problem, and that is improving the way we classify and declassify documents. I know the members of the Intelligence Committee have been very frustrated with the process that they went through in developing a lengthy report, only to have so much of it redacted and to have no good way of appealing those redactions, no good way of challenging what many members of that committee, on both sides of the aisle, viewed as excessive secrecy or excessive classification.

I have been concerned that the original amendment intruded unnecessarily into the President's constitutional prerogative and duplicated some of the provisions in our bill. I believe the changes we have worked out so cooperatively go a very long way toward addressing the concerns we had while advancing the goal.

Rather than creating a new board to review the classification policy, Senator WYDEN's amendment would now ensure that Congress has an opportunity to make comments regarding the Presidential review of classification policies already established under the Collins-Lieberman bill, and even more importantly to the Senator who has said we need an independent place for Congress to go to bring appeals regarding classification decisions, the revised amendment has agreed to build upon a board that already exists, the Public Interest Declassification Board. The amendment would change the name of that board to the Independent National Security Classification Board. This board was established in 2001, but it is still being put into place.

Under the Wyden amendment, it will have specific authority to hear appeals of classification decisions from specified congressional committees. The board would then make a recommendation to the President, which the President could either accept or reject. If the President rejects the board's decision, then the President, as the Senator indicated, would have to send a written justification of that decision to Congress. This framework helped to address some of the concerns we had about the original amendment.

I will note that this is not the administration's favorite amendment, even in the revised form, but I believe we have struck a fair balance and I am prepared to recommend that we accept the amendment once we get it. I understand it is going to be here momentarily. There were a few technical glitches.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, again, I thank Senator WYDEN. It was a pleasure for us and our staffs to work with him and his staff. As I said, this is a substantial accomplishment. I particularly enjoyed the Senator's reference to the late, great Senator Pat Moynihan. I have a vision of Pat in Heaven smiling right now. I can see that smile. He is probably not wearing that hat that we all loved so much at the time.

The important thing here is this is a right of appeal, if you will, regarding the President's power to classify documents. That is a right that will exist in a limited number of Members of Congress, interestingly and importantly, of both parties. The ultimate beneficiaries, of course, are the American people.

Members of Congress have access to matters that are fully classified. So this is really the public's right to know. If these Members of Congress decide that the public has a right to know, ought to have a right to know the content of something that has been classified, they will have the right to

appeal to this board for review. It is a very finely balanced compromise that is substantial, real, and preserves the President's right as Commander in Chief to have the final word. So this was real legislating in the public interest.

I thank the Senator and his cosponsors for the leadership and persistence that brought this matter to the floor and results now in this agreement which I think will receive unanimous consent from the Senate.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I will be very brief. Again, I express my appreciation to the chair and ranking minority member. The chair made an important point with respect to the executive branch. Clearly, no President, no executive branch is going to ever hold a rally in favor of this kind of idea.

I think the Senator mentioned Senator LOTT. Senator LOTT has been invaluable from the very beginning. He said we just have to build in—whether it is Democrats or Republicans—a new sense of independence. I have tried to say that there is no question in my mind, whether it was a Democratic administration or a Republican administration, what you are talking about are human beings who I think inherently are going to be concerned about something coming out. So out comes the stamp and something is marked ''classified,'' and by the time the rubberstamp program is done, you have millions of documents classified in our country for reasons that have nothing to do with national security.

The Senator from Maine has summed it up very well. I am sure we are going to continue to hear from the administration as this is debated in the Senate and in the House. I do think we have struck a balance that ensures that by giving the President, in effect, the first word on a classification decision, through their appointees having the ability to classify a Government document and, in effect, the last word on a subject, because the independent board makes the recommendation to the President, if the President decides he doesn't want to go along with the independent board, they get the last word by stating in writing why they think the independent board is off base. I think that is the kind of balance between the executive branch and the legislative branch that we ought to have.

What pleases me is tonight this is the end of the line for a classification system that, in effect, encourages secrecy, discourages openness, and I am glad a bipartisan effort could have put all this time into it. I think we will have the amendment over here quickly. With the concurrence of the chair and the ranking minority member, it is not my intent to ask for a recorded vote. I think we can do it on a voice vote.

I yield the floor.

Ms. COLLINS. 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.

AMENDMENT NO. 3727

Ms. COLLINS. Mr. President, on behalf of Senator CORNYN, I send an amendment to the desk, and I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. CORNYN, proposes an amendment numbered 3727.

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

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

The amendment is as follows:

(Purpose: to amend provisions of law originally enacted in the Clinger-Cohen Act to enhance agency planning for information security needs)

At the appropriate place, insert the following:

SEC. ____. AMENDMENTS TO CLINGER-COHEN PROVISIONS TO ENHANCE AGENCY PLANNING FOR INFORMATION SECURITY NEEDS.

Chapter 113 of title 40, United States Code, is amended—

(1) in section 11302(b), by inserting ''security,'' after ''use,'';

(2) in section 11302(c), by inserting '', including information security risks,'' after ''risks'' both places it appears;

(3) in section 11312(b)(1), by striking ''information technology investments'' and inserting ''investments in information technology (including information security needs)''; and

(4) in section 11315(b)(2), by inserting '', secure,'' after ''sound''.

Ms. COLLINS. Mr. President, this proposal amends the Cohen-Clinger Act to explicitly require Federal agencies to emphasize information security from the earliest possible stages of a new system's IT capital planning and investment decisionmaking process.

The Office of Management and Budget has instructed agencies through its budget guidance that information security must be a vital part of the capital planning and investment control process. Amending the Cohen-Clinger Act to codify this guidance will ensure that the law reflects a certain threat environment in cyberspace and requires that information security be an integral part of the Federal acquisition process for the long term.

Security should be reinforced as we migrate toward a more interoperable environment. I believe this amendment is helpful. It is my understanding that it has been cleared on both sides.

Mr. LIEBERMAN. Mr. President, this is a good amendment. I thank Senator CORNYN for offering it. I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to amendment No. 3727.

The amendment (No. 3727) was agreed to.

Ms. COLLINS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. COLLINS. 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.

AMENDMENT NO. 3763

Ms. COLLINS. Mr. President, on behalf of Senator COLEMAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. COLEMAN, proposes an amendment numbered 3763.

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

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

The amendment is as follows:

(Purpose: to strike the amendments made by section 202, regarding the National Homeland Security Council)

On page 117, strike line 1 and all that follows through page 118, line 7.

Ms. COLLINS. Mr. President, Senator COLEMAN has offered an amendment that would strike the language in our bill that merges the Homeland Security Council into the National Security Council. I note that the administration yesterday in its Statement of Administration Policy, in which it endorsed passage of our legislation, expressed considerable concern about the provisions that would reorganize the President's internal policy staff by merging the National Security Council and the Homeland Security Council. The administration feels strongly that Congress should not legislate and make permanent the internal organization of the President's own executive offices or otherwise limit the flexibility needed to respond quickly to threats or attacks.

In looking further at this issue, I agree with the concerns raised by the administration. Senator COLEMAN's amendment striking the merger of those two councils within the Executive Office of the President is acceptable to me.

That is what his amendment would accomplish. I believe the amendment has been cleared on both sides and I urge its passage.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment. I thank

Senator COLEMAN for submitting it. The Homeland Security Council was, as I recall, created by the President and then made into statute as part of the Homeland Security Act that created the Department of Homeland Security. It was meant to be an advisory board to the Secretary of Homeland Security and also a place to which the Secretary could bring representatives of other departments that might not be in the security community normally, such as the Department of Health and Human Services, in terms of bioterrorism, for instance. So I think it has played an important role.

The 9/11 Commission report very gently recommended that we consider merging the Homeland Security Council into the National Security Council. Senator COLEMAN raises a concern that I think is justified as to, one, whether all of these items ought to be on the agenda of the National Security Council, which is already quite busy; two, that this council has a constructive role to play uniquely for the Department of Homeland Security, and insofar as one of the thoughts behind the Commission's suggestion was that merging the Homeland Security Council into the National Security Council would provide a forum where disputes between departments could be resolved, the President, of course, always reserves the right to call the heads of the relevant departments together to do that.

So the long and the short of it is, I think it is too early to—what was the Mark Twain line? The rumors of my death are premature, or something like that. I think the same could be said of the Homeland Security Council. There is a reason for it to live on. Senator COLEMAN's amendment achieves that, and I support it.

The PRESIDING OFFICER (Mr. ALEXANDER). Is there further debate?

If not, the question is on agreeing to amendment No. 3763.

The amendment (No. 3763) was agreed to.

Ms. COLLINS. 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 the order for the quorum call be rescinded.

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

AMENDMENT NO. 3704, AS MODIFIED

Ms. COLLINS. Mr. President, on behalf of Senator WYDEN, I send a modification of the Wyden amendment No. 3704 to the desk. I ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 3704), as modified, is as follows:

On page 134, line 14, insert ''issue guidelines'' before ''on classification''

On page 134, strike lines 16 and 17 and insert the following:

commonly accepted processing and access controls, in the course of which review, the President may consider any comments submitted by the Select Committee on Intelligence, the Committee on Armed Services, the Committee on Foreign Relations of the Senate, and the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives regarding—

(i) the scope of the review the President should undertake in formulating the guidelines under this subparagraph; and

(ii) the substance of what guidelines should be issued.

On page 177, after line 17, add the following:

SEC. 226. CONGRESSIONAL APPEALS OF CLASSIFICATION DECISIONS.

(a) REDESIGNATION OF PUBLIC INTEREST DECLASSIFICATION BOARD AS INDEPENDENT NATIONAL SECURITY CLASSIFICATION BOARD.—(1) Subsection (a) of section 703 of the Public Interest Declassification Act of 2000 (title VII of Public Law 10–567; 50 U.S.C. 435 note) is amended by striking '''Public Interest Declassification Board''' and inserting '''Independent National Security Classification Board'''.

(2) The heading of such section is amended to read as follows:

''SEC. 703. INDEPENDENT NATIONAL SECURITY CLASSIFICATION BOARD.''.

(b) REVIEW OF CLASSIFICATION DECISIONS.—

(1) IN GENERAL.—The Independent National Security Classification Board shall, pursuant to a request under paragraph (3), review any classification decision made by an executive agency with respect to national security information.

(2) ACCESS.—The Board shall have access to all documents or other materials that are classified on the basis of containing national security information.

(3) REQUESTS FOR REVIEW.—The Board shall review, in a timely manner, the existing or proposed classification of any document or other material the review of which is requested by the chairman or ranking member of—

(A) the Committee on Armed Services, the Committee on Foreign Relations, or the Select Committee on Intelligence of the Senate; or

(B) the Committee on Armed Services, the Committee on International Relations, or the Permanent Select Committee on Intelligence of the House of Representatives.

(4) RECOMMENDATIONS.—

(A) IN GENERAL.—The Board may make recommendations to the President regarding decisions to classify all or portions of documents or other material for national security purposes or to declassify all or portions of documents or other material classified for such purposes.

(B) IMPLEMENTATION.—Upon receiving a recommendation from the Board under subparagraph (A), the President shall either—

(i) accept and implement such recommendation; or

(ii) not later than 60 days after receiving the recommendation if the President does not accept and implement such recommendation, transmit in writing to Congress justification for the President's decision not to implement such recommendation.

(5) REGULATIONS.—The Board shall prescribe regulations to carry out this subsection.

(6) EXECUTIVE AGENCY DEFINED.—In this section, the term ''Executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

Ms. COLLINS. Mr. President, this modification was debated earlier this evening. There is no further debate on the amendment as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 3704), as modified, was agreed to.

Ms. COLLINS. I move to reconsider the amendment and I move to lay it on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, in consultation with the managers of the bill, it is the desire of the majority leader and Democratic leader to keep moving tonight. I will send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

AMENDMENT NO. 3781

Mr. WARNER. Mr. President, in the study of the 9/11 report, frequent reference is made to the Goldwater-Nichols Act. It is a piece of legislation in which, as a member of the Armed Services Committee, I had a great deal of participation, working on this particular statute. It was an attempt, and a successful attempt, to rewrite the defense-related laws, and describes certain changes which would make the Department and particularly the Joint Chiefs of Staff a more effective body.

I want to refer to one provision.

I ask unanimous consent that certain portions of the statute be printed in the RECORD following my remarks.

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

(See exhibit 1).

Mr. WARNER. Mr. President, that provision reads as follows:

Advice and Opinions of Members Other Than Chairman . . . A member of the Joint Chiefs—

That could be the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps.

I repeat:

A member of the Joint Chiefs of Staff—other than the Chairman—may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Chairman to the President—

That is the President of the United States—

—the National Security Council, or the Secretary of Defense. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time he presents his own advice to the President, the National Security Council, or the Secretary of Defense, as the case may be.

We learned that in the course of the past 18 months or maybe longer—I will not try to define the exact period of time—when our President was making

decisions in connection with certain advice he was receiving from the intelligence community—I will just touch on this lightly, and perhaps others will want to address this with more specificity—certain caveats, being other opinions—the opinions, say, of the Director of Central Intelligence—were not brought with sufficient force and effect to the attention of the policymakers.

The purpose of my amendment is to enable a framework by which, following the precedents of the Goldwater-Nichols Act, certain individuals in the contemplated new legislative framework as described by the distinguished chairman and members of the Governmental Operations Committee, other opinions will be brought to the attention of the President at such time as the NID is briefing the President.

I will refer with specificity to the amendment I have sent to the desk at this time. The first paragraph is technical, so I will omit that. I will go right to the operative paragraph:

Advice and opinions of Members other than Chairman. ''Members'' refers to the Joint Intelligence Community Council which is established, it is my understanding, by the chairman's statute.

A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the National Intelligence Director to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council [or the Secretary of Defense] is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the council.

Lastly, ''Recommendations to Congress:

Any member of the Joint Intelligence Community Council may make such recommendations to Congress.

I presume that would be interpreted as the leadership of both Houses and the chairmen and ranking members of the relevant committees.

The reason I have not been more specific here is that we are awaiting the decisions of the group on which I am privileged to serve headed by the distinguished whip, Mr. MCCONNELL, and on other side the distinguished whip, the Senator from Nevada, Mr. REID.

In other words, as we look at the revisions that will be proposed in connection with the oversight responsibilities of the Congress, that may require some refinement.

I will reread it:

Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence committee as such member considers appropriate.

I think that is the insurance that is quite visible to put in place such that other opinions can be considered by the President of the United States.

Throughout, the 9/11 report referred to: We have to have imagination. We often use the phrase ''be competitive'' with opinions within the structure of the intelligence committee. I believe that is all good. I really do. And the purpose of this amendment is to ensure that there is in law a procedure that these important members of this council will have the opportunity to see that their views are presented contemporaneous—at the same time the President receives the views of the NID. That is the purpose of the amendment.

I understand tonight it will be pending, and at such time as the distinguished chairman of the committee wishes to come over and review the subject with others, I would be happy to do so.

EXHIBIT I

(d) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Chief of Staff (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Chairman to the President, the National Security Council, or the Secretary of Defense. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time he presents his own advice to the President, the National Security Council, or the Secretary of Defense, as the case may be.

(2) The Chairman shall establish procedures to ensure that the presentation of his own advice to the President, the National Security Council, or the Secretary of Defense is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Joint Chiefs of Staff.

(e) ADVICE ON REQUEST.—The members of the Joint Chiefs of Staff, individually or collectively, in their capacity as military advisers, shall provide advice to the President, the National Security Council, or the Secretary of Defense on a particular matter when the President, the National Security Council, or the Secretary requests such advice.

(f) RECOMMENDATIONS TO CONGRESS.—After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

Ms. COLLINS. Mr. President, I thank the distinguished chairman of the Senate Armed Services Committee for coming forward this evening and laying down this amendment. He has explained very clearly the purpose. I very much appreciate that explanation.

As the Senator is aware, the ranking member of the committee had a commitment for this evening. I would like to hold the amendment over until tomorrow morning. But I am very grateful to the Senator for laying down the amendment this evening so that we can continue to make progress on this bill. As always, he has given his proposal a great deal of thought. I appreciate the parallels that he is drawing to the provisions of the Goldwater-Nickles Act and the fact that the members of Joint Chiefs are allowed to present their views independently to Congress and to the President. I very much appreciate his laying down the amendment tonight. I look forward to having further consideration in the morning.

Mr. WARNER. Mr. President, I thank the distinguished chairman for her views.

I ask unanimous consent that Senator STEVENS be listed as a cosponsor of the amendment. There may be others in due course that would like to do so.

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

Mr. WARNER. Mr. President, I am privileged to offer one of the first amendments. I have other amendments of which I think the chairman is aware. We are going to comply with her request and the leadership to have the text before them within the amendments that are established. I want to be very constructive as a working partner as we move forward with this important piece of legislation.

Ms. COLLINS. Mr. President, the distinguished chairman of the Senate Armed Services Committee is always constructive in every way. I very much appreciate the thought and the knowledge he has and the depth with which he explores important issues.

Mr. WARNER. Mr. President, on that note, I best yield the floor.

AMENDMENT NO. 3781

Mr. WARNER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself and Mr. STEVENS, proposes an amendment numbered 3781.

Mr. WARNER. 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 modify the requirements and authorities of the Joint Intelligence Community Council)

On page 119, beginning on line 17, strike ''upon the request of the National Intelligence Director.'.'' and insert ''at least monthly and otherwise upon the request of the National Intelligence Director or another principal member of the Council.

''(e) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the National Intelligence Director to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

''(2) The Chairman shall establish procedures to ensure that the presentation of the

advice of the Chairman to the President or the National Security Council is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Council.

''(f) RECOMMENDATIONS TO CONGRESS.—Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence community as such member considers appropriate.''.

Ms. COLLINS. 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 (Mr. COLEMAN). Without objection, it is so ordered.

MORNING BUSINESS

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

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

TRIBUTE TO IRVING B. HARRIS

Mr. DURBIN. Mr. President, last Saturday, on September 25, the city of Chicago, the State of Illinois, and our Nation, lost a great man. Irving Harris died at the age of 94 in the city of Chicago. He was my friend and my inspiration.

I have been called on many times to give commencement speeches at colleges and universities, medical schools and law schools. When I speak to the young students about what they can make of their lives, I never fail to tell them the story of Irving Harris and his life. It is a great story, and one that I would like to share with my colleagues in the Senate.

Irving Harris was born and raised in Saint Paul, MN. He and his two brothers were raised by a father, who was a merchant, and a mother who inspired him and his two brothers, in their words, ''to always be No. 1 in your class.'' They listened carefully to their parents and they succeeded in almost unimaginable ways.

The two Harris brothers, Neison and Irving, joined a friend and started a company in 1946, the Toni Home Permanent Company. Within 2 years, Tony home permanents had become so popular across the United States that they sold this company to Gillette for $20 million. The year was 1948; $20 million was a huge sum of money.

If you followed his business career, Irving Harris went on to do many things—to be the director of a mutual fund, to start another company in North Brook, IL, the Pittway Corporation, which he ultimately sold for some $2 billion. Just those facts and those stories alone tell you of the business success of Irving Harris. But if you were to stop with those stories, you would not understand his greatness, nor would you understand the real measure of this man.

Unlike some people who were given great gifts of wealth and skill and then used them to make their own lives more comfortable, Irving Harris saw life much differently. He was a man who was constantly looking for ways to help others, particularly ways to help children. And for over 60 years, he took his wealth and his business success and devoted it to helping other people in so many different ways.

He helped create the Yale Child Study Center at Yale University to honor his alma mater but also to try to find ways to help children born in poverty have a full and successful life.

He provided the funds that launched the center for the University of Chicago's Graduate School of Public Policy Studies, which bears his name, and the Erikson Institute for Advanced Studies in Child Development.

Irving Harris believed that children, if given the right nurturing experience and the right chance, could succeed. A lot of people believe that. But he invested his money in that belief.

He started the Ounce of Prevention Fund in the city of Chicago in the State of Illinois to prove that point again. He was one of the early people pushing for Head Start.

Let me read to you what Irving Harris said in one of his books. The book is entitled, ''Children in Jeopardy: Can We Break the Cycle of Poverty?'' Irving Harris wrote in 1996, ''I believe that God's gift of brain potential is not discriminatory.

''Kindergarten is much too late to worry if a child is ready to learn. We must begin in the first days and weeks and months of life to get children ready to learn.''

That was his passion and that was his belief. That fueled his life and his interest.

The many times that we would sit down and talk about policies, he would come back to these points about how many wasted lives of children there are in America because we didn't start soon enough and we didn't do well enough and we didn't understand the complexity of the challenges facing these children.

So this man so successful in business focused so much of his life and time on children and helping them in so many different ways.

He was certainly good at business—one of the best. But he took that success and he took that money and tried to improve the lives of others.

His philanthropy didn't end there. There is hardly a place you can turn in Chicago without seeing Irving Harris's name or the name of his wife Joan. They left their mark in our city as they left it in our Nation.

Joan, Irving Harris's wife of 30 years, whom I met just the other day, recounted her frustration when she was trying to build a new theater in downtown Chicago for music and dance to make it part of Mayor Daley's hugely successful Millennium Park. She turned to Irving one day and said: I just think we are going to have to give up. I don't think I can come up with money to build the theater.

I will not quote him exactly, but Irving basically said: I feel like that myself, and I don't think I am ever going to get the promised land. We are going to do it.

He told Joan they were going to do it, and they did. They made a massive investment in that theater—some $39 million of the $52 million price tag to build that theater. That theater is going to endure in his name and in the name of Joan Harris. It is going to entertain, and it is going to remind a lot of people of the good in culture, in music, in art that really lifts us all.

They did the same thing, incidentally, in Aspen, CO. If you go to Aspen, CO, where they used to spend some time, they decided they needed a special place—an outdoor gathering place for music festivals—you will find that Harris music gathering place, the Harris Music Center, just another part of his legacy.

The University of Chicago President, Don Michael Randel, called Mr. Harris ''one of those extraordinary and toorare individuals whose passion and humanity made a real difference in the lives of others.''

Mr. Randel said:

> Because of his foresight and his generosity, countless disadvantaged children have been able to fulfill their potential and to become productive citizens. And many of the most fundamental social problems suffered by children and families now have some hope of resolution thanks to the research he has so generously supported.

In addition to his wife Joan, Irving Harris is survived by his daughters, Virginia Polsky and Roxanne Frank; a son Bill, who is a close friend as well, a person who has devoted his life to many important causes such as the global AIDS epidemic and children's causes; a stepdaughter, Louise Frank; stepsons, Daniel and Jonathan Frank; a sister, June Barrows; 10 grandchildren and 26 great-grandchildren.

His legacy goes beyond his family. His legacy will be realized by others for generations to come. Irving Harris's life will not be measured in the number of dollars he earned but the number of lives that he touched, not in the assets he accumulated but in the fact that he was such an asset to Chicago and to America. The pillars of American business know of his success, but Irving Harris was a pillar of strength and hope for the poor, and in that effort he made his life a model for us all.

It is my good fortune in this business to meet many people and to meet many wonderful people. I count on one hand the most amazing people I have ever met, and Irving Harris will be in that number.

I will miss Irving Harris, but I am grateful to have known him and to be