programs based on some vague hope that other countries might open their markets in the future.

When I spoke about the challenges facing our rural communities back in July, I said we had a moral obligation to do right by our family farmers and ranchers. That should be our standard whenever we make decisions on agricultural policy: Are we doing right by rural America?

The administration's proposal to cut farm support and safety-net programs fails that basic test. Like so many other decisions this administration has made, it puts the interests of large agribusinesses ahead of farmers and consumers, and it threatens the future health of our rural communities.

In short, the administration's proposal does wrong by rural America.

Last month, I wrote a letter to President Bush asking him to rescind his administration's offer to cut farm support programs. Much to my disappointment, the President's top trade negotiator, Ambassador Zoellick, responded by saying that my concerns were outside the ''mainstream of American agriculture.''

Well, I have some news: In South Dakota and across rural America, selling out farmers and ranchers for the benefit of big agribusiness is not part of the mainstream.

I am also not reassured by Ambassador Zoellick's claim that, somehow, the 20-percent cuts will not actually impact our support and safety net programs.

Ambassador Zoellick has already touted these cuts as ''concessions'' that brought other nations back to the table.

So, which is it, are they concessions or not? Who is being fooled, the other 146 nations or American farmers and ranchers?

The administration can't have it both ways. Either the concessions mean something and that is what brought the negotiators to the table, or the administration fooled all our trading partners. Neither is good policy.

My experience with this administration—an administration which opposed a robust farm bill—tells me that if there is a trade deal that is bad for agriculture but good for other segments of our economy, agriculture will lose out, whether that means a 20-percent cut, or even a 50-percent cut.

And at that point, States like South Dakota, and all of rural America, will be on the short end of the stick. That is simply unacceptable.

We can do better. We can return mainstream values to our agricultural policies, and we can do right by America's heartland. It is not too late to reverse the administration's misguided agricultural and rural policies. The WTO negotiators are going back to the negotiating table early next month. They can ensure that we do not give up important safety-net programs without getting anything in return.

Those of us who stand with America's farmers and ranchers will continue to fight to ensure that they are once again treated with the dignity and respect that they not only deserve but are entitled to as the anchors of so many of our Nation's communities, and a vital part of our Nation's economy.

I yield the floor.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDENT pro tempore. 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 intelligence and intelligence-related activities of the United States Government, and for other purposes.

Pending:

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

Lautenberg Amendment No. 3767, to specify that the National Intelligence Director shall serve for one or more terms of up to 5 years each.

Warner/Stevens Amendment No. 3781, to modify the requirements and authorities of the Joint Intelligence Community Council.

The PRESIDENT pro tempore. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I note that the Senator from Massachusetts is in the Chamber. I wonder if I could inquire of the Senator from Massachusetts whether he is going to be seeking recognition to speak on the bill or on another issue?

The PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. The subject matter on which I will address the Senate is related to the substance of the bill, but it is not directly going to be on the bill itself. It is related to the substance of the bill.

Ms. COLLINS. Mr. President, I would like to propound a unanimous consent request that the Senator from Massachusetts be recognized for 10 minutes, to be followed by the Senator from Oregon, Mr. SMITH, to be recognized for 10 minutes.

The PRESIDENT pro tempore. The Chair points out that under the Pastore rule, it does take unanimous consent to speak on matters other than the bill for the first 2 hours.

Mr. KENNEDY. Mr. President, I will be glad to debate that issue if the Chair is going to make a ruling on it. I maintain that the substance on which I am speaking is related to intelligence issues. If there is going to be a point of order made on substance under the Pastore rule, I would be glad to have the Chair rule and we will let the Senate vote on it.

The PRESIDENT pro tempore. There is a unanimous consent request pending before the Senate. Is there objection? Is there objection to the request of the Senator from Maine for 10 minutes for the Senator from Massachusetts and 10 minutes for the Senator from Oregon?

Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

IRAQ—SHIFTING RATIONALE

Mr. KENNEDY. Mr. President, with tonight's Presidential debate coming up, the whole Nation will be watching JOHN KERRY and George Bush debate the all important issue of why America went to war in Iraq, when Iraq was not an imminent threat, had no nuclear weapons, no persuasive links to al-Qaida, no connection to the terrorist attacks of September 11th, and no stockpiles of weapons of mass destruction.

It is now clear that from the very moment President Bush took office, Iraq was his highest priority as unfinished business from the first Bush administration.

His agenda was clear: find a rationale to get rid of Saddam.

Then came 9/11. In the months that followed, the war in Afghanistan and the hunt for Osama bin Laden had obvious priority, because al-Qaida was clearly the greatest threat to our national security.

Despite all the clear and consistent warnings about al-Qaida, President Bush treated it as a distraction from his obsession with Saddam. By the summer of 2002, President Bush was restless for war with Iraq. The war in Afghanistan was no longer in the headlines or at the center of attention. Bin Laden was hard to find, the economy was in trouble, and so was the President's approval ratings in the polls.

Karl Rove had tipped his hand earlier by stating that the war on terrorism could bring political benefits as well. The President's undeniable goal was to convince the American people that war was necessary with Iraq—and necessary right away—because Saddam was a bigger threat.

That conclusion was not supported by the facts or the intelligence, but they could be retrofitted to support it. Senior administration officials kept suggesting the threat from Iraq was imminent.

At a roundtable discussion with European journalists last month, Secretary Rumsfeld insisted: ''I never said imminent threat.''

In fact, Secretary Rumsfeld had told the House Armed Services Committee on September 18, 2002, ''. . . Some have argued that the nuclear threat from Iraq is not imminent—that Saddam is at least 5–7 years away from having nuclear weapons. I would not be so certain.''

In May 2003, White spokesman Ari Fleischer was asked whether he went to war ''because we said WMD were a direct and imminent threat to the United States.'' Fleischer responded, ''Absolutely.''

What else could National Security Adviser Condoleezza Rice have been suggesting, other than an imminent threat—an extremely imminent

threat—when she said on September 8, 2002, ''We don't want the smoking gun to be a mushroom cloud.''

President Bush himself may not have used the word ''imminent'', but he carefully chose strong and loaded words about the nature of the threat—words that the intelligence community never used—to persuade and prepare the Nation to go to war against Iraq.

In the Rose Garden on October 2, 2002, as Congress was preparing to vote on authorizing the war, the President said the Iraqi regime ''is a threat of unique urgency.''

In a speech in Cincinnati on October 7 that year, President Bush echoed Condoleezza Rice's image of nuclear devastation: ''Facing clear evidence of peril, we cannot wait for the final proof—the smoking gun—that could come in the form of a mushroom cloud.'' He says he did not use the word ''imminent.'' What could be more imminent than talk like that?

At a political appearance in New Mexico on October 28, 2002, after Congress had voted to authorize war, and a week before the election, President Bush said Iraq was a ''real and dangerous threat.''

At a NATO summit on November 20, 2002, President Bush said Iraq posed a ''unique and urgent threat.''

In Fort Hood, TX, on January 3, 2003, President Bush called the Iraqi regime a ''grave threat.''

Nuclear weapons. Mushroom cloud. Unique and urgent threat. Real and dangerous threat. Grave threat. This was the administration's rallying cry for war.

When he was Secretary of Defense during the first Gulf War, Vice President CHENEY said, ''We were not going to get bogged down in the problems of trying to take over and govern Iraq.''

As Senator EDWARDS has said, Secretary CHENEY was against getting bogged down in Iraq before he was for it.

Here is another quote from the New York Times in 1991, by Secretary CHENEY:

> If you are going to go in and topple Saddam Hussein, you have to go to Baghdad. Once you've got Baghdad, it's not clear what you're going to do with it. It's not clear what kind of government you would put in place. How much credibility is that government going to have if it is set up by the United States military when it is there? How long does the United States military have to protect the people that sign on for that government? What happens to it once we leave?

That was Secretary CHENEY, his words. He was against the war, too, before he was for it.

But, it was Vice President CHENEY who first laid out the trumped up argument for war with Iraq to an unsuspecting public. In a speech on August 26, 2002, to the Veterans of Foreign Wars, he asserted: ''. . . We now know that Saddam has resumed his efforts to acquire nuclear weapons . . . Many of us are convinced that Saddam will acquire nuclear weapons fairly soon.'' As we now know, the intelligence community was far from certain. Yet the Vice President had no doubt.

On September 8, 2002, CHENEY was even more emphatic about Saddam. He said, ''[We] do know, with absolute certainty, that he is using his procurement system to acquire the equipment he needs in order to enrich uranium to build a nuclear weapon.'' The intelligence community was deeply divided about the aluminum tubes, but CHENEY was absolutely certain.

One month later, on the eve of the watershed vote by Congress to authorize the war, President Bush said it even more vividly. He said, ''Iraq has attempted to purchase high-strength aluminum tubes . . . which are used to enrich uranium for nuclear weapons. If the Iraqi regime is able to produce, buy, or steal an amount of highly enriched uranium a little larger than a single softball, it could have a nuclear weapon in less than a year. And if we allow that to happen, a terrible line would be crossed . . . Saddam Hussein would be in a position to pass nuclear technology to terrorists.''

In fact, as we now know, the intelligence community was far from united on Iraq's nuclear threat. The administration attempted to conceal the disagreement from the public by classifying the information and the dissents by the intelligence community until after the war, even while making dramatic and excessive public statements about the immediacy of the danger.

The second major claim in the administration's case for war was the linkage between Saddam Hussein and al-Qaida.

The National Intelligence Estimate found no cooperative relationship between Saddam and al-Qaida. On the contrary, it stated only that such a relationship might happen if Saddam were ''sufficiently desperate''—in other words, if America went to war. But the intelligence estimate placed ''low confidence'' that, even in desperation, Saddam would give weapons of mass destruction to al-Qaida.

President Bush ignored all that. He was relentless in raising America's fears about Saddam after the devastating 9/11 tragedy. He drew a clear link—and drew it repeatedly—between al-Qaida and Saddam.

In a September 25, 2002, statement at the White House, President Bush flatly declared: ''You can't distinguish between al-Qaida and Saddam when you talk about the war on terror.'' How could any President make a preposterous statement like that?

He kept piling it on. In his State of the Union Address in January 2003, President Bush said, ''Evidence from intelligence sources, secret communications, and statements by people now in custody reveal that Saddam Hussein aids and protects terrorists, including members of al-Qaida.'' He said Saddam could provide ''lethal viruses'' to a ''shadowy terrorist network.''

Two weeks later, in his radio address to the Nation, a month before the war began, President Bush described the ties in detail, saying ''Saddam Hussein has longstanding, direct and continuing ties to terrorist networks...''

He said: ''Senior members of Iraqi intelligence and al-Qaida have met at least eight times since the early 1990s. Iraq has sent bomb making and document-forgery experts to work with al-Qaida. Iraq has also provided al-Qaida with chemical and biological weapons training. An al-Qaida operative was sent to Iraq several times in the late 1990s for help in acquiring poisons and gases. We also know that Iraq is harboring a terrorist network headed by a senior al-Qaida terrorist planner. This network runs a poison and explosive training camp in northeast Iraq, and many of its leaders are known to be in Baghdad.''

In fact, there was no operational link and no clear and persuasive pattern of ties between the Iraq and al-Qaida. That fact should have been abundantly clear to President Bush, since Iraq and al-Qaida had diametrically opposite views of the world.

Al-Qaida and its religious fanatics detested Saddam, because Saddam was a secular dictator. Yet, President Bush had more than half the country believing that Saddam and al-Qaida were in cahoots on 9/11.

Secretary of State Colin Powell now agrees that there was no link between 9/11 and Saddam's regime. So does Secretary of Defense Donald Rumsfeld.

A bipartisan 9/11 Commission Staff Statement put it plainly: ''Two senior bin Laden associates have adamantly denied that any ties existed between al-Qaida and Iraq. We have no credible evidence that Iraq and al-Qaida cooperated on attacks against the United States.''

The bipartisan 9/11 Commission report stated clearly that there was no evidence of a collaborative ''operational'' connection between Saddam and al-Qaida. The report said there was no evidence ''indicating that Iraq cooperated with al-Qaida in developing or carrying out any attacks against the United States.''

This past July, the Senate Intelligence Committee issued a bipartisan report whose title was, ''Prewar Intelligence Regarding Iraq Weapons of Mass Destruction and Links to Terrorism.'' The report said there was not ''an established formal relationship'' between al-Qaida and Saddam Hussein.

But in his march to war, President Bush exaggerated the threat anyway. It was not subtle. It was not nuanced. It was pure, unadulterated fear mongering, based on a devious strategy to convince the American people that Saddam had helped commit 9/11 and had the ability to provide nuclear weapons to al-Qaida, so that immediate war was necessary.

America went to war in Iraq because President Bush insisted that nuclear weapons in the hands of Saddam Hussein and his ties to al-Qaida were too

dangerous to ignore. None of that was true, so all that President Bush says now is that Saddam was a brutal dictator and that America and the world are better off without him. Talk about flip-flops.

How dare President Bush accuse JOHN KERRY of flip-flops on Iraq. My response is ''Physician, heal thyself.'' President Bush is the all-time world-record-holder for flip-flops. Nothing JOHN KERRY has said remotely compares with President Bush's gigantic flip-flops on the reasons he went to war.

The war in Iraq itself has not made America safer and has not made the world safer. None of the President's post war rationalizations are sufficient to justify war.

Almost every week, President bush tries a new rationale for the war. He's said our goal was ''sovereignty'' for Iraq, ''dignity'' for Iraq's culture, and ''for every Iraqi citizen, the opportunity for a better life.''

On April 30, 2004, he suggested the war was about human rights, saying ''there are no longer torture chambers or rape rooms or mass graves in Iraq.''

He's suggested the war was for freedom and democracy.

He's said, ''The rise of a free and self-governing Iraq will deny terrorists a base of operation, discredit their narrow ideology, and give momentum to reformers across the region.''

He has said the war was ''a victory for the security of America and the civilized world.''

None of this rationale is an adequate justification for war, and the President did not even try to make them a justification until long after the war began and all the other plausible justifications had proven false.

Saddam was not an imminent threat. The war in Iraq was a perilous distraction from the real war on terrorism—the war against al-Qaida. President Bush got it exactly wrong. To him, the war in Afghanistan was a distraction from the war he wanted against Saddam.

The war on in Iraq has clearly made America more hated in the world, especially in the Islamic world, and it has made Americans more vulnerable to terrorist attacks both here at home and overseas.

We'll hear much more about this issue in tonight's Presidential debate, and the debate will go in Congress and in communities across the country between now and the election. The most important decision any President ever makes is the decision on war or peace. No President who misleads the country on the need for war deserves to be re-elected. Any President who does so must be held accountable, and November 2 is the chance to do it.

Mr. President, we know that some defenders of the President are desperate to support him. They say any dissent is only helping the terrorists. They even claim that al-Qaida wants JOHN KERRY to win this election.

It's despicable to make charges like that. It is not unpatriotic to tell the truth to the American people about the war in Iraq. In this grave moment of our country, to use the words of Thomas Jefferson, ''Dissent is the highest form of patriotism.''

The PRESIDING OFFICER (Ms. MURKOWSKI.) The Senator from Oregon is now recognized for 10 minutes.

SENATOR KERRY AND IRAQ

Mr. SMITH. Madam President, I have been privileged on a number of occasions to be in that chair when Senator KENNEDY was speaking. I say this with affection and admiration. Senator KENNEDY has been clear from the beginning of this conflict that he is against the war in Iraq, and I respect his clarity. But it is interesting that while the senior Senator from Massachusetts has been entirely clear and entirely consistent, the junior Senator from Massachusetts, the Democratic nominee, could not have been in more confusion, leaving the American people in a greater sense of chaos than words could make possible.

It is amazing, interesting, that we have in Senator KERRY a decorated Vietnam veteran, and yet we have in Senator KERRY a man who now is falling in the polls who faces tonight an opportunity to clarify for the American people his position on Iraq. With plummeting poll numbers, it has to be asked, why has his fortunes as a war hero and veteran been so reversed?

I find the answer in the Good Book in a verse where Paul says:

> For if the trumpet give an uncertain sound, who shall prepare himself to the battle?

I do not know that there is a more certain sound than Senator KENNEDY. I cannot imagine a more uncertain sound than Senator KERRY.

Let's review the record. Whether you are for or against the war, those are positions one can argue, as I have done on the side of the war on terrorism that includes Iraq, or as Senator KENNEDY has against Iraq as a part of the war on terrorism, but let's review what Senator KERRY has said to the American people.

Did going to war in Iraq make us more secure or less secure? Apparently, Senator KERRY is not sure. He is saying now that we traded a dictator for chaos in Iraq. That has made us less secure. But during the primary season, he ravaged Howard Dean by saying:

> Those who doubted whether Iraq or the world would be better off without Saddam Hussein and those who believe we are not safer with his capture don't have the judgment to be President or the credibility to be elected President.

Yet those are two diametrically opposed positions.

Yesterday on ABC's ''Good Morning America,'' Diane Sawyer asked him this very question. He said: We won't know until we know whether this has been successful or not. Thank Heavens President Roosevelt did not have that position after Corregidor or President Lincoln after Antietam. I think JOHN KERRY was right: People who cannot make up their minds should not be President of the United States.

But which is it? If, indeed, as Senator KERRY has claimed, we are less secure, then it seems that he is lacking a serious component of judgment.

Can Senator KERRY, by virtue of bringing a new face to the Presidency, convince some of our reluctant allies to participate more vigorously to bringing democracy in Iraq? He believes he can, despite the fact that both the French and German governments have said time and again, repeatedly, no matter the outcome of the American election, they will not do more to help in Iraq.

So it seems to me that Senator KERRY is playing a rather false hand to the American people. It is an illusory promise. It just will not happen.

I have heard the Senator complain that we do not have enough troops, and now he wants to pull the troops home. So the question is, Should we increase the number of American troops or should we bring them home and leave Iraq to the Iraqis? This is a question about which reasonable people can disagree, but Senator KERRY's statements indicate he disagrees again with himself.

First he says we should do what the military leaders say, even if that means deploying more troops to Iraq. Then he said he intends to get all Americans troops home in his first term. Then last week he said he does not intend to increase troops at all. Specifically he said:

> I believe as a new President, with new credibility, with a fresh start, that I have the ability to be able to change the dynamics on the ground.

I agree with him; he would certainly change the dynamics on the ground. The enemies of freedom in Iraq would feel emboldened to wait it out until the United States leaves, rather than recognize the democratic process is irreversible. That is not the kind of dynamic I want to see or the American people deserve to see.

When the Senate voted to give President Bush the authority to go to war, did we mean he could actually start a war? This is a question that I, as a Senator, take very seriously. Senator KERRY voted for the authorization, just as I did, but is now saying:

> The authority was the authority to do the inspections. The authority is the authority to build an alliance. The authority was necessary because it was the only way to make inspections happen so that you could hold Saddam Hussein accountable.

And that the Senate also gave the President the ''authority not to go to war.'' End of quote from JOHN KERRY.

Yet what did the resolution actually say, Madam President? It could not be clearer. You heard what JOHN KERRY said, what he thought it said, but he should have read it. It says: ''Joint Resolution to authorize the use of the United States Armed Forces against

Iraq.'' If my colleague read nothing else in the resolution but that first line, he would still have known what this resolution was designed to do.

Later in the text, in case anyone missed the intent, it states:

The Congress declares that this section—

Which authorizes the use of the Armed Forces—

is intended to constitute specific statutory authorization within the meaning of 5(b) of the War Powers resolution.

There is no room for disagreement about what we are doing with this resolution. He voted for it. I did. An overwhelming majority did. And it does not say what Senator KERRY now says it said.

I take responsibility for voting on matters of war and peace very seriously, but we cannot have it both ways. We cannot expect to have credibility in the world, that Senator KERRY so consistently states he would bring, if we squander our words in meaning in such a way as he now does on matters as important as authorizing war and peace.

What do we do going forward, Madam President? On September 20, Senator KERRY gave a speech outlining his latest plan for Iraq. He had four main points.

The first: The President must get international support so American troops do not have to ''go it alone.''

The fact is, 32 countries are contributing 25,000 soldiers to the coalition effort in Iraq.

The second part of his plan: The President must get serious about training Iraqi forces.

Yet there are currently almost 100,000 fully trained Iraqi soldiers, police officers, and other security personnel out of the 164,000 Iraqis out there on the front lines defending their freedom and protecting their country. An additional 75,000 Iraqis have received some form of security training to guard important facilities.

The third point: The President must carry out a reconstruction plan that brings tangible benefits to the Iraqi people.

Yet the United States has already spent more than a billion dollars on urgent reconstruction projects in areas threatened by the insurgency. In the next several months, over $9 billion will be spent on contracts that will help Iraqis rebuild schools, hospitals, bridges, as well as upgrade the electricity grid and modernize the communications system.

This point is actually particularly laughable, given that Senator KERRY, who now says we have to do this, voted against the money to do this. He voted against the $87 billion before he says he voted for it that included nearly $20 billion in vital reconstruction for Iraq. Again, the uncertainty.

His final point: The President must take immediate steps to guarantee elections in Iraq will be held next year.

Yet an Iraqi electoral commission is now up and running and has already hired personnel and is making key decisions about electoral procedures. The commission launched a public education campaign to inform Iraqis about the process and encourage them to become voters, and United Nation's electoral advisers are on the ground in Iraq.

What is particularly interesting about this is that on May 24, 2004, nearly 4 months before Senator KERRY's speech in New York, President Bush laid out a five-step plan for helping Iraq achieve democracy and freedom. Everything Senator KERRY proposed was part of the President's plan he announced in May, and the administration has been implementing it.

In conclusion, at the present time, Senator KERRY issued a press release stating that the President's speech laid out general principles—and this is laughable—''most of which we've heard before'' because they are part and parcel of the President's plan.

So if the trumpet gives an uncertain sound, no one will prepare to battle, and that, I believe, is the reason for Senator KERRY's plummeting in the opinion polls of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, we are now going to resume consideration of S. 2845. Senator LIEBERMAN and I, along with the two leaders, encourage Members to come forward with their amendments. The leaders are determined that we will finish this bill very early next week. In order to do so, we need the cooperation of all Senators who have filed amendments, and we encourage them to bring them forward.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 3797

Mr. GRAHAM of Florida. Madam President, I rise today to speak on what I consider to be one of the most important areas of intelligence reform, and then I will offer an amendment to help advance that position.

Over the last several weeks, I have been making a series of statements on various aspects of intelligence reform. In my recent statements, I have discussed the history of the U.S. intelligence community, the community's failure to adapt to changing conditions since the end of the Cold War, the unfortunate reluctance of both the Congress and the administration to tackle these much needed and long-reported necessary reforms, the shape that I believe our reform should take, and the danger that excessive Government secrecy poses to our national security.

I have also expressed my gratitude to the independent 9/11 Commission and its predecessors for the work they have done in analyzing the strengths and weaknesses of the American intelligence community and offering recommendations as to how these weaknesses can be remedied.

Today, I also thank several of my colleagues for the work they have done in providing the groundwork for this legislation and moving it substantially toward fruition. Senators COLLINS and LIEBERMAN have put a substantial amount of work into crafting meaningful bipartisan intelligence reform legislation that seeks to correct current failings. They and their staffs should be commended for that effort.

In addition, Senators MCCAIN and ROBERTS have stepped forward with very thoughtful proposals for reform, and as we work to fine-tune the Collins-Lieberman bill, their proposals will be an excellent source of ideas and alternatives.

We all owe our gratitude to the other members of the Governmental Affairs and Intelligence Committees, especially Vice Chairman ROCKEFELLER on the Intelligence Committee, and their respective staff members for all the contributions they have made to the debate over the direction of intelligence reform.

I spoke last week about the direction in which I thought we should move with these reforms and the shape these reforms should take. I would now like to discuss in more detail how we might accomplish that within this legislation.

I will offer an amendment which I hope will be a contribution to achieving these goals. First some background.

Our national intelligence community currently resembles our military as it looked prior to 1947. It is made up of a number of agencies that originated at different times and with different structures, with shared common goals, but frequently found they had difficulty working with one another because of their different histories, different cultures, different bureaucratic structures, and different priorities. That would have also been a definition for the American military pre-1947.

In that year, at the urging of President Harry Truman, Congress passed the National Security Act, which brought together all of the components of the military. There had been a Secretary of the Navy, there had been a Secretary of War, sometimes referred to as the Secretary of the Army, and there certainly would have been a Secretary of the Air Force had the National Security Act not intervened. This new legislation created for the first time a civilian leader at the top and uniformed service chiefs reporting to that leader.

This was an important reform, but it did not end all the rivalries and competition for actions and spending resources within the military. There were a series of events that occurred in the late 1970s and early 1980s which dramatized these continuing weaknesses. We were unable to rescue hostages who had been taken in Tehran. We were unable to avoid the massacre of over 200 American marines in barracks in Beirut by Hezbollah, and there were a series of missteps on the small island of Grenada. Reviewing all of these issues, in 1986, it was becoming

apparent that though all the services reported to a single departmental head, they still had many problems communicating with one another and working effectively together.

As it had in 1947, Congress again stepped forward with the Goldwater-Nichols Act, which decentralized the military establishment. Control over military operations moved from the Pentagon to several joint commands, each responsible for a different geographic area of the world. As a result, the U.S. military has become more effective than ever before.

Given that our international intelligence community is currently in a pre-1947 state, our challenge now is to enact both the equivalence of the National Security Act of 1947 and the Goldwater-Nichols Act of 1986 at the same time. In other words, we must centralize authority and then immediately commence the process of decentralizing the bureaucracy.

We waited 39 years between the National Security Act and Goldwater-Nichols. We cannot afford to wait 39 years between the action we will hopefully take this year and the time we will begin to decentralize the intelligence bureaucracies. It is essential that this legislation create a strong director of national intelligence and also lay out the best possible structure for intelligence collection and analysis.

In my view and in the view of many others, our intelligence community would be most effective if it were organized around the mission-based model that brings personnel from different agencies and specialties together to focus on whatever intelligence missions the national director deems to be most important.

In a recent publication called ''Intelligence Matters,'' I state:

> This may seem counterintuitive, but for us to deal with this decentralization, we must first centralize. Since their inception, the agencies that make up our foreign intelligence community have focused on assignments like the collection of signals or visual images. While each agency focuses on its own responsibilities, the larger realities—like the changed nature of the enemy—go unattended. They are nobody's business.

The structure we have before us today gives us an opportunity to place those large issues of adaptation to new threats in an appropriate structure.

The director will be responsible for giving the centers their missions and assigning them the personnel and resources they need to do their job.

He or she can then be held accountable for the centers' performance and accomplishments.

This model was previously suggested by the 9/11 Commission.

In the conclusion of its report, it discusses the structural problems that currently plague our intelligence community, and suggest that significant changes must be made in order to achieve unity of effort among the community's various agencies.

The Commission report recommends that a national center for counterterrorism be established, and I am pleased that President Bush has endorsed the creation of such a center, and it is contained in the legislation before us today.

This center will bring together personnel from a variety of disciplines and specialties from across the intelligence community to focus on the problem of international terrorism.

By bringing them all together and placing them on the same staff, we can overcome the bureaucratic and sociological barriers that have sometimes prevented them from being effective.

This will also help us use our intelligence resources more efficiently by ensuring that different agencies are not doing redundant work on the same threat.

In addition to a national counterterrorism center, the Commission also recommends that other centers be created to focus on different global challenges, such as nuclear proliferation, international drug trafficking, or particular rogue states such as North Korea, and Iran.

These centers would be able to bring together personnel in the same manner as the Counterterrorism Center, allowing us to be more efficient and effective in intelligence gathering and analysis.

The Commission recommended that management of these centers should be one of the director's primary responsibilities. Their recommendation states:

> The current position of Director of Central Intelligence should be replaced by a National Intelligence Director with two main areas of responsibility: (1) to oversee national intelligence centers on specific subjects of interests across the U.S. government and (2) to manage the national intelligence program and oversee the agencies that contribute to it.

The national director must be given the flexibility to create, reorganize or even disband these centers as needed, just as the Secretary of Defense has the authority to shift the responsibility of the unified commands.

For instance, Syria and Lebanon were once included in the European Command, but as the international situation changed, it became more appropriate to move them to Central Command, which already included their Middle Eastern neighbors.

A second instance is the Caribbean region, which was previously included in the Atlantic Command and has since been moved to the Southern Command, which includes the rest of Latin America.

Congress had empowered the Secretary of Defense to make these decisions while maintaining its constitutional responsibility for oversight and appropriations.

This wise allocation of authority has enabled the Department of Defense to do what the intelligence community has been unable to do; that is to respond to changing conditions in a swift and decisive manner.

The authors of Goldwater-Nichols gave the Secretary of Defense the necessary level of flexibility and adaptability by not writing into law which commands should be created and what countries they should include.

Instead, we empowered the Secretary to establish or alter the unified commands as circumstances dictate.

The current version of the Collions-Lieberman bill includes language to establish national intelligence centers, in accordance with the 9/11 Commission's recommendations.

This is obviously a significant step in the right direction.

However, I believe that is necessary to make some modifications to the language in order to clarify the purpose of the centers and to ensure that the national intelligence director has the authority needed to manage them effectively.

Some of the provisions that we need to be aware of and include in the final version of this legislation as it relates to national intelligence centers are these:

First, we should include language making clear that the mission of the national intelligence centers is to focus on specific threats.

In keeping with the Commission's recommendation, this would mean that some centers might focus on specific countries or regions, while others would focus on global problems such as nuclear proliferation.

Second, we must make the national intelligence centers the focal point of intelligence gathering and analysis for their particular area of focus.

The centers should develop a strategy for the collection and analysis of intelligence regarding their area of focus and draw upon the resources of the various intelligence agencies to implement this strategy.

To give an example of how this might work, imagine that the national director believes that we need a focus on counterproliferation of nuclear weapons, and surely we do.

In a very important recent book, ''Nuclear Terrorism,'' by Graham Allison, it is pointed out that there are two important truths as it relates to nuclear terrorism. The first is that it is inevitable that nuclear weapons will come into the hands of terrorists who will use them against us. The second truth is that inevitability is preventable.

Professor Allison points out a number of steps that must be taken in order to avoid the inevitable. Many of those relate to the intelligence community's role. Professor Allison makes a number of suggestions as to what reforms are required in order to avoid a nuclear weapon in the hands of a terrorist who is destined to use it against the people of the United States.

Just to summarize his points:

First, American intelligence must move beyond its Cold War mindset. This legislation will help us achieve that goal.

Second, the United States must cultivate long-term strategic relationships with foreign intelligence agencies. I believe having a strong director

of national intelligence will contribute to that objective.

Third, the American intelligence community must enhance its data-mining efforts to process, analyze, and disseminate open sources of intelligence. This legislation provides a heightened awareness of the value and the credibility of open source information, that is information that is available, other than through clandestine means.

Finally and above all, intelligence assessments must be credible.

I believe this provision for the establishment of national intelligence centers will make a dramatic contribution toward enhancing the credibility of U.S. intelligence.

The fact that we are creating within this legislation one national intelligence center, that for counterterrorism, and leaving the creation of the other centers up to the discretion of the national intelligence director is essentially an accident of history. The 9/11 attacks were the use of conventional weapons—fire and gasoline—in a nonconventional manner—large airplanes flying into large buildings.

If the attacks of 9/11 had taken another form, such as a cargo container which was loaded at a distant point and arrived in the Port of New York and was unloaded, and a week later found itself in downtown Chicago, and because that container, in addition to its commercial cargo, also carried a dirty nuclear bomb, and that bomb, were it to be detonated, we would have had an event multiple times of what, in fact, happened on 9/11. And I can assure you that the center would have been written into this legislation and would have been the center on the avoidance of the proliferation of nuclear weapons.

We are about to give that authority to the director of intelligence. I believe we should give it to him with as close as possible the same authority and the same capability as we are statutorily giving to the center on terrorism. That is what this amendment attempts to do.

Finally, we must ensure that our national intelligence community is constantly adapting in response to changes in the world around us. Unfortunately, our intelligence community, since its inception in that same National Security Act of 1947, has had difficulty adapting to changed circumstances. It had that difficulty in the 1950s. It has had that difficulty since the last of the Soviet Union in the late 1980s through the early 1990s. Our intelligence agencies were slow in shifting their focus from the Soviet Union to the more diffuse threat such as terrorism, weapons proliferation, and rogue states.

As former CIA Director James Woolsey put it:

> It was as if we had been struggling with a dragon for 45 years and finally defeated it . . . and then found ourselves in the jungle with a lot of poisonous snakes. The snakes were harder to keep track of than the dragon.

The national director should be required to frequently review the mission and areas of responsibility of the intelligence centers, so that we do not waste time staring at the dragon which we have already slain.

He must also have the ability to create new centers rapidly, so that they are not slow to react to the appearance of snakes.

The amendment I am offering would modify the very instructive policies in the Collins-Lieberman bill to lay the groundwork for reforms recommended by the 9/11 Commission, and ensure that the national director has sufficient authority to carry them out.

Madam President and colleagues, I draw your attention to the fact that I have discussed this amendment with Governor Kean and with former Congressman Lee Hamilton, the distinguished Chair of the 9/11 Commission. And I am pleased they have responded enthusiastically.

I have received a letter from Governor Kean and Congressman Hamilton which includes this statement:

> The importance of integrated, all-source analysis cannot be overstated. Without it, it is not possible to ''connect the dots.'' No one competent today holds all of the relevant information. Our view is it is imperative to have unity of effort across the intelligence community.
>
> Therefore, we strongly endorse the creation of national intelligence centers on specific subjects of interest across the U.S. Government. Clearly, with regard to the high priority of counterterrorism, the centers should be the intelligence entity inside the national counterterrorism center . . . we have proposed. Other national intelligence centers—for instance, on counter-proliferation, crime and narcotics, the Middle East, Russia and China—could be created based on the President and National Security Council's determination of need.

The letter concludes:

> A true sharing of all relevant information among analysts, and the creation of national intelligence centers offering the best advice and analysis to the President—together with the continued independence of State, Treasury, Energy and Defense Department analytical units—provides a better way to foster competitive analysis than does the status quo.
>
> To keep the country secure, we believe the government must build the intelligence capabilities it will need for the broad range of national security challenges in the decades ahead.

We have the opportunity to take a step which will fundamentally enhance the security of the people of America not only against the threat that we know today, not only against the dragons with which we are currently grappling, but with those poisonous snakes that may not be so obvious, the poisonous snakes which may be hiding just beyond the horizon.

The national intelligence centers will be a key to our ability to do for intelligence what Goldwater-Nichols did in 1986 for our military.

I urge my colleagues to seriously consider and to adopt these amendments to the excellent legislation which is before us today.

I ask unanimous consent that the letter from Governor Kean and Congressman Hamilton be printed in the RECORD.

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

SEPTEMBER 27, 2004.

Hon. BOB GRAHAM.

DEAR SENATOR GRAHAM: Thank you for your question about the 9/11 Commission's proposal to establish national intelligence centers. The Commission made 41 recommendations that we believe will significantly improve the security and safety of all Americans. All of the recommendations are, in our estimation, important.

We see a particular need for creating national intelligence centers. We have reviewed your suggest amendment on the topic of national intelligence centers. The language seems constructive, and consistent with our proposed approach. As far as how to proceed, we leave the tactics of floor consideration to you and the bill managers.

In our investigation of the 9/11 attacks, we learned that the national security institutions of the U.S. government are still the institutions constructed to fight the Cold War. National intelligence is still organized around the collection disciplines of the home agencies, not the joint mission.

The importance of integrated, all-source analysis cannot be overstated. Without it, it is not possible to ''connect the dots.'' No one component today holds all the relevant information. Our view is that it is imperative to have unity of effort across the intelligence community.

Therefore, we strongly endorse the creation of national intelligence centers on specific subjects of interest across the U.S. government. Clearly, with regard to the high priority of counterterrorism, the center—should be the intelligence entity (formerly the Terrorist Threat Integration Center) inside the National Counterterrorism Center we have proposed. Other national intelligence centers—for instance, on counterproliferation, crime and narcotics, the Middle East, Russia, and China—could be created based on the President and National Security Council's determination of need. These centers will draw from the talent of the individual agencies and become truly national intelligence centers on their respective issues.

The National Intelligence Director that we have proposed would oversee the national intelligence centers to provide all-source analysis and plan intelligence operations for the whole government on major problems. Under our proposals, the National Intelligence Director would retain the present Director of Central Intelligence's role as the principal intelligence adviser to the president. We hope the president will come to look directly to the directors of the national intelligence centers to provide all-source analysis in their areas of responsibility.

A true sharing of all relevant information among analysts, and the creation of national intelligence centers offering their best advice and analysis to the president—together with the continued independence of State, Treasury, Energy and Defense Department analytical units—provides a better way to foster competitive analysis than does the status quo.

To keep the country secure, we believe the government must build the intelligence capabilities it will need for the broad range of national security challenges in the decades ahead. National intelligence centers should be among those capabilities.

We deeply appreciate your interest in the Commission's recommendations, and we look

forward to working with you on the national intelligence centers proposal, as well as on our other recommendations.

Very respectfully,

TOM KEAN.

LEE HAMILTON.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. LIEBERMAN. Madam President, I wonder if I could, through you, ask the distinguished Senator from Arkansas if he is going to comment on Senator GRAHAM's amendment.

Mr. PRYOR. No. I was going to comment on an amendment that we adopted.

Mr. LIEBERMAN. Madam President, after Senator PRYOR comments, I will be glad to speak for Senator GRAHAM.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I rise today with a note of encouragement; that is, one of the things I have noticed through the committee process, and certainly on the Senate floor, is how bipartisan—or maybe in a better sense of the word, nonpartisan—this debate has been. I think the Senate is very committed to following up on the 9/11 recommendations in the 9/11 report. I think we are approaching this in a way that is very constructive and very positive, and which we all hope and pray in the long term is very effective for our national security and for our intelligence.

I know there are a number of amendments that we have still pending. I don't know exactly what is going to be offered or what will be agreed to, but my plan is to listen very carefully to all of those amendments. I think they all have value. I may vote against some of them; nonetheless, I think it is important that we have this discussion, have this debate, and show our leadership for this Nation on this very issue.

There are two Members, two really great leaders, I wish to commend; that is, Senator COLLINS and Senator LIEBERMAN. They have done a fantastic job and have demonstrated the patience of Job through this process in their determination and commitment. They are a prime example of how this Senate can work and should work and how great things can be accomplished by working together.

I think it is incumbent for us as a Senate and as a Congress to provide the tools and the structure that we need in our intelligence community to connect the dots.

I think the 9/11 Commission said this in a number of ways in a number of cases. But at one point, the 9/11 Commission report said:

> Of all our recommendations, strengthening congressional oversight may be among the most difficult and important.

I know because I have talked to many of my colleagues on both sides of the aisle that this body is committed to reforming itself when it comes to intelligence issues.

Let me read, if I may, from the report one short paragraph found on page 105 of the 9/11 Commission Report. It says:

> Fourth, the oversight function of Congress has diminished over time. In recent years, traditional review of the administration of programs and the implementation of laws has been replaced by ''a focus on personal investigations, possible scandals, and issues designed to generate media attention.'' The unglamorous but essential work of oversight has been neglected, and few members past or present believe it is performed well. DCI Tenet told us: ''We ran from threat to threat to threat. . . . [T]here was not a system in place to say, 'You got to go back and do this and this and this.'' Not just the DCI but the entire executive branch needed help from Congress in addressing the questions of counterterrorism strategy and policy, looking past day-to-day concerns. Members of Congress, however, also found their time spent on such everyday matters, or in looking back to investigate mistakes, and often missed the big questions—as did the executive branch. Staff tended as well to focus on parochial considerations, seeking to add or cut funding for individual (often small) programs, instead of emphasizing comprehensive oversight projects.

Madam President, my hope is when we finish this bill—it looks as though next week, realistically at this point—we will then turn to the work of reforming congressional oversight. Members on both sides of the aisle are very committed to doing that.

Let me speak for a moment or two about an amendment I was able to tack on in committee. Again, I thank the leadership in the committee but also thank the entire committee because in the end, after we explained this and worked through this and walked through this, we decided this was an amendment that should be added to the bill, and it currently is in the proposed legislation.

Basically, one thing the 9/11 Commission Report said is we need to have a way to evaluate our intelligence structures. It is important as we pass this reform legislation, the most significant reform of intelligence since 1947, to build into it some sort of look-back provision. That is what we have tried to do with my amendment. I am glad the committee has agreed with this and has been able to go along with this.

Basically, it requires the GAO to give a report in 2 years, an independent objective look at what we have done—have we been successful? Have we failed? Do we need to take away a little bit here or add a little bit there? But an independent evaluation, nonpartisan look at exactly what we have done to make sure it is working. It is too important to not get it right the first time.

For example, the 9/11 Commission found a need-to-know culture of information protection rather than a need-to-share culture of integration. The GAO review can indicate whether adequate mechanisms have been put in place to change this culture and be more productive and better, long term, for U.S. intelligence.

I thank the committee for its hard work. I thank the two leaders for their hard work. I thank this entire body for approaching this challenge in a very nonpartisan way.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I commend the Senator from Arkansas for the diligence with which he approached the hearings throughout the August recess and the writing of this important legislation. I very much appreciate the comments of the Senator from Arkansas. He is always generous to me, as well as to the ranking member. We would be remiss if we did not thank him for his contributions to this bill. He was terrific about redoing his schedule throughout the August recess to participate in our numerous hearings. He was instrumental in drafting provisions of the bill including the requirement for the GAO report. I recognize his hard work and leadership and thank him for his kind comments.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 3797

Mr. GRAHAM. Madam President, I send to the desk the amendment consistent with the statement I have just made and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 3797.

Mr. GRAHAM. 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 improve the authorities with respect to the national intelligence centers)

On page 94, line 14, insert before the period the following: '', whether expressed in terms of geographic region, in terms of function, or in other terms''.

On page 95, line 3, insert after the period the following: ''Each notice on a center shall set forth the mission of such center, the area of intelligence responsibility of such center, and the proposed structure of such center.''.

On page 96, line 7, insert ''of the center and the personnel of the center'' after ''control''.

On page 96, between lines 8 and 9, insert the following:

(5) If the Director of a national intelligence center determines at any time that the authority, direction, and control of the Director over the center is insufficient to accomplish the mission of the center, the Director shall promptly notify the National Intelligence Director of that determination.

On page 97, between lines 2 and 3, insert the following:

(5) develop and unify strategy for the collection and analysis of all-source intelligence;

(6) integrate intelligence collection and analysis, both inside and outside the United States;

(7) at the discretion of the NID develop interagency plans for the collection of all-source intelligence, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agencies intelligence collection activities, recommendations for intelligence collection plans, and assignment of departmental or agency responsibilities;

(4) ensure that the collection of all-source intelligence and the conduct of operations are informed by the analysis of all-source intelligence; and

On page 99, between lines 20 and 21, insert the following:

(g) REVIEW AND MODIFICATION OF CENTERS.—(1) Not less often than once each year, the National Intelligence Director shall review the area of intelligence responsibility assigned to each national intelligence center under this section in order to determine whether or not such area of responsibility continues to meet intelligence priorities established by the National Security Council.

(2) Not less often than once each year, the National Intelligence Director shall review the staffing and management of each national intelligence center under this section in order to determine whether or not such staffing or management remains appropriate for the accomplishment of the mission of such center.

(3) The National Intelligence Director may at any time recommend to the President a modification of the area of intelligence responsibility assigned to a national intelligence center under this section. The National Intelligence Director shall make any such recommendation through, and with the approval of, the National Security Council.

(h) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate line item for each national intelligence center under this section.

On page 99, line 21, strike ''(g)'' and insert ''(i)''.

Ms. COLLINS. Madam President, I thank our distinguished colleague from Florida, Senator GRAHAM, for introducing this amendment that clarifies the role of the national intelligence centers that the NID is empowered to create under our bill.

Senator GRAHAM, as former chair of the Intelligence Committee, and having just published a book on intelligence, provides this body with a very important perspective in this debate. His amendment strengthens the role of the national intelligence centers by placing them on par with the National Counterterrorism Center. This amendment provides much needed flexibility to the national intelligence director in establishing the centers. It allows the director to establish criteria for the centers to focus on vital areas of expertise.

The amendment also directs the national intelligence director to provide an annual report to Congress on the responsibilities of each of the centers that are created. This is an important aspect of this amendment. We can no longer afford to maintain the same percentage of Russian linguists today, for example, as we had during the Cold War. We have new wars, new challenges, new threats, and they demand new capabilities and responses as the 9/11 Commission Report indicated.

This amendment is well within the intent of the 9/11 Commission Report and recommendations as is evident by the letter that the Senator has from the chairman and vice chairman of the committee. I endorse the amendment on my side. I am happy to accept it. I thank the Senator for working closely with us.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I rise to support the amendment, as well, and to thank Senator GRAHAM for the characteristic thoughtfulness he brought to this matter and the very constructive additions this amendment makes to the bill and to clarify the authority and the importance of these centers.

This is one of the central contributions of this legislation and derivatively of the 9/11 Commission Report. It grows out of the outrageous failure to share information prior to September 11 that the 9/11 Commission Report documents in riveting detail.

As the Chair knows, we would establish on the passage of this, a national counter terrorism center to focus all of our efforts from all agencies—unity of effort, joint command operations, et cetera—in the fight against terrorism. We also take this basic idea and say to the national intelligence director, you can set up other centers to deal with other particular problems—maybe a specific threat like weapons of mass destruction or nuclear proliferation specifically or a country or subgroup that may be threatening—the United States, set up a center on North Korea or Iran—and you would guarantee, thereby, in these other centers that all the arms of our Government would know what the others would be doing, would be sharing intelligence and analysis of intelligence through these centers, being able to plan joint operations for the collection of intelligence, very critically important to inform the President and the officers of our Government how to deal with these crisis. Senator GRAHAM's amendment makes clear how important these centers are that the NID can create.

I stress, also, the centers are not permanent. They are part of the vision that comes out of the 9/11 Commission Report. The Collins-Lieberman bill before the Senate now is about modern management, 21st century management. If there is a problem, create a center with all your best people around the table planning how to collect and analyze intelligence about the problem, advise the President, Secretary of State, Secretary of Defense, whomever. Once that problem is resolved, that center can and should be terminated. That is the kind of flexibility involved.

Senator GRAHAM, as Senator COLLINS has said, is building on an extraordinary record of experience and very constructive leadership, outspoken, appropriately outspoken leadership in the area of intelligence, and has given us the benefit of that experience with this amendment. I thank him for it. I am happy to accept the amendment on our side.

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

Ms. COLLINS. Mr. President, I know of no further debate on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3797) was agreed to.

Mr. GRAHAM of Florida. Mr. President, I extend my deepest gratitude to Senator COLLINS and Senator LIEBERMAN and also my appreciation for the Senators' kind remarks.

Mr. LIEBERMAN. It is deserved.

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.

Mr. LIEBERMAN. 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.

Mr. KYL. 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. 3801

Mr. KYL. Mr. President, I ask unanimous consent that we lay aside the pending business so I may offer an amendment which is at the desk.

Before I finish, I want to say this on behalf of Senator CHAMBLISS and myself. My intention is to speak on it now, then come back to it—pursuant to an agreement that will be worked out with the managers of the bill—sometime early tomorrow afternoon, and people who are opposed to it will have been able to come to the floor and debate it. So we will talk on it right now for a little while, but the purpose for proceeding now is to get it pending so we can later reach an agreement and set it for debate at a later time.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself, Mr. CHAMBLISS, and Mr. DOMENICI, proposes an amendment numbered 3801.

The amendment is as follows:

(Purpose: To modify the privacy and civil liberties oversight)

On page 52, strike beginning with line 21 through page 56, line 8.

On page 154, strike beginning with line 8 through page 160, line 11 and insert the following:

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from

terrorism, including the implementation of information sharing guidelines under section 205(g); and

(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall periodically submit, not less than semiannually, reports—

(A)(i) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) to the President; and

(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee; and

(C) request information or assistance from any State, tribal, or local government.

(2) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board may submit a request directly to the head of the department, agency, or element concerned.

On page 164, strike beginning with line 21 through page 170, line 8.

Mr. KYL. Mr. President, neither the 9/11 Commission nor the Senate Intelligence Committee, nor anyone else that I am aware of, has said the problem leading up to the attack of 9/11 was due to too much intelligence. The problem, obviously, arose because we didn't have enough intelligence. We could not gather enough information in a timely way to put together all of the possibilities—some say connect the dots—in order to predict that a particular kind of attack was going to occur on that day.

We have had a lot of good, constructive suggestions from the 9/11 Commission, from the Senate Intelligence Committee, from the administration, from the work of the Governmental Affairs Committee, and from other commissions in trying to understand why we didn't have enough intelligence and why we could not put all of this together. Many of the recommendations of the Commission and the legislative solutions in the proposed bill try to correct that problem of not having enough good intelligence.

None of the problems identified suggested that we had too much intelligence and the problem was that people's civil liberties were somehow being jeopardized, or that their privacy rights were being jeopardized. Nobody has ever said that was a problem.

Subsequent to 9/11, we passed the PATRIOT Act. It has been signed into law and most law enforcement officials, the administration, and others argue persuasively, I think, that it has done a lot to help them win the war on terror by collecting additional intelligence. Some have concerns about some of the provisions of the PATRIOT Act with respect to civil liberties or privacy rights. But those are issues that have come up subsequent to 9/11.

My point is that the problem before 9/11 was not having too much intelligence and that jeopardized people's privacy or civil rights. Therefore, it comes as a great surprise to me that there is such a huge emphasis in the committee bill on privacy, civil rights, on having an ombudsman to protect people's rights, on having such an emphasis within the national intelligence directorate on these subjects, having a special board that would look into it, with subpoena powers, outside the intelligence community, and so on. It is my considered judgment, having served on the committee for 8 years, and having heard testimony from a great many people, including Richard Clark, by the way, who testified that risk aversion was one of the key problems leading up to 9/11—it is my judgment that the overkill of all of these provisions in the bill is a fatal flaw in this legislation, which must be corrected, or else what we would have done is to rearrange the bureaucracy here, putting a person in charge as the national intelligence director and making some other changes but crippling his effort and the efforts of the intelligence collection gatherers, analysts, and others in their ability to protect us by gathering intelligence.

Risk aversion, which is a big problem today, will be a huge problem in the future because, in addition to the people today who are looking over the shoulders of the intelligence community, we will have a whole array of new entities with great powers looking over their shoulder; and all of the effort that we are going through to try to begin saying that people should think outside the box, should be bold, innovative, and imaginative, that we need more human intelligence, and that those human intelligence agents are going to do things to gather more intelligence—we should have people who are willing to think outside the box. All of that is going to be significantly jeopardized because of the risk aversion that will be blanketed over all of the community with all of these different entities saying, wait a minute, we understand you are trying to collect intelligence, but we have people's civil rights and privacy rights and all the rest to be concerned about as well.

Of course those are legitimate concerns. That is why we have entities today that help to ensure that privacy and civil rights are not jeopardized. It is enough. This bill creates so many new opportunities for people who object to intelligence gathering and analysis in the way we know it needs to be done that they are going to be able to ball up forever any ability to get meaningful intelligence if we are not careful about how we construct this bill.

Let me tell you a little bit about what I am talking about. Here is a bit of background. Risk aversion—we understand what it means. It was testified to by people such as Richard Clark and others before the Intelligence Committee as the mindset which exists if you do anything out of the ordinary, if you go against the grain, if you collect by unorthodox measures, if you analyze intelligence in a way that might be contrary to the superiors above you in the organization, or to what somebody in Congress or somebody else wants to see, or if the actions that you take have some degree of risk associated with them—either political risk or legal risk, or certainly operational risk in terms of casualties and the like—therefore, because of all of these things there is an aversion to taking those risks.

Government employees who have a career, who have their retirement in mind, and who want to continue to work with the agency want to be sure they are able to continue their careers, do their jobs, and not, because they perhaps work outside of the box, be penalized for doing that.

Agent Rowling of the FBI talked about this in her inability to get the FBI to act on a warrant request she

sought to look into Zacarias Moussaoui's computers. One of the reasons they didn't act was out of a ''political correctness''—their term, not mine—that concerned them about the view that it would look like they were going after somebody on the basis of racial profiling, or some kind of profiling, rather than because they were under suspicion of committing a crime.

This is the kind of risk aversion that everybody agreed was part of the problem with the intelligence gathering and analysis prior to September 11. How do you make that situation worse? You do it by adding new layers of people who are second-guessing these intelligence agents and analysts. There are enough people second-guessing them already, imposing the legal and political layer or filter of approval of the actions of the people in the field. But what the bill does is to create whole new layers.

First, it follows a recommendation of the 9/11 Commission to create some kind of outside board, but goes far beyond the 9/11 Commission recommendations in empowering this board with subpoena power, literally the authority of this outside board, that is not within the intelligence community at all, a citizen board, to haul in any agent anywhere in the world and grill him about what he did or did not do or what he concluded or did not conclude, with no guidance whatsoever. This is a recipe for disaster.

In addition, as if that were not enough, of the six assistant directors of the national intelligence directorate, fully a third of them, two out of the six, have nothing to do with intelligence collection or analysis; they are the privacy and civil rights division.

First, one wonders why those are not the same thing and, second, why you would have to have two out of the six directorates specifically charged with this responsibility. We already have an inspector general whose responsibilities include any situation in which an agent or agency went beyond legal authority or beyond other appropriate authority in the conduct of his or her business. But in addition to the inspector general, in addition to the officers who currently exist in each of the agencies of the intelligence community—virtually all of them—to deal with privacy and civil rights concerns—these already exist—we create two new directorates with this legislation: this outside civilian board and an ombudsman.

In looking through the ombudsman's responsibilities, for example, pity the poor intelligence agent who raises a question that causes this ombudsman to have to question him.

This is not even to get into the congressional oversight which we want to enhance. Our working group, which is developing the improvements to the Intelligence Committee operation, will be soon, I think, be making a recommendation to the body, either in conjunction with the underlying bill or as an amendment to it, that will also fold in enhanced congressional oversight.

We want enhanced congressional oversight, but it is a double-edged sword because it has been abused in the past and can be abused in the future.

When Members have not intelligence as their first priority but questioning somebody within the intelligence community, they can be pretty hard on the intelligence community. We can go all the way to the Church Commission in 1976 to see what kind of damage that can do. So we need to be careful about this congressional oversight, but it is going to be enhanced. We are going to improve our ability to oversee the intelligence community.

In addition to the offices that exist today, and in addition to the inspector general, and in addition to the enhanced congressional oversight, we are creating two more directorates, an outside board, and an ombudsman, all of whom have essentially the same general responsibility of questioning whether the intelligence agents, agencies, analysts, and others are doing their job properly. Then we will ask ourselves why we could not get anybody to think outside the box, to be forward leaning, to try to be aggressive in collecting intelligence, why everybody was meekly following a very single straight line.

The fact that we are creating a national intelligence director creates a bit of a problem in this regard in the first place because instead of having a wider array of entities involved, each with their own points of view, sort of the devil's advocate concept recommended by many, including the 9/11 Commission, to get out of a single-channel orientation group-think, we are making the problem worse, in my view, by creating this single national intelligence director.

If you want a career in the agency, you better not run afoul of what the director wants and what his views are. That is the reality of bureaucracy, and it exists in every agency of the Government, not just the intelligence community. But in the intelligence community, it is particularly important because we want people who are willing to question, to go against the grain, to disagree with their boss, to take a risk.

If we look back at President Clinton's directives to the intelligence community, he tried to be forward leaning, especially with regard to al-Qaida and Osama bin Laden. To paraphrase, in effect what he said is we have to do everything we can to try to get these guys. Repeatedly, efforts were made to bring to his attention operations that would either improve our intelligence or operationally deal with al-Qaida and Osama bin Laden. They were shot down by the Pentagon, by the Secretary of State, by the National Security Adviser, by the lawyers, by the intelligence community itself, the Director of the CIA. Every time we tried to do something, almost, somebody said this is too risky; we cannot do it. That was why the 9/11 Commission, the Senate Intelligence Committee, and many other observers have said we have to get out of this stultifying risk-aversion environment where people are afraid that somebody is looking over their shoulder and is going to jump on them if they do anything that is the least bit out of the ordinary or risky. We have to have the out of the ordinary and risky if we are ever going to defeat this very unconventional enemy.

What does the bill do? It does not try to solve the problem; it makes it far worse. The purpose of our amendment is to say we will follow the 9/11 Commission recommendation and set up this outside commission, but for Heaven's sake, let's not give it the kind of subpoena power—Congress already has that, the inspector general already has the ability to look into all of these things. We do not need an outside board of five, or whatever, people accountable to nobody with the ability to totally disrupt what the intelligence community is doing.

It is fine to report to Congress, to analyze what they think the situation is and let us know what their concerns are. But that is far different from operationally getting right down into the bowels of the organization with hands that can extract anything, classified or not, subpoena anybody, whether in Afghanistan or Langley or wherever, and publicly question what is being done.

That is the first part of the amendment.

The second part of the amendment is to say we do not need all these new entities given the fact we already have existing civil rights and privacy controls. I do not want to be misunderstood. It would be very easy to characterize or mischaracterize what we are trying to do by saying these are people who do not care anything about civil rights; these are people who want the agency to run roughshod over American civil rights, and people can get pretty revved up about that very quickly.

Nothing could be further from the truth. The folks who are understandably going to put a high priority on protecting civil rights need to balance their legitimate concerns about civil rights with a concern about the lives of American citizens, to balance the legislation that is supposed to help fix the problem in such a way that we do not put so many constraints on our intelligence community that it can't do its job.

One of the biggest problems identified, this problem of risk aversion, will be horribly exacerbated if we simply blindly follow the recommendation of those who brought this bill to the floor—and I understand there were a lot of compromises made in order to get unanimous approval out of the committee, but sometimes getting unanimous approval is the wrong goal.

Sometimes you need to make tough choices and you need to reject proposals that are offered by people who then agree to vote for the overall bill if they get their amendment in the bill. That is what happened with this bill, and there are too many little amendments that got in which, when added up, are going to create a huge problem with our intelligence community with respect to this issue of risk aversion.

I cannot stress strongly enough, and this will be my final point, our goal ought to be to improve our intelligence collection, to improve human intelligence, to improve analysis, to foster a sense within this community that they do not have to just follow the narrow channel of group-think that was criticized so strongly by the 9/11 Commission, that they do not have to feel risk averse, that they can take a chance sometimes because we need people to be imaginative and innovative and think about possibilities that before 9/11 we could not have even dreamed of.

I know now some people like to go back and ask: Why did you not think up the fact that people could fly planes into these buildings? Well, one reason was because as soon as one starts thinking about those kinds of things, somebody is going to come down on them like a ton of bricks and say: Get back to your job and stay within the channel here. We do not have time for that kind of fantasizing. You are living in a fantasy world.

We have to have people who are willing to ask these tough questions and think in ways that they are not going to get slapped down when they do. The sure recipe, the prescription for that occurring is by piling on layer upon layer of outside groups, ombudsmen, civil rights, privacy divisions, all of these groups that are duplicative of what we already have, to call into question what our agents and analysts are doing.

There is simply no need to have so many people performing the same task, which, in any event, does not add to intelligence, but, by its very nature, is designed to restrict intelligence activity. Surely, we can protect civil liberties and privacy without setting up a situation in which it is going to be incredibly difficult for the intelligence community to effectively perform its mission.

After all, our chief objective is to make it easier to predict and prevent a terrorist attack, not more difficult.

Excessive oversight will result in our intelligence officers being more cautious than they should be, and deter them from taking the risks that may be necessary to keep our country safe.

Indeed, an aversion to taking risks, even when they should be taken, already plagues our intelligence community. Time and time again, this has contributed to intelligence failures, most recently, of course, 9/11 and the intelligence community's claims about Saddam's weapons of mass destruction.

There are numerous reasons for this culture of risk aversion—unclear authorities, legal restrictions, and excessive oversight are among them.

The deterioration of our intelligence community's clandestine service offers a good example.

According to the 9/11 Commission's report, James Pavitt, the head of the CIA's Directorate of Operations, recalled that covert action had gotten the clandestine service into trouble in the past, and he had no desire to see it happen again.

The ''trouble'' he referred to was at least partly the result of the 1973 Church Committee hearings in Congress. Added to that were the restrictive guidelines promulgated by then-CIA Director John Deutch in 1995, which severely limited the ability of CIA case officers to meet with and recruit foreign nationals who may have been involved in dubious activities or have blood on their hands.

The end result was out intelligence community's inability to penetrate al-Qaida's command structure. Before 9/11, we had not one source inside that command structure. Unclear authorities, excessive oversight, and burdensome restrictions prevented our people on the ground from being effective.

I recognize that privacy and civil liberties are substantively entirely different matters. However, the end result of unnecessary bureaucracy, restrictions, and excessive oversight will be the same. We will cultivate a culture within the intelligence community that makes it less likely that people will be willing to do the jobs we are asking them to do, and more likely that they will want to ''play it safe.''

My amendment would very simply delete sections 126 and 127, which require officers for privacy and civil liberties with the National Intelligence Authority; it would strike section 212, requiring privacy and civil liberties officers with a long list of Executive Branch departments and agencies; and it would modify the Privacy and Civil Liberties Oversight Board established by section 211.

The National Intelligence Authority does not need three individuals assigned to the same task. The IG of the National Intelligence Authority will be in place to ensure privacy and civil liberties receive adequate attention and oversight.

Similarly, it is redundant to require privacy and civil liberties officers within almost every national-security related department and agency.

My amendment would retain the Privacy and Civil Liberties Oversight Board, as the 9/11 Commission recommended. However, it would limit Board's ability to interfere in the activities of relevant departments and agencies.

I hope that Members will support this amendment. It follows the 9/11 Commission's recommendations with respect to privacy and civil liberties, and ensures adequate oversight and protections, but does so without hamstringing the community.

I urge my colleagues when we debate this amendment further tomorrow to please read the bill, look at the relevant portions of the 9/11 Commission recommendations, look at the testimony of those who have raised this kind of question and ask whether the bill as presented is not a little bit out of balance—I contend a great deal out of balance.

I do not cast any aspersions on the people who worked so hard to bring this bill to the Senate floor. There are not enough compliments for the Senator from Maine and the Senator from Connecticut for the hard work they have done and all of the others who have worked so hard on it. This is not in any way meant as personal criticism, but I fear if we do not very carefully analyze this and try to correct it—and remember, that was part of what this was all about: let's get the bill to the floor; we can always make corrections here. This is the time to do it. We have not written a bill on the floor for a long time, but this is too important not to take the time to do right.

I urge my colleagues, let us not make the mistake of rushing forward with this, putting a rubberstamp on the committee's bill because we have to do something before we leave on October 8. We will spend years ruing the day we took this kind of action if we are not careful about what we do.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the pending amendment of Senator KYL be laid aside for purposes of proposing additional amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3806

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, and Mr. LIEBERMAN, proposes an amendment numbered 3806.

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 as follows:

(Purpose: To improve the transition between Presidential administrations)

At the end of the bill, add the following:

TITLE ___—PRESIDENTIAL TRANSITION

SEC. ___01. PRESIDENTIAL TRANSITION.

(a) SERVICES PROVIDED PRESIDENT-ELECT.—Section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by adding after subsection (a)(8)(A)(iv) the following:

''(v) Activities under this paragraph shall include the preparation of a detailed classified, compartmented summary by the relevant outgoing executive branch officials of specific operational threats to national security; major military or covert operations;

and pending decisions on possible uses of military force. This summary shall be provided to the President-elect as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.'';

(2) by redesignating subsection (f) as subsection (g); and

(3) by adding after subsection (e) the following:

''(f)(1) The President-elect should submit to the Federal Bureau of Investigation or other appropriate agency and then, upon taking effect and designation, to the agency designated by the President under section 115(b) of the National Intelligence Reform Act of 2004, the names of candidates for high level national security positions through the level of undersecretary of cabinet departments as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

''(2) The responsible agency or agencies shall undertake and complete as expeditiously as possible the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.''.

(b) SENSE OF THE SENATE REGARDING EXPEDITED CONSIDERATION OF NATIONAL SECURITY NOMINEES.—It is the sense of the Senate that—

(1) the President-elect should submit the nominations of candidates for high-level national security positions, through the level of undersecretary of cabinet departments, to the Senate by the date of the inauguration of the President-elect as President; and

(2) for all such national security nominees received by the date of inauguration, the Senate committees to which these nominations are referred should, to the fullest extent possible, complete their consideration of these nominations, and, if such nominations are reported by the committees, the full Senate should vote to confirm or reject these nominations, within 30 days of their submission.

(c) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—

(1) DEFINITION.—In this section, the term ''major party'' shall have the meaning given under section 9002(6) of the Internal Revenue Code of 1986.

(2) IN GENERAL.—Each major party candidate for President may submit, before the date of the general election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect's transition team.

(3) COMPLETION DATE.—Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified information shall be completed, to the fullest extent practicable, by the day after the date of the general election.

(d) EFFECTIVE DATE.—Notwithstanding section 341, this section and the amendments made by this section shall take effect on the date of enactment of this Act.

Mr. MCCAIN. Mr. President, as I believe most of my colleagues know, Senator LIEBERMAN and I made a commitment to the families and the 9/11 Commission that we would ensure that all of their 41 recommendations were considered one way or another in this legislation. Because of the lack of scope of the Governmental Affairs Committee, there were several recommendations which were not considered.

Senator LIEBERMAN and I have already proposed and had adopted several amendments addressing the recommendations of the 9/11 Commission. There are three remaining issues. One of them is noncontroversial, which I will be proposing at this time and would hope would be voice voted since it is noncontroversial. Then there are two additional amendments concerning two additional recommendations of the 9/11 Commission. Both of those are controversial, so I would propose those amendments and then ask that they be set aside after they are placed for consideration. Then they would be disposed of after debate, discussion, or however the managers would like to dispose of those additional two amendments.

I hope I made myself somewhat coherent in that explanation.

The amendment that is at the desk addresses the 9/11 Commission's recommendation to improve the transitions between administrations. It is nearly identical to title IV of the 9/11 Commission Report Implementation Act, which we introduced on September 7, except that it does not include the security clearance-related provisions that were adopted by the Governmental Affairs Committee and are already in the underlying bill, S. 2845.

The Commission report states:

> Since a catastrophic attack could occur with little or no notice, we should minimize as much as possible the disruption of national security policymaking during the change of administrations by accelerating the process for national security appointments. We think the process could be improved significantly so transitions can work more effectively and allow new officials to assume their new responsibilities as quickly as possible.

As recommended by the Commission, this amendment is designed to help ensure an incoming President-elect has his or her national security team in place during a transition between administrations. The amendment would direct the outgoing administration to provide the President-elect, as soon as possible after the general election, a detailed, highly classified summary of current threats to the national security, major military and covert operations, and pending decisions on possible uses of military force.

It also provides that the President-elect should submit to the agency responsible for background checks the names of possible candidates for high-level national security positions as soon as possible after the date of the Presidential election. In turn, it requires that agency to undertake and complete, to the fullest extent possible, the background investigations necessary to provide appropriate security clearances to these individuals by the date of inauguration.

Finally, it urges the Senate to consider the nominations of top national security appointees as soon as possible, preferably within 30 days of the submission of a nominee.

As the chairman of a committee which has responsibility for the confirmation of many Presidential nominees, I assure my colleagues that I consider the Senate's advise and consent responsibilities to be very important. This amendment is not proposing that we shirk our duties in any way but that we act in the most efficient manner possible to thoroughly review the nominees to national security-related positions and allow for their confirmation so they can carry out the very important duties to which they are charged.

I recognize that some, including administration officials, would prefer that we go further. It has been suggested and I believe the House bill even proposes that if the Senate has not voted to confirm a nominee within 30 days after the nominee's name has been submitted, the President alone should have the power to make that appointment. I, for one, cannot support such a proposal, and I doubt that it would have the support of the majority of Members in this body.

Let me also point out that this amendment does not include the Commission's recommendations that the Senate should not require confirmation of such national security executive appointees below executive level 3. One of the reasons our amendment does not address that particular proposal is that upon review of such positions, we learned that it would eliminate the Senate's advise and consent duties for many important security positions that we believe merit the Senate's action. Executive level 4 includes all of the Assistant Secretary positions, many of which one would argue are important national security-related positions. Examples of these positions include the Assistant Secretary of Defense for Strategy and Threat Reduction, the Assistant Secretary of Defense for International Security Affairs, the Assistant Secretary of Defense for Force Management Policy, and others.

We believe that instead of removing the Senate's advise and consent obligations, a better approach would be for the Senate to fulfill its obligation in as expeditious a manner as possible. We hope this body will make a greater effort to hold confirmation hearings and report those national security-related nominations to the full Senate for swift consideration. To help spur swift Senate consideration, this amendment includes a sense of the Senate urging the President-elect to submit the nominations for high-level national security positions to the Senate by the date of the inauguration. It also calls for Senate committees to hold nomination hearings and consider these nominations to the fullest extent within 30 days of their submission.

The amendment before the Senate is but one proposal that we need to move

forward. The more critical proposal which we still need to act on is congressional reorganization and oversight over intelligence and homeland security. As the Commission very directly pointed out, not only are Government agency reforms needed, so too are institutional reforms within Congress. The Commission went so far as to call congressional oversight as ''dysfunctional.''

I remain hopeful that the bipartisan working group tasked by the leadership to develop a proposal for congressional restructuring will be successful. We owe it to the American public to fulfill our collective responsibilities. These are not normal times. We are at war.

I just want to say again, as a member of the Armed Services Committee, I have seen particularly the Defense Department, as well as other national-security-related positions, literally vacant for months and months and months. This is really not an acceptable situation, and it has grown worse and worse. Background security checks have lengthened in their time. The Senate doesn't get moving until a couple of months after we are in session. It is not fair. It is not fair to the nominees, it is not fair to the country, it certainly is not fair to the Departments that are deprived of the services of a new President's team. So I hope we will support this amendment.

I do not believe there is any controversy, so I ask for a voice vote before I move to a second amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am proud to be a cosponsor of this amendment with Senator MCCAIN. This, again, is part of our attempt to implement through legislation as many of the recommendations of the 9/11 Commission Report as we possibly can.

This is a critical one. The Commission made a finding not usually focused on, as part of its work, that there is a danger because of the slowness of the transition from one administration to the next that America will be vulnerable. We have an enemy out there, a terrorist enemy, that follows this kind of information. I don't make a causal statement now, but the fact is that it was in 1993, the first year of the Clinton administration, when the World Trade Center was first attacked by terrorists with a truck bomb. And it was 2001, of course, when the Twin Towers and the Pentagon and other targets were attacked, in the first year of the Bush administration.

These are very good recommendations. I do want to point out simply that the underlying bill incorporates a related recommendation by the Commission to consolidate security clearance investigations in one agency and encourage reciprocity among agencies with respect to those clearances, which should help streamline what is now a frustratingly Balkanized system for determining who can have access to sensitive information.

This is very constructive. I do not believe it is controversial at all.

To reiterate, this amendment will help ensure that our vital national security capabilities do not suffer undue disruption during a presidential transition.

The 9/11 Commission recommended several measures to provide a swift hand-off between incoming and outgoing national security teams during a change in presidential administrations, and this amendment reflects those recommendations.

First, it directs the outgoing administration to provide the President-elect with a detailed, classified summary of critical operational threats, including major military or covert operations and pending decisions on the use of military force. The most important member of the national security apparatus is the Commander in Chief. This provision will help the President-elect begin focusing on these issues, and considering any imminent high stakes decisions that might need to be made, well in advance of the day he or she takes office.

The amendment also includes several measures to help assure that the President-elect will have a qualified team of national security advisors in place early in the new administration and who are able to hit the ground running.

It calls on the President-Elect to submit the names of likely high level national security personnel for security clearances as soon as possible after the election, and directs the appropriate Federal agency or agencies to complete the necessary investigations for those clearances as quickly as possible, preferably before the inauguration.

The amendment also urges the administration to submit nominees for the top national security positions by Inauguration Day and, if it does so, urges the Senate to act on those nominations within 30 days wherever possible. I think this language is a useful reminder to both the executive branch and the Senate that we should act to fill these positions with all deliberate speed—mindful that delay has costs, but dedicated as well to careful selection and review of nominees for these sensitive positions.

Finally, the amendment would allow major party candidates to seek security clearances for prospective transaction team members prior to the election, with the goal of having those clearances available the day after the election.

I should note that the underlying bill already incorporates a related recommendation by the Commission to consolidate security clearance investigations in one agency and encourage reciprocity among agencies with respect to clearances. This should help streamline what is now a frustratingly balkanized system for determining who can have access to sensitive information.

We do not include the Commission's recommendation to eliminate Senate confirmation for national security nominees below the Executive Schedule III pay grade. This category would include many Assistant Secretaries with critical policymaking responsibilities. Given the need for strong Congressional oversight of the intelligence community and other national security operations, it does not seem wise to remove this important layer of Congressional review and accountability.

I believe this amendment helps ensure that we do not loosen our footing in the war on terriorism at moments of presidential transition. I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I join Senator LIEBERMAN in commending Senator MCCAIN for offering this amendment. It would make several changes to the Presidential transition process, changes that are consistent with the recommendations of the 9/11 Commission.

The Governmental Affairs Subcommittee, chaired by Senator VOINOVICH, held a hearing on this issue at which two of the Commissioners, Fred Fielding and Jamie Gorelick, discussed how the current transition process does not serve our country well in the handing over, the transitioning of important national security decisions from one administration to another. One reason is that it is such a slow process to get the new administration's team in place.

I believe this amendment would greatly improve the process. I know of no opposition to it. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3806) was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3807

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

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 3807.

Mr. MCCAIN. I ask unanimous consent 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, this amendment may be subject to more debate and discussion and may require a recorded vote. I intend to propose this amendment, discuss it, and recognize that there will be further discussion about this amendment.

This amendment addresses the terrorist travel and screening sections of the 9/11 Commission report. Contained in this amendment are the recommendations found on pages 383–390

of the 9/11 Commission report. The text of this amendment is nearly identical to Title VI of S. 2774, which was introduced September 7.

In addition to working with the Commission on this amendment, Senator LIEBERMAN and I have sought the advice and counsel from as broad a range of interested parties as possible. Meetings have been held to address the concerns of many of the interested groups. While some may prefer that we do not address these provisions, that is simply not an option. We must act one way or the other on all of the recommendations in the Commission report.

Despite the hard work by the people at the Department of Homeland Security, it is apparent that our Government has just begun to carry out some of the reforms necessary to prevent terrorists from entering our country. Much remains to be done to target terrorist travel, combine our multiple screening systems and ensure that identification documents used to enter this country or to be used as feeder documents are trustworthy.

Additionally, more must be done to improve the training we provide to our immigration and consular officers. These people represent the first line of defense in the security of our borders. We must ensure that these officers have access to the best training, technology and information available.

According to the Commission Report:

> Better technology and training to detect terrorist travel documents are the most important immediate steps to reduce America's vulnerability to clandestine entry.

By restricting terrorist access to travel documents, we increase the difficulty to travel into the United States. Our legislation aims to address this pressing issue by requiring the Secretary of Homeland Security to work with multiple Government agencies to develop a unified strategy for combining terrorist travel intelligence, operations and law enforcement into a cohesive effort to intercept terrorists, find terrorist facilitators, and constrain terrorist mobility domestically and internationally. All agencies responsible for guarding our Nation against terrorist attack must be on the same page in our approach to keeping terrorists out.

In order to efficiently screen those entering the United States, the multiple terrorist screening systems already in place must be integrated. Our legislation would require the Secretary of Homeland Security to develop a comprehensive screening system that brings together an integrated network of screening points that includes the Nation's border security systems, transportation system, and critical infrastructure and facilities. The Department of Homeland Security will begin to address this issue as they carry out the orders given in HSPD–11; however, our amendment represents a more comprehensive approach to uniting our various screening systems.

Fundamental to increasing the security of our borders is the quick and full implementation of US VISIT. I, like many of my colleagues, have been troubled by the pace in which this system has been rolled out. This legislation requires the Department of Homeland Security to develop and implement a plan for the accelerated and full implementation of the US VISIT system. Additionally, the amendment directs the Secretary of Homeland Security to implement a single, consolidated program designed to expedite the travel of previously screened travelers across the borders of the United States.

Lastly, this amendment would implement 9/11 Commission's recommendation that the Federal Government set standards for the issuance of birth certificates, driver's licenses, and other sources of identification. It has been well documented that many of the hijackers and their associates used counterfeit social security numbers and other fraudulent documents to obtain legal driver's licenses or State-issued ID cards—or were able to simply but fake ID's—which they then used to open bank accounts, rent cars, board airplanes, and attend flight schools. The ease with which these basic documents of American life can be counterfeited or obtained fraudulently is clearly a gaping hole in homeland security.

Since the September 11, 2001, terrorist attacks, at least half the States have passed legislation to tighten up their eligibility requirements and procedures for issuing driver's licenses and State ID cards. These initiatives are commendable and have improved security, but the report of the 9/11 Commission, and numerous reports by Federal agencies and other organizations have all concluded that additional measures must be taken to improve the security of driver's licenses and other forms of identification.

One study deserves special note. Over a 10-month period in 2002 and 2003, the Government Accountability Office—GAO—conducted an undercover investigation of State driver's license practices and procedures, visiting seven States—Arizona, New York, Michigan, South Carolina, Virginia, Maryland, California and the District of Columbia. In every jurisdiction, GAO investigators were able to obtain a driver's license or State-issued ID using fraudulent documents, including fake birth certificates and fake licenses from other States.

Our amendment would require birth certificates and driver's licenses to meet new minimum Federal standards in order to be accepted by a Federal agency for any official purpose. Minimum standards would be established for proof and verification of identity by the applicant, and to make the documents themselves more resistant to counterfeiting and tampering. The amendment also would require minimum standards for the processing of applications to address a widely recognized and growing problem of fraud within the offices that issue licenses and birth certificates, including the Arizona Department of Transportation's Motor Vehicle Division. The amendment would authorize grants to the States to assist them in meeting the new standards and to help States computerize and match their birth and death records.

To improve the security of social security numbers, the amendment would restrict the number of replacement cards that can be issued to an individual; require verification of records used to obtain an original social security card; and add death, fraud, and work authorization indicators to the social security number verification system. DHS and the Social Security Administration would also be tasked to take other steps to safeguard social security cards from counterfeiting and tampering, and increase enforcement against the fraudulent use of social security cards.

Today, incredibly, the Social Security Administration will issue any individual up to 52 replacement cards a year, a practice GAO has cited as increasing the potential for misuse and fraud. Roughly two-thirds of the 12.4 million social security cards issued by SSA in 2002 were replacement cards. I am also incredulous that the system SSA uses to verify social security numbers does not include notations for death, fraud, or work authorization. Employers often use the system to verify the social security number of new employees. Because there is no notation on the records for death, a social security number for a decreased individual used fraudulently by another person will be verified as valid.

This amendment would not mandate a national ID card. It would not infringe upon the right of the States to determine who can get a driver's license. It would not establish a national database with information on all drivers. And it would prohibit the establishment of a single design for driver's licenses and birth certificates. We believe it fulfills the recommendation of the 9/11 Commission without trampling on States' rights, privacy, or civil liberties.

We must face the fact, however, that rightly or wrongly, the driver's license is the basic form of ID in the United States. We use it to board airplanes, to purchase alcohol and cigarettes, to cash checks, and for a host of other purposes. We cannot ignore that the security of driver's licenses and State-issued ID cards affect homeland security. And we cannot ignore that driver's licenses can and indeed have been used as an enabler for terrorism. There is a legitimate Federal role in establishing minimum standards for these documents.

As the 9/11 Commission noted in its report, ''At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.'' Making these documents more

secure will help make our country more secure, and help prevent another terrorist attack on our country.

In closing, this amendment was carefully crafted to translate the commission recommendations into legislative language. I applaud the work of the commission and fully believe that the reforms they suggest in this section of their report will go a long way towards increasing the security and safety of all Americans.

The Commission released their report in late July. Their recommendations are taking on a life of their own. The Commission report is the No. 1 nonfiction bestseller on both the New York Times and the Washington Post bestsellers list. The public is taking their recommendations very seriously, and so too should we. The people will hold us accountable for our failure if we don't enact these recommendations.

I would like to point out a couple of additional facts.

Today, each State has a different set of requirements for driver's licenses. Some States allow more than 30 different documents to be used by applicants as proof of identity. How in the world can an employee at the department of motor vehicles be expected to verify the authenticity of the applicant?

I am amazed what some States will accept as proof of identity in supporting documents. For example, one State allows a picture from a high school yearbook to be used as one form of identification. Another State allows the school report card to be used as long as it is less than 1 year old. A third allows a snowmobile permit to be used as a form of identification. Several States allow permits for concealed weapons to be used in getting a driver's license. One State still has licenses without a photograph of the license holder.

I recognize that we are on very interesting ground on this issue. On the one hand, we are trying to balance people's civil liberties. We are trying to make sure everyone has a right to privacy. We are trying to make sure there is no national database which would be used to follow people around the country. At the same time, if someone can fraudulently obtain a driver's license and that driver's license is used in obtaining access to places where acts of terror can be committed, we have to try to see that does not happen.

What we have done with this amendment is try to carefully balance the requirement for some better way of assuring identity and at the same time not infringe on Americans' civil liberties. That is why I believe this amendment probably will be the subject of some debate and discussion and will probably require a recorded vote.

If somebody has a better idea, I would like very much to hear it, but I do not know that there is a better idea. We have done extensive research, have had extensive discussions and an extensive amount of investigation building on the 9/11 Commission's findings and recommendations.

It seems to me that this is a reasonable approach. But to have the status quo in America where people can easily and fraudulently acquire identification which allows them then to be able to commit acts of sabotage, espionage, or terror and risk the lives of others is not a status quo by which I think we can abide.

I thank my colleagues for their consideration. I look forward to the debate.

If the distinguished manager would perhaps illuminate as to how she would like to handle this particular amendment, I would be agreeable to whatever the manager's procedure would be.

Ms. COLLINS. Mr. President, once again, I thank the Senator from Arizona for bringing up another series of recommendations made by the 9/11 Commission.

This is a very broad amendment. There is much in it which I support, and I agree with the Senator that there is a significant problem with fraudulent documents, including driver's licenses. Nevertheless, several groups, including the National Governors Association, the National Council of State Legislatures, and the American Civil Liberties Union, have expressed concerns regarding the degree to which some of the provisions in this amendment would infringe on the powers traditionally exercised by the States to set standards in the area of driver's licenses, for example. Therefore, I would like to suggest to the Senator that we continue working on these issues to see if we can resolve some of these concerns and that we set this amendment aside for the time being to allow for that.

Mr. MCCAIN. I thank the manager. At this time I will not be proposing a further amendment.

Mr. REID. Mr. President, if I could get the attention of the manager of the bill.

The PRESIDING OFFICER. Does the Senator from Maine yield the floor?

Ms. COLLINS. I yield the floor temporarily.

Mr. REID. Mr. President, we have a number of Members in and out of the Chamber who want to know when they can offer amendments and/or speak. Senator CORNYN is here, Senator FEINSTEIN, Senator LAUTENBERG is here. I wonder if at least for these three can we get a queue set up so they will know when they can be expected to speak.

Ms. COLLINS. Mr. President, I suggest, based on the conversations I have had with all who are present in the Senate now, we first yield to the Senator from California, who is going to discuss her proposal while we are continuing to work at the staff level on the language of her amendment; that we then go to the Senator from Texas, who has two amendments he would like to discuss—again, we are still working with the Senator from Texas—and we then proceed to the amendment Senator LAUTENBERG has proposed.

Mr. REID. If I could be recognized to further this dialog, I wonder if we could then have a consent agreement that the Senator from California be recognized for 10 minutes, the Senator from Texas be recognized on his two amendments for no more than 15 minutes, and the Senator from New Jersey would be recognized after that.

I ask unanimous consent that the Senator from California be recognized for 10 minutes; following that, the Senator from Texas be recognized for 15 minutes; and Senator LAUTENBERG be recognized for 15 minutes to offer his amendment.

Ms. COLLINS. Mr. President, that unanimous consent agreement would work well from my perspective.

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

Ms. COLLINS. We will now then go to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 3718

Mrs. FEINSTEIN. Mr. President, I thank the chairman and ranking member of the committee. I have indicated I am withdrawing one amendment, No. 3719, which clarifies the tactical intelligence part of the bill. I don't believe that is necessary. It has been withdrawn. I am also withdrawing amendment No. 3715 to strike the prohibition on co-location.

At this time I call up and then set aside amendment No. 3718.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3718.

Mrs. FEINSTEIN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To improve the intelligence functions of the Federal Bureau of Investigation)

On page 4, line 4, insert ''foreign intelligence'' after ''means''.

On page 4, strike lines 5 through 16 and insert the following:

(2) The term ''foreign intelligence'' means information gathered, and activities conducted, relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term ''counterintelligence'' means—

(A) foreign intelligence gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities; and

(B) information gathered, and activities conducted, to prevent the interference by or disruption of foreign intelligence activities of the United States by foreign government or elements thereof, foreign organizations, or foreign persons, or international terrorists.

On page 6, line 12, strike ''counterintelligence or''.

On page 7, beginning on line 5, strike ''the Office of Intelligence of the Federal Bureau of Investigation'' and insert ''the Directorate of Intelligence of the Federal Bureau of Investigation''.

On page 8, between lines 6 and 7, insert the following:

(8) The term ''counterespionage'' means counterintelligence designed to detect, destroy, neutralize, exploit, or prevent espionage activities though identification, penetration, deception, and prosecution (in accordance with the criminal law) of individuals, groups, or organizations conducting, or suspected of conducting, espionage activities.

(9) The term ''intelligence operation'' means activities conducted to facilitate the gathering of foreign intelligence or the conduct of covert action (as that term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(10) The term ''collection and analysis requirements'' means any subject, whether general or specific, upon which there is a need for the collection of intelligence information or the production of intelligence.

(11) The term ''collection and analysis tasking'' means the assignment or direction of an individual or activity to perform in a specified way to achieve an intelligence objective or goal.

(12) The term ''certified intelligence officer'' means a professional employee of an element of the intelligence community engaged in intelligence activities who meets standards and qualifications set by the National Intelligence Director.

On page 120, beginning on line 17, strike '', subject to the direction and control of the President,''.

On page 123, between lines 6 and 7, insert the following:

(e) DISCHARGE OF IMPROVEMENTS.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official as the Director of the Federal Bureau of Investigation designates as the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint direction, supervision, and control of the Attorney General and the National Intelligence Director.

(3) The Director of the Federal Bureau of Investigation shall report to both the Attorney General and the National Intelligence Director regarding the activities of the Federal Bureau of Investigation under subsections (b) through (d).

On page 123, line 7, strike ''(e)'' and insert ''(f)''.

On page 123, line 17, strike ''(f)'' and insert ''(g)''.

On page 126, between lines 20 and 21, insert the following:

SEC. 206. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) DIRECTORATE OF INTELLIGENCE OF FEDERAL BUREAU OF INVESTIGATION.—The element of the Federal Bureau of Investigation known as of the date of the enactment of this Act is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) HEAD OF DIRECTORATE.—The head of the Directorate of Intelligence shall be the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official within the Federal Bureau of Investigation as the Director of the Federal Bureau of Investigation shall designate.

(c) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1) The discharge by the Federal Bureau of Investigation of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403–5b).

(3) The oversight of Bureau field intelligence operations.

(4) Human source development and management by the Bureau.

(5) Collection by the Bureau against nationally-determined intelligence requirements.

(6) Language services.

(7) Strategic analysis.

(8) Intelligence program and budget management.

(9) The intelligence workforce.

(10) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) STAFF.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

Mrs. FEINSTEIN. I reiterate my strong support for this bill and the balance that has been struck by the committee in the drafting of this bill. It strikes the right balance. I am pleased to be an original cosponsor.

In my remarks on Monday, I mentioned I was going to be submitting an amendment concerning the relationship between the FBI foreign intelligence functions and the national intelligence director. I thank both the majority and the ranking member staff for working with my staff to work out this amendment. It will be worked out and it will be the chairman's intent to present this amendment for unanimous consent.

However, I will clearly state the intent of the amendment. The FBI functions as part of the intelligence community in the gathering, analyzing, and disseminating of information about the plans, intentions, and capabilities of our foreign enemies, including, most importantly, counter-terrorists. That effort, in my view, should be under the overall supervision of the national intelligence director.

Let me be clear, though, this amendment does not mean the national intelligence director should run or control operations inside the United States. When the FBI, under the operational control of the FBI director and the Attorney General, works as a foreign intelligence agency, it should do so as part of that community under the general guidance of the national intelligence director.

An excellent example of this issue is now part of the extensive record of structural intelligence failure prior to the September 11 attacks, the way the intelligence community handled, or I should say mishandled, the so-called Phoenix document information and the Moussaoui information. Here we had in two different places FBI agents acquiring factual information which is of clear foreign intelligence value: that foreign individuals, associated with foreign terrorist organizations, may have been learning to fly passenger planes. At the very same time, the rest of the intelligence community had information that al-Qaida was preparing to strike against the United States and also that there had been past consideration of the use of airplanes in an attack methodology.

Putting together these two disparate pieces of information is the business of an effective intelligence community. But it did not happen, in part, I believe, because the FBI part of the communication was not linked up with the Central Intelligence Agency and the National Security Agency parts of the community.

The bill before the Senate goes far toward remedying this by placing the FBI foreign intelligence elements under the overall supervision of the national intelligence director. I am concerned the bill presently contains ambiguities that, if left in, will cause confusion in the future. That is because the bill incorporates, with no change, current law which defines the role of the FBI intelligence activities. However, that law is confusing, it is internally inconsistent, and I believe it is the source of many of the problems which beset the FBI as part of the intelligence community.

This amendment does three basic things to fix this. I want the record to reflect that. It clarifies critical definitions in the law. It makes a small alteration in the current law to make clear that the term of art ''counterintelligence'' is a subset of foreign intelligence, not an alternative to foreign intelligence.

Second, it makes clear that when the FBI is engaged in law enforcement, it is not part of the national intelligence program or under the NID supervision, but removes the word ''counterintelligence'' from this so-called carve-out language. This is critical because this language in existing law was the confusing foundation upon which much of the wall between the FBI and the rest of the intelligence community was built.

This amendment creates a directorate of intelligence in the FBI. As written presently, the bill places the activities of the Office of Intelligence of the FBI clearly within the national intelligence program. This is good, but because the Office of Intelligence has no statutory basis, it could be rendered useless in the future if that office is removed or changed by a future FBI director.

This amendment renames the office the Directorate of Intelligence and gives it a clear basis in law.

Finally, this amendment introduces some clarifying language to ensure that the section governing ''FBI improvements'' is read to ensure that these improvements come as part of a larger, coordinated effort, led by the national intelligence director to improve the standards and practices of the entire intelligence community.

It does this by ensuring that the FBI Director's improvement program is

guided by the national intelligence director. And it defines a ''certified intelligence officer''—that is a term introduced for the first time in the underlying bill—to make sure that ''certification'' means meeting intelligence community standards, developed by the national intelligence director.

The bottom line is that the FBI's intelligence functions must be part of a larger effort, guided by a strong leader, and linked carefully with all the other agencies and Departments in the intelligence community.

There are still two parts of this amendment that are being worked out by staff. I appreciate their hard work very much and thank them. I also would like to thank the chair and the ranking member for their cooperation. I am very hopeful this amendment can later be adopted by unanimous consent.

I thank the Chair.

Mr. President, I ask unanimous consent that amendment No. 3718 be set aside for the present time.

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

Mrs. FEINSTEIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I thank both managers of the bill, the chairman of the Governmental Affairs Committee and the ranking member, Senator LIEBERMAN, for the great work they are doing on this bill. I know it is not easy, but it is vital that we achieve the kinds of reforms the 9/11 Commission and the Senate Select Committee on Intelligence and others, over the years, have said would help make our Nation stronger.

Yesterday, I proposed an amendment to this bill which dealt with a relatively narrow area but one I think is certainly relevant to what the 9/11 Commission recommended and, indeed, to the ultimate purpose of making America a safer place. Unfortunately, it is one that tends to be overlooked. That does not have to do with our physical security, potential cause of death and injury to the American people on our own soil but, rather, a body blow to our economic security.

Indeed, one of the consequences of 9/11 was not just the terrible loss of life and injury but also the disruption to our economy, which resulted in chaos and many people being laid off work because of the economic disruption.

This amendment had to do with cyber-security. I know it is something we do not think about very much but, indeed, now that we are so dependent upon computers for our way of life, to enhance our productivity, to communicate with one another, to do business, we somehow perhaps take for granted that they will always be secure. And particularly when it comes to our water utilities, our communications systems, our transportation systems, and financial networks, there is a very real danger that cyber-terrorists, those who would try to attack and dismantle and disrupt our financial, transportation, communications, and utility networks could wreak a terrible blow to the American economy.

Now, my interest in this subject dates back several years to when I convened a panel in Texas, the State Infrastructure Protection Advisory Committee, as attorney general. We met hundreds of hours with both private and public sector participants, as well as people in the academic community, to try to figure out what we could do, No. 1, to identify what the problem was, and what we could do to make it better.

Well, what we found is that in many instances because of liability concerns, because of concerns about trying to achieve and maintain public confidence in one's business or product, that the private sector was much better prepared than the Government was for cyber-attacks.

I am pleased to say that Congress has begun to work to address this critical need for security in our computer networks by passing the Federal Information Security Management Act, or FISMA. Its purpose is to improve the information security of our computer networks and support Federal agencies by requiring top-to-bottom agency planning for information security and compliance with mandatory standards and benchmarks developed by the National Institute of Standards and Technology.

FISMA also requires Federal agencies to conduct an annual evaluation of their computer security programs and to submit an effectiveness report to the Office of Management and Budget, the OMB.

For several years, the House Government Reform Subcommittee, chaired by Congressman ADAM PUTNAM, the Technology, Information Policy, Intergovernmental Relations and the Census Subcommittee, has been working with the General Accounting Office to produce a report card for 24 Federal agencies to see how well they are complying with congressional intent as expressed in FISMA, the Federal Information Security Management Act.

What I would like to show you, Mr. President and my colleagues, is the report card that has been generated because I think it is indicative of the problems we have had and, indeed, the problems we still have, and how modest our improvement has been.

Indeed, you can see from this chart showing the Federal computer security report card, issued on December 9, 2003, that overall Governmentwide, Government agencies, when it came to security of their computer systems, got a D, not a grade any one of us would be proud to take home. But I must say, as bad as a D is, in 2003, it is better than the F that many agencies got in 2002, before Congress began to get involved in trying to upgrade the security of our computer networks.

But you can see, some of these agencies have improved from an F to a D. Indeed, the Department of Defense in 2002 had an F. In 2003, it got a D. The Small Business Administration went from an F to a C−. But we have some—the Department of the Interior, the Department of Agriculture, the Department of Housing and Urban Development, the Department of State—that in 2002 got an F and in 2003 got an F.

So I am not sure Congress is as successful as we should be or as we would like to be in getting the attention of the people who work in those agencies and who should be committed to carrying out this information security provision and protecting our Government computer systems from the potential of cyber-attack and the potential disruption to our economy.

But I want to say in conclusion on that matter how much I appreciate the willingness of the Senator from Maine, the distinguished chair of the Governmental Affairs Committee, and the Senator from Connecticut, the distinguished ranking member of that committee, to work with us and consider this amendment and, indeed, to agree that the amendment should go forward because I think this is an easily overlooked but, nevertheless, a very important part of our security.

Mr. President, I have two other amendments that have not yet been filed that I will obviously not call up but I would like to just preview for my colleagues. I have talked, also, to the chairman of the bill and the ranking member. We are going to continue to work with them and their staffs to try to make sure these matters can be worked out, if that is at all possible, much in the same manner we worked out this cyber-security provision.

These matters have to do with other recommendations of the 9/11 Commission. Here again, the job that is before us is vast, indeed, as reflected by the 41 different recommendations of the 9/11 Commission and the need for intelligence reform reflected in the bill before us.

But perhaps it is because of the perspective I have as a Senator from the State of Texas, which has the longest border of any State with the country of Mexico—and, of course, beyond Mexico on to Central America and South America—the source of many concerns relative to human smuggling and to enforcement of our immigration and other laws related to those issues.

First, we intend to offer an amendment to increase the penalties that can be assessed upon a successful prosecution for the crime of human smuggling. As the 9/11 Commission said: There is evidence to suggest that, since 1999, human smugglers have facilitated the travel of terrorists associated with more than a dozen extremist groups and that human smugglers clearly have the credentials necessary to aid terrorist travel. They also noted that many countries, because of their lack of security, make human smuggling an attractive avenue for terrorists in need of travel facilitation.

In terms of our southern border, Under Secretary of the Department of Homeland Security Asa Hutchinson has told me and others that there is no documented instance of a terrorist actually coming across our southern border, but the truth is, it is very porous. If the motivation is high enough and the price is right, the same person who can be smuggled across the border for economic reasons because they want to come to work in this country outside of our laws, someone from a country other than Mexico, perhaps an Islamic extremist, somebody who wanted to take advantage of that porous border would, indeed, hire a human smuggler to bring them across our southern border into the United States and do us harm.

It is important that our Federal policy and our criminal laws reflect both the strongest possible concern about this issue and express the will of Congress that human smugglers will be punished in a way commensurate with the threat they pose to the American people.

The truth is, we cannot ignore this issue and believe that it is just related to people who want to come here and work. Money talks. And where human smugglers exist, they will go to the highest bidder to deliver their services in a way that could indeed deliver terrorists on to our soil. That relates to one amendment on which we will continue to work with the distinguished chairman and ranking member and their staffs to see if we can work out an agreement.

The next amendment relates to another provision in the 9/11 Commission report. The Commission, under the subheading ''Immigration Law and Enforcement,'' said:

> There is a growing role for state and local law enforcement agencies. They need more training and work with federal agencies so they can cooperate more effectively with those federal authorities in identifying terrorist suspects.

Again, on page 383 of the 9/11 Commission report, the Commission said:

> The challenge for national security in an age of terrorism is to prevent the very few people who may pose overwhelming risks from entering or remaining in the United States undetected.

This amendment, which we intend to file and call up later—and we will continue to work with the managers of the bill on it—has to do with the authority of State and local law enforcement authorities to detain a certain narrow class of persons who are illegally in the country. Those relate to what I would think are three noncontroversial categories: Those who are absconders—in other words, 80,000 felons who are in the country illegally and running from justice. We don't have the capacity to know exactly where they are now because we have, unfortunately, ignored the crisis in our immigration enforcement for many years.

Indeed, more than that, there are approximately, according to some guesses, between 300,000 and 400,000 people under final orders of deportation in the United States, and we simply don't have the Federal authorities sufficient to locate them and enforce final orders of deportation.

This bill would narrowly address those who are under final orders of removal, those who have signed voluntary departure agreements, and those who have revoked visas. It would not, as some previous legislation that has been filed both here and in the House, offer an opportunity for local and State law enforcement officials to enforce a whole broad range of our immigration laws. This relates to a narrow group who are absconders from justice, including convicted felons and others, and reaffirms the authority of State and local law enforcement both to enforce those violations in the normal course of carrying out their duties and will make sure that we get the army of additional law enforcement authorities to assist the current Federal authorities who are mainly located along our border region when it comes to our border security and homeland security interests.

Finally, this bill would direct the Department of Homeland Security to take custody within 48 hours of these persons so detained by State or local officials or else pay the locality to detain these particular class of aliens. Currently, the process is that once someone has been identified and perhaps detained for a violation of one of a host of our immigration laws, the common practice is to tell them to come back for a future hearing for deportation. It is no surprise to any of us that about 90 percent of them melt into the landscape and are never heard from again.

Simply put, we need to have law enforcement authorities at all levels—national, State, and local—join forces, as the 9/11 Commission recommended, to deal with this certain narrow class of people who are under final orders of deportation from our country, those who have signed voluntary departure agreements, and those who have had their visas revoked. These are people who have exercised any right they may have to due process and should have no further recourse.

I look forward to working with the manager and the ranking member and their staffs to try to see if we can work this out.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Texas for his comments. We look forward to working with him on his two additional amendments. We were pleased to be able to pass his first amendment to this bill last night. We appreciate his cooperation.

In consultation with the Senator from Nevada, the Democratic whip, I ask unanimous consent that the consent request previously entered into be altered so that Senator BYRD would be recognized for up to 25 minutes prior to Senator LAUTENBERG offering his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, Senator BYRD likely will not use that much time.

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

The Senator from West Virginia.

PEOPLE DESERVE THE TRUTH

Mr. BYRD. I thank the Chair. I also thank the distinguished Senator, Ms. COLLINS, and our distinguished whip, Mr. REID, who is always to be found on the floor or near it, always ready to assist us, any of us on both sides of the aisle. I thank the distinguished manager of the bill on this side of the aisle for his diligence, for his hard work always in his committee and outside his committee. He is ever ready.

Mr. President, I take the floor on a point of personal privilege on behalf of the people of West Virginia.

Growing up, we all heard the legend—which was probably mythical—of young George Washington. As the story goes, his father, after seeing a tree chopped down on their land, approached young George and asked if he was responsible. The story continues that the boy responded: ''Father, I cannot tell a lie. I cut down that cherry tree.''

The boy who grew up to be President knew the value of truth. Unfortunately, however, when it comes to Presidential politics these days, telling the truth is seriously out of style.

That point was brought home sharply to me last weekend when I traveled to West Virginia, where I learned of a scurrilous campaign being waged in West Virginia to scare voters—think of it—to scare West Virginia voters into registering and voting Republican. Incredibly, the weapon being brandished is the Holy Bible itself. If ever there were one book that should never be used for political gain, if ever there were one book that should never be the subject of lies and deception, it is the Bible, which I hold in my hand.

Over my 52 years of serving in the Congress, there have been occasions—few in number—when I brought the Holy Bible on the floor of the body in which I have spoken. I don't claim to be a minister. I would not be worthy of that title. But this is the Holy Bible. It is the King James version, first published in 1611 under the reign of King James I. I will only read this Bible at my house; I don't read any other Bible. Again I say, if ever there were a book that should never, ever be used for political gain, that should not be the subject of deception on the part of politicians, or anybody else, it is the Bible. Yet that is exactly what is happening today. I found, last weekend, that it was happening in West Virginia. I read somewhere that it was also happening in Arkansas.

Two weeks ago, the Republican National Committee sent a mass mailing

to West Virginia suggesting that liberals—in other words, everyone but Republicans, I suppose—are out to ban the Bible. Get that: Out to ban the Bible. Can you imagine? They are out to ban the Bible. What a ridiculous claim. It is foolish on its face; it is absolutely ridiculous on its face. It is a flatout, no-doubt-about-it, silly, juvenile, sophomoric charge. The Republican National Committee is spreading this tripe—it is putrid, this tripe—to smear Democrats. The President ought to demand that the Republican National Committee apologize to the people of West Virginia.

The hypocrisy of the Republican National Committee's desperation tactic is an insult—an insult—to the intelligence of voters in my State. The ninth of the Ten Commandments, passed down from God to Moses, states:

> Thou shalt not bear false witness against thy neighbor.

What could be more false? What could be more false than an advertisement implying that so-called liberals want to ban the Bible? I never knew I was a liberal. When I came to this Senate, I was to the right of Barry Goldwater, and I always considered myself to be a conservative in most things—certainly most things, other than matters affecting the economy. The political hacks behind that blasphemous flyer should be required to reread the Book of Exodus. There is no free pass from the Commandments in an election year. They are still there. There is no waiving of the Commandments in an election year.

All West Virginians, from the northern tip of the State to the southern tip, from the east to the west, should be insulted by such dirty tricks on the part of the Republican National Committee. Paid henchmen who talk about Democratic politicians who are eager to ban the Bible obviously must think that West Virginians are gullible, ignorant fools. They must think that West Virginians just bounced off the turnip truck. They must think that spreading nonsense about banning the Bible is a sure-fire way to get votes in an election year. But the people of West Virginia are smarter than that. We are not country bumpkins who will swallow whatever garbage some high-priced political consultant makes up. West Virginians are smarter than that, and they deserve an apology from the Republican National Committee for this insulting mailing.

Here it is. Take a look at this. Those of you who are viewing this Senate floor through those electronic lenses, look at this: ''The Bible, banned. This will be West Virginia.''

I suppose the same flyer was used in Arkansas, with a few words changed from West Virginia. Here it is again: ''if you don't vote—if you stay away from the polls—the Bible, banned.''

Such tripe. That is what West Virginians think of that. As a Senator, I am appalled by the Republican National Committee's utter ignorance of the Constitution.

I am appalled, let me say it again, by the Republican National Committee's utter ignorance of this Constitution, the Constitution of the United States, which I hold in my hand. Our Constitution—let me say to the people of West Virginia and the people of Arkansas—our Constitution protects this Bible. So never fear, never fear that the Bible will be banned.

The first amendment begins:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .

And yet this flier, paid for by the Republican National Committee, features a picture of the Bible, just as I have shown Senators—let me show it again—with the word ''banned'' across its cover. The people of West Virginia should not have to put up with such trash. It is a crass insult to the people and to their faith.

IRAQ

But false claims seem to be the modus operandi in politics these days. The truth gets tailored to fit the occasion. Nowhere is this more evident than on the subject of Iraq. Whether it be weapons of mass destruction or an imminent threat or mushroom clouds, the reason for the war changes faster than the weather. Talk about flip-flops. There you have it.

The White House said that our troops would be welcomed with flowers, and yet our soldiers saw mortar attacks and suicide bombings. The White House said the world would be with us in the war and the reconstruction in Iraq, but the coalition of the willing was never that large and has become the coalition of the wilting. How can the American people trust a White House that cannot get its stories straight? The flipping and the flopping from this slippery fish crowd is a sight to behold.

Even now, the White House is trying desperately to portray Iraq as a nation that is getting back on its feet. Listen to the September 29 Washington Post. The headline: ''Growing Pessimism on Iraq. Doubts Increase Within U.S. Security Agencies.''

Let me read just the first few paragraphs:

> 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.''

Yesterday's New York Times reports—what I just read was from yesterday's Washington Post—yesterday's New York Times reports that there have been 2,300 attacks by insurgents. They 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.

So there you have it—an average of 80 attacks against our forces each day. The situation in Iraq is far more dire and the future far more uncertain than White House officials are ever going to admit, and so the lives of America's sons and daughters are on the line in Iraq, and still we hear happy talk about success right over the horizon.

Misleading scenarios about Iraq or ludicrous nonsense about banning the Bible insult the values and the intelligence of West Virginians and the millions of other Americans who share the beliefs of West Virginians. Such stuff must not be tolerated. The people of this country know about honesty, and they must start demanding it from their leaders.

Mr. President, I yield the floor.

Mrs. LINCOLN. Mr. President, I thank the distinguished Senator from West Virginia for his remarks today. I have tremendous respect for his belief and his knowledge of the Constitution. I share that belief and I only hope my knowledge can at some time reach the level his is in terms of understanding and being able to expound on the Constitution that is such a treasure and a blessing for this country.

More importantly, I share in his belief and his execution in the teachings of the Bible. Like the Senator from West Virginia, I try very hard each and every day to follow the Ten Commandments, which are a cornerstone in the faith that we both practice in our Christian religion. I try hard to witness my faith each and every day in my actions and in my words. Among the Commandments, ''thou shalt not bear false witness'' is one I work desperately on. In our modern language, we know it as ''do not tell lies,'' something we were taught by our parents and we were taught by our faith.

Now, I have not been in public service nearly as long as the Senator from West Virginia, but I have been around long enough to know that people say things in campaigns that come awfully close to breaking that Commandment. I have learned to turn the other cheek and brush aside the little white lies of political commercials and direct mail pieces. I do not know if brushing aside and turning that cheek at this juncture is the most appropriate thing to do, because I think we find ourselves at a time when that has definitely been taken to the extreme.

The mailing the Republican National Committee sent to the people living in my home State of Arkansas, as well as

those in the State of West Virginia, goes beyond any political smear I have witnessed. I hope my colleagues in this great body, as members of that committee, would denounce such abusive action because I think it is completely inappropriate. To insinuate that members of the Democratic Party, simply because they are Democrats, would ban the Bible is absolutely absurd. It is outrageous, and it is outrageous that we in this Nation would stand for that.

I am a Democrat. I was raised in a Democratic family. But I also grew up with the opportunity and encouragement to find my own belief and to reach out and find out, Who am I? What do I stand for? What is it that I want to contribute to this great world?

I realized, not only as a Democrat but at a very early age, that I was first and foremost a Christian. I take that very seriously. I take my witness and my commitment to my faith as a part of my everyday walk. I try hard to walk my talk each and every day. I fight hard, both personally and professionally, every day to fulfill my witness to my faith, to care for those who are less fortunate than I am, to reach out and be kind to those who need kindness, to be able to look beyond the cover of what I might see in someone and look for the best of what God created in that human being as well.

I know that we are all a part of God's creation on this Earth. I know that my God is a loving God, one who believes in me and who wants everyone in this body to reach their potential. But I also know, through my faith, that reaching that potential means being able to have that same kind of unconditional Christian love for my fellow man.

It is amazing to me that we would see such action, such assumption, and such disregard for the intelligence of the people of our States.

My faith has always been an important part of my life because I was raised in a Christian family, with parents who had strong principles, who had tremendous love, and continue to, and an ability to share with me what that love could produce in my life if I, too, were willing to share it with others.

I worked as a youth group director while I was in college. I taught Sunday school while I worked here on the Hill as a staffer—in Washington, DC. I contribute time to homeless shelters here in DC, and at home, working with the Red Cross through many kinds of devastating natural disasters in my home State—finding incredible opportunities where I could provide that love and that assistance to my fellow man.

My husband Steve and I make sure our family is regularly at church, whether we are here in the Washington area or at home in Arkansas with our family. There is rarely a meal that goes by in my home where we don't all join hands and say a prayer of thanksgiving and gratefulness for all of the many blessings in our life. We end each day saying prayers with our boys when they are tucked into bed. We talk about the day's events and how, through those prayers, we can ask for the assistance for others and to improve ourselves and provide the unbelievable talents God has given us to be a great part of making this world a better place.

I am not the only one, as a member of my political party, whose faith is important to them. There are other members of my political party who are of other faiths who take their faith very seriously. There are other Christians in my political party who take their faith very seriously and act it as a real part of their everyday life.

It is unbelievable to me that the Republican Party would try to claim that members of my party would want to ban the Bible. What do they base that on? Where is their credibility to say that? What evidence is there that would lead them to say that and to use that in such an important part of what we stand for in this Nation, the political process of being able to elect our leaders? I don't know. I don't know where that comes from.

The Senator from Massachusetts, who is running for President, has told the American people that his faith is important to him as well. He says he is a man of God, and I believe him. Unlike some other political candidates, he has not sought to gain political advantage by boasting of his faith or wearing it on his sleeve, but I do believe his actions in defending so many of his fellow men, children, low-income families, the elderly, are certainly clear examples of how important his responsibility to his faith is to him.

Maybe he was raised in a region of the country where people are not so outspoken about their faith, just as they are more reserved in most other aspects of their lives. I was raised in the South where we love to talk about it, where it is an important part of who we are and we want to talk about it, where we like to hug and we like to be close. There is no doubt that there are differences in the regions of our country in how we express things. Sometimes my colleagues say I even need a translator because my accent is so thick. There is nothing wrong with the differences in the regions of this country. There is nothing wrong in the different ways we choose to show our faith. But there is something deeply wrong with people using the political process to accuse people of not being true to their faith.

The man from Massachusetts, maybe he is quiet, but less visible expressions of faith do not warrant such judgmental political statements from the Republican Party. I hope, I hope deeply, that the Republican Party, which has produced this pamphlet that was so well described by my colleague from West Virginia—I hope there will be an apology for their claims that Democrats want to ban the Bible and the inferences that Democrats, for some reason, cannot have a faith as close or as deeply held as the other party. I find that to be the pit, the absolute bottom of what is wrong in the political process.

I thank you, Mr. President, for the opportunity to come to the Senate floor and, even as a southerner, express something that maybe I am not as well equipped to express as others, but I promise you, it is not less heartfelt than any other Christian Member of this body.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I thank the distinguished Senator from Arkansas and tell her, I, No. 1, never have any trouble understanding her, and, No. 2, I always enjoy giving her a hug.

Mrs. LINCOLN. I thank my colleague.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey is recognized for 15 minutes.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, I thank our esteemed friend and colleague, the Senator from West Virginia, for his words—always words of wisdom and words of rage when he sees such an affront to the basic tenets of our society.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. LAUTENBERG. Mr. President, what is the pending question? Do we have an amendment pending?

The PRESIDING OFFICER. There is an amendment pending.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent to lay aside the pending amendment.

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

AMENDMENT NO. 3802

Mr. LAUTENBERG. Mr. President, I call up amendment No. 3802 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mrs. CLINTON, Mr. FEINGOLD, and Mr. CORZINE, proposes an amendment numbered 3802.

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 stop corporations from financing terrorism)

At the appropriate place, insert the following:

SEC. ___. TERRORIST FINANCING.

(a) CLARIFICATION OF CERTAIN ACTIONS UNDER IEEPA.—In any case in which the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to prohibit a United States person from engaging in transactions with a foreign country, where a determination has been made by the Secretary of State that the government of that country has repeatedly provided support for acts of international terrorism, such action shall apply

to any foreign subsidiaries or affiliate, including any permanent foreign establishment of that United States person, that is controlled in fact by that United States person.

(b) DEFINITIONS.—In this section:

(1) CONTROLLED IN FACT.—The term ''is controlled in fact'' includes—

(A) in the case of a corporation, holds at least 50 percent (by vote or value) of the capital structure of the corporation; and

(B) in the case of any other kind of legal entity, holds interests representing at least 50 percent of the capital structure of the entity.

(2) UNITED STATES PERSON.—The term ''United States person'' includes any United States citizen, permanent resident alien, entity organized under the law of the United States (including foreign branches), wherever located, or any other person in the United States.

(c) APPLICABILITY.—

(1) IN GENERAL.—In any case in which the President has taken action under the International Emergency Economic Powers Act and such action is in effect on the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action under the International Emergency Economic Powers Act on or after the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of such action.

SEC. ___. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

(a) NOTIFICATION REQUIREMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

''Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control.''.

''The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.''.

Mr. LAUTENBERG. Mr. President, I offer an amendment to this intelligence reform bill because I think it is consistent with the mission of that bill. There has been a lot of work and a lot of debate about the bill, and I personally am supporting it, but I offer an amendment to do something we very much intend to have happen, and that is to shut down the source of revenue for terrorist organizations.

The 9/11 Commission report talks about the critical issue of terrorist financing because as President Bush has said, money is the lifeblood of terrorist operations.

Amazingly, some of our very own corporations help provide revenue indirectly to terrorists by doing business with state sponsors of terrorism. My amendment would close the loophole in the law that allows this to happen, thereby cutting off a major source of revenue for terrorists.

As the 9/11 Commission stated:

> Vigorous efforts to track terrorists' financing must remain front and center in the U.S. counterterrorism efforts.

We took pains to check with the Parliamentarian about the germaneness, the relevance of our amendment, and it was confirmed that this would be relevant.

We need to starve the terrorists at the source and that is why our sanctions program in law is so critical, but now we know a loophole in the law exists that enables companies to do business with Iran, which openly boasts about its support for Hamas and Islamic jihad.

Iran also funded the 1983 terror attack in Beirut that killed 241 U.S. Marines; 241 of our finest young people killed by Iranian terror, and yet we are permitting U.S. corporations to provide revenue flows to the Iranian Government. We have to put a stop to it as quickly as we can.

How do companies get around terrorist sanction laws? It is a fairly simple process. They simply establish a foreign subsidiary and run their Iranian operations. It is demonstrated on this chart which says that U.S. corporations have subsidiaries all over the place and that is common in our economic and business structure. Once a foreign subsidiary is created, then people can do business with Iran or other rogue nations, people who are determined to kill our citizens, can do business with them and provide services—intentionally, I do not believe—but nevertheless to people like Hamas and Hezbollah. It is a terrible thing to recognize that American companies can be providing sustenance to countries that support terrorism actively.

Our American sanctions law prohibits American companies from doing business with Iran, but the law does not mention an American company's foreign subsidiaries. As long as a loophole like this is in place, our terrorist sanction laws are considerably diminished in their force.

After brutally murdering 241 of our young marines in their sleep in Beirut in 1983, an Iranian-backed terrorist killed two American women whom we show in these photos. Look at these young faces. They are people at the dawn of life. Sara Duker was a constituent of mine, a 22-year-old from the town of Teaneck, NJ. She was a summa cum laude graduate of Barnard College. Sara was killed with her fiance when the bus she was riding in in Jerusalem in 1996 was blown up by Hamas. An American court confirmed that Iran was responsible and assets were seized to try and provide compensation to the families.

Hamas receives its funding and support from the Iranian Government and that is why this attempt to sequester assets was done.

Last year, Abigail Litle, a 14-year-old Christian missionary originally from New Hampshire, was riding home from school in Haifa, Israel, when her bus exploded as a result of a suicide bomb. That attack killed 15 people and was directly linked to terrorists funded by Syria and Iran.

I was in Iran with several other Senators and we talked to the President of the country about supporting terrorism. He denied any suggestion that they might be operating out of his country, but the Israelis last week apparently took an action to eliminate the head of one of the terrorist organizations who was clearly functioning there.

We have to worry about these countries and we cannot give them any latitude, any encouragement to continue with their killing ways. We also have to worry about providing revenue to Iran because of its well-known desire to build a nuclear bomb and other weapons of mass destruction.

The 9/11 Commission concluded:

> Preventing the proliferation of [WMD] warrants a maximum effort.

Certainly, ''maximum'' includes providing funding for some of these firms. So allowing U.S. companies to provide revenue to rogue WMD programs is clearly not a maximum effort.

Some people think this is an isolated problem, but it is not. According to a report by the Center for Security Policy, there are large numbers of companies doing business with Iran and other sponsors of terror.

Iran sponsors terrorism, period. The terror they help fund has killed hundreds of Americans. Iran is seeking to develop nuclear weapons and yet U.S. companies are using a loophole in the law in order to do business with the Iranian Government. It is wrong. It is not illegal yet, but this amendment would change it. I am sure when my colleagues examine what we are talking about, they will consider joining us, I hope, enthusiastically.

It is inexcusable for American companies to engage in any business that provides revenue, any business practice that provides revenues to terrorism. We have to stop it. We have a chance to do that with this amendment. I remind our distinguished colleague, the chairperson of the committee, that she supported this amendment before and I hope she will once again support the amendment and let all of us close the terror funding loophole.

I yield the floor.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

IRAQ

Mr. REED. Mr. President, we are today, in this country, convulsed by the situation in Iraq. It is an extraordinary crisis. It is taxing our men and women in uniform, and it is certainly taxing our resolve.

I think one of the problems is that the administration has not focused on the reality on the ground, what is really happening on the ground. They are

hoping, but hope is not a substitute for planning; hope is not a substitute for a very candid and hard look at the situation on the ground. The reality is that there is widespread violence and instability throughout Iraq.

Yesterday, the New York Times reported that

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 the comprehensive data compiled by a private security company with access to military intelligence reports and its own network of Iraqi informants.

You would think, given this information, that the administration would begin to reflect on the difficult circumstances on the ground, but that is not the case. They continue to pursue both policies and rhetoric which suggest that all is not well yet it is quickly getting there.

But there is something else they have done which I think is startling, and that is in a related story in the Washington Post, information such as what I just quoted, that data from private security companies is not being recognized and evaluated. It is being suppressed.

According to today's Washington Post, the

USAID said this week that it would restrict distribution of reports by Kroll Security International showing the number of daily attacks by insurgents in Iraq has increased.

On Monday, the Washington Post published a front-page story saying that the Kroll report suggests a broad and intensifying campaign of insurgent violence. A USAID official sent an e-mail to congressional aides stating: This is the last Kroll report to come in. After the Washington Post story, they shut it down in order to regroup. I will let you know when it restarts.

If we don't have accurate information, if we are not able to tell difficult truth one to another, we will never be able to effectively design a policy for Iraq.

It is concerning to me that the administration would try to respond to the facts by suppressing the facts, but that is just one example of what is going on.

I know this. The country, with some exception, is wracked by violence. The Kurds in the north have had a semi-autonomous region for many years. It is under our informal protection and formal protection. That is a part of the country where there is a certain stability, but there is political tension building there because the Kurdish sense of autonomy will invariably clash with the need to create a central government in Iraq.

The focal point of that clash could be the oil around Kirkuk, which is the second biggest source of oil for the country of Iraq. Those oil fields could be in jeopardy as a pawn, if you will, in a struggle between the Kurds asserting their autonomy and the central government trying to maintain its authority.

We also understand clearly that Sunni provinces have ''no-enter zones''—areas in which the United States cannot even send its troops today successfully. One of these areas is Ramadi.

According, again, to a story in the Los Angeles Times on September 28:

The erosion of order in Ramadi illustrates the success of the insurgents' methods and the serious problems facing the interim government and its U.S. backers in maintaining stability in Iraq. It also threatens to thwart plans for a national election in January. . . . An election that omits key population centers in the so-called Sunni Triangle region would have greatly diminished credibility.

In Fallujah, there are similar situations where there are areas we cannot enter. In the Shia South, there is the instability principally generated by Sadr, the young cleric who has defied the central government and also the U.S. repeatedly.

We generally see the violence in Iraq as a function of attacks against our troops, but when we do that we miss a very important reality; that is, this violence is only a small portion of the violence that the Iraqi people feel each day—not from terrorists but from robbers, burglars, rapists, and murderers.

In June, a poll was conducted. They asked the Iraqi people to list their top three priorities. Fighting crime represented one of the top three priorities of 92.8 percent of the people of Iraq. Stopping attacks on coalition forces represented a top priority of 17.5 percent of the people of Iraq. On a daily basis, we are seeing not just attacks against coalition forces and security forces of Iraq, we are seeing a situation in many places which is beyond chaotic to the point which the Iraqi people are quickly beginning to assume that we not only are occupying but we are inept occupiers. We cannot even provide the level of stability that they enjoyed previously. They have already decided we are occupiers. They have decided we must go.

The struggle now politically, I think, is you have to recognize that in this type of conflict it is essentially a political struggle. We can win tactical victories one after another—and we will—but unless we create a political dynamic which will coalesce support around the new Iraqi Government and coalesce cooperation with us, our efforts tactically will be marginal.

What is happening, though, politically in Iraq now is the fact that each of these groups and subgroups have one eye on the current situation, our presence there, but their other focus is on what happens when we go. Will they be in power? Will they survive? Will they succeed? That creates a dynamic that is very difficult for us and very difficult for stability in Iraq.

How did we get there?

It is in some respects a triumph, as I said before, of hope over history, of ideology, of political calculation, arrogance in some cases, ignorance that has led us to enter the country ill prepared.

There is a litany of mistakes that are quite obvious: No real plans for stabilization and reconstruction in Iraq. We should have sensed that.

I can recall in the fall of 2003 and in succeeding days and months leading up to the attack last year where we had a situation where we were trying to get information about stabilization. We didn't have that. We did not have that information.

In addition, there were insufficient forces to stabilize Iraq and we were left unprotected for weeks and months, which today has led to a proliferation of weapons in Iraq, IEDs particularly, the improvised explosive devices that are bedeviling our forces. We cannot secure those. We could not secure the borders. We need more troops.

There was a failure to secure multinational support, not only in the sense of getting the good will, good wishes, and support of the international community, but particular failures.

We were not able to convince the Turkish Government to allow the use of Turkey as a point of entry into Iraq. The Fourth Infantry Division, poised to move through Turkey, to attack in the north, to roll up and envelop all of the Iraqi forces to the north, was rerouted to the south because of that lack of cooperation. The consequence on the ground was literally thousands of Iraqi soldiers were never effectively contested. They gave up, they disappeared, and apparently reformed as insurgents. That is another example of the lack of international cooperation that could have materially assisted us.

We made a significant error in disbanding the Iraqi Army. Rather than disbanding the army, we should have marched them back to their barracks and tried at that point to see if we could, through some type of vetting of officers and senior enlisted people, or some procedure, get them to be part of the solution rather than part of the problem. They are part of the problem today. Many of these insurgent leaders, I believe, have roots going back to the army and the military force structure, the security forces of Iraq.

Then we conducted a de-Baathification program that applied across the board. We put that in the hands of Chalabi and others who had no real legitimacy in the country. As a result, for months and months and months we prevented teachers and professionals from working. It did not help in terms of getting schools going quickly. It certainly created this atmosphere among the Sunni community that they were going to effectively be marginalized as people and as citizens of Iraq. That process was a mistake.

Part of that, as I mentioned, was putting misplaced reliance on Chalabi and his colleagues. I recall he sat as a guest of the First Lady at this year's State of the Union speech, yet today is accused of cooperating and perhaps spying for the Iranians. That has been a mistake.

The CPA, Coalition Provisional Authority, turned out to be not up to the great task with which they were entrusted. The administration rejected the traditional agencies of the State Department and their divisions who have experience in stabilization operations in terms of political governments, reconstruction, economic development, and put together an ad hoc group of people who were the architects of what was a lost year of progress that we should have been making with respect to Iraq.

And, of course, there was the failure to recognize this insurgency. We all recall Secretary Rumsfeld's remarks about a few dead-enders. It was much more than a few dead-enders. It has metastasized into a virulent and effective force attacking our troops on a daily basis and attacking the citizens of Iraq.

There was a failure then simply to read the intelligence. We are debating this intelligence bill today because we have to create—indeed, it is necessary to create—an intelligence system that is more effective. Let me point to an intelligence success. This was the national intelligence estimate. According to a report in the New York Times,

> The estimate came in two classified reports prepared for President Bush in January 2003 by the National Intelligence Council, an independent group that advises the Director of Central Intelligence. The assessments predicted that an American-led invasion of Iraq would increase support for political Islam and would result in a deeply divided Iraqi society prone to violent internal conflict.

Very perceptive. It was disregarded by the administration, and I think disregarded for several reasons. They had a view, which was not substantiated by the facts, that we would be greeted with open arms. Principals in the administration said that.

As we debate this intelligence reform, we also have to understand it is not just producing good intelligence; it is having leaders who understand and use that intelligence wisely.

Then one of the most critical issues is that we have wasted a year to train Iraqi security forces. I can recall, as many of my colleagues recall, being briefed over the past many months. It seemed each briefing would contain another pie chart showing the growing, growing Iraqi security forces and the diminishing United States involvement. All of that was an illusion. These forces were untrained, ill equipped, unprepared. It took us a year to recognize that and we are only beginning now to recognize what we have to do to ensure that Iraqi security forces can, in fact, provide for the security of their country.

Part of it was a result of the notion that we could do it ourselves, that this was just a few diehards, as Secretary Rumsfeld said, that we could root them out and we could deal with them with the coalition forces. Then it was reluctance to develop an Iraqi security force because of the fear that they would become another power player in the very complicated politics of Iraq where it seems the only institutions that have any type of strength and coherence are the mosques or the militias, and they sometimes overlap. So for all these reasons, despite the evidence of growing instability, despite the proliferation of crime, we have just gotten down to begin to train an effective Iraqi security force of police, army, national guard, and special operations. That is a year wasted, a year that should not have been wasted. The signs were quite clear.

Indeed, even as we focus on this, there have been reports in the press that General Petraeus, who has been put in charge of this operation, has not yet received his full complement of American personnel to help, another example of a delayed reaction, a reaction based upon hopes that did not materialize. While those hopes were bandied about here in Washington, the situation got much worse.

All of this leads to an Iraq today that is imposing extraordinary costs on this country. One of the most obvious and poignant costs is the loss from American fighting men and women in battle: 1,054 soldiers have been killed and 7,532 soldiers wounded, who have served this country with great fidelity and great courage. Their families deserve our profound respect. We owe them, and we owe their colleagues who still fight, more wisdom and more truth.

That is why it is particularly frustrating to see this example of a reaction where, when the facts are uncomfortable, those facts are suppressed. That is not appropriate given the sacrifices we have seen.

The costs to our Army, particularly, are significant. Personnel costs. We all understand there were misgivings about the full size of the force being deployed. When General Shinseki was asked, he did not volunteer, about the size of the force needed, he said, ''something on the order of several hundred thousand soldiers,'' and was immediately castigated by Secretary Rumsfeld, saying this estimate was ''far from the mark,'' and Secretary Wolfowitz, who called the estimate ''outlandish.''

Then in his few remaining days in the Army, General Shinseki was personally shunned by the leadership and made to feel entirely uncomfortable—and I am being very polite. He did not deserve that. This is a professional soldier who was asked his honest opinion and he gave it. I wish there were more folks like him in uniform. Certainly the comments of Secretary Wolfowitz and Secretary Rumsfeld were very far off the mark. We have over 100,000 troops in place. They probably will be there for years. There is a strong sign that we need more.

This is a great stress on our military, 17 months after President Bush declared the end of major combat operations, with over 138,000 troops still stationed in Iraq. They are there because of a patchwork of different policies the Department of Defense has had to undertake because they do not have sufficient soldiers. Approximately 16,000 active-duty soldiers have already had two tours in Iraq and if they stay in the service longer, they will have another. In order to keep the strength up, they have resorted to stop-loss orders, essentially telling a soldier, once your unit has been alerted, you are there until the unit returns home, even if you can leave the service in that interim. In the words of some, it is a ''backdoor draft.''

Since September 11, DOD has announced six stop-loss policies for the Army, two for the Navy, five for the Air Force, and two for the Marine Corps. Only the Army still has a stop-loss policy in place. That is another way in which to create soldiers by means other than a strictly voluntary approach.

One of the greatest burdens falls on the Guard and Reserves. Today, we cannot continue our mission without the brave men and women of our Army and Air Force Guard and Reserve units. We are asking them to go way above and beyond the call of duty.

Since September 11, 2001, 422,950 members of the Reserve component have been mobilized; 51 percent of the Army Guard and 31 percent of the Air Guard. The average duty days have climbed as a result. Guard and Reserve men and women are now serving, on average, about 120 days a year. In fact, back in 2002, it was only 80, and before that it was much less.

We are looking at a situation which the GAO described as fraught with consequences. In their words:

> DOD policies were not developed within the context of an overall strategic framework. . . . Consequently the policies underwent numerous changes as DOD strove to meet current requirements. These policy changes created uncertainties for reserve component members concerning the likelihood of their mobilization, the length of their overseas rotations and the types of missions that they would be asked to perform. It remains to be seen how these uncertainties will affect recruiting, retention and the long term viability of the reserve components.

We have already seen the National Guard report that they have not been able to meet their recruiting objectives for the most current year. So the evidence is beginning to accumulate.

This operation tempo will mean more and more pressure on the military forces, particularly land forces, and, as a result, you will see the stress even more, in recruiting and retention, challenging our military leaders. We need more troops, I believe, as an initial response to the situation in Iraq, Afghanistan, and around the world. We should do that honestly and directly. We should not rely upon supplemental appropriations. We should not rely on emergency authorizations for additional troops. We should increase the end strength of the Army and provide for the payment of that end strength through the regular budget process, not by supplementals.

Senator HAGEL and I offered an amendment to do this last October. In March, again, Senator HAGEL, joined by Senator MCCAIN and I, introduced a bill that would increase the Army end strength by 30,000 troops. In May, we together offered an amendment to the fiscal year 2005 Defense authorization bill to increase the size of the Army by 20,000 personnel, a figure the Army says it could absorb in an efficient way in 1 year. This was accepted by the Senate, and it is now in conference with the House.

One point I should make, though, is that, once again, the administration insisted—even though they oppose the end strength—if it was to be put in the bill, it still had to be paid for by emergency funds. That is not the right way to do this. We have to make sure we have a suitably sized Army.

This is not a spike. This is not a temporary situation. Every time the President speaks, he talks about staying the course, our long-term commitment to Iraq. That is not a temporary promise, I do not think. I think that requires a permanent fix to the size of our Army and to our Marine Corps.

Now, one of the things that has happened since our debate on the floor is that the Defense Science Board, a panel of experts appointed by Secretary Rumsfeld himself, stated: ''Current and projected force structure will not sustain our current and projected global stabilization commitments.'' There are ''inadequate total numbers'' of troops and a ''lack of long term endurance.''

That is the conclusion of experts who have studied this issue, who have looked at all the things the Army is doing through modularity, through technical improvements and technological innovations to minimize the need for additional troops, and they have concluded, as a result of the study requested by the Secretary of Defense, that we need more troops.

It is not only troops. We also need equipment. The Army has sustained $2.439 billion in equipment battle losses in Iraq and Afghanistan. Presently, the Army has an unfunded requirement for $1.322 billion for munitions.

Last year, the Army spent $4 billion on equipment reconstitution—resetting it, repairing it, and getting it ready to go again.

The Marine Corps expects to need over $1 billion to reconstitute equipment next year.

The GAO reports that since September 11, the Army Guard has transferred 22,000 pieces of equipment from nondeploying units to units deployed in Iraq. What we have is a huge reshuffling going on, as units back in the United States take their equipment and give it out to units that are deploying forward. It leaves these units back in the United States without equipment. If they are called upon to perform a mission, another international mission, a homeland security mission, or a mission involving a natural disaster, where are they going to get the equipment they deployed overseas? How are they going to be affected?

In addition to the National Guard and Reserves, the Active Army is resetting itself under new battle formations, modularity, which is a concept that I think is ingenious, a concept that should be supported. But as they are doing this, they too are shuffling equipment about. There are some units that are not yet up to speed with all their equipment. They will have it, I am sure, before they are deployed overseas, but it is another example of the turmoil in terms of equipment we are seeing within the military.

In order to respond accurately, correctly, and directly to the situation in Iraq, we have to increase our Army, I believe, and make sure they have the resources to have the equipment they need to do the job.

Now, the funding for our operations in Iraq has been primarily through supplementals. In the past 17 months, President Bush has requested and Congress has appropriated $187 billion for the wars in Iraq and Afghanistan. For comparison, the budgets for the Department of Labor, the Department of Health and Human Services, the Department of Education, and the Department of Interior total $163 billion. So we have been spending in Iraq more money than we allow for discretionary spending for the Departments of Labor, Health and Human Services, Education, and Interior.

The last supplemental, for $25 billion, was passed in May 2004. At that time, the administration said they would not need the funding until January or February of next year, 2005. Yet it has been reported this week that $2 billion of this fund has already been used, showing the huge, huge pressure, the huge cost of our operations in Iraq and Afghanistan.

Last week, President Bush announced he plans to divert nearly $3.5 billion from Iraqi water, power, and other reconstruction projects to security, another indication, I think, that the security situation is in very difficult circumstances.

We have been funding these operations with supplementals. But we cannot continue to do that because there will be a point, I believe, at which the American people will be very concerned, when each year we are forced to vote on $60, $70, $80 billion of supplemental funding for Iraq and Afghanistan. We know this effort is going to take many, many years. People talk about it as a generational struggle, and I think that is right. We have to prepare for that struggle, but we cannot do it in ad hoc supplemental budgeting.

We also have seen, of course, the terrible incidents of abuse in Abu Ghraib, with too few troops in that prison to do the job, ill-trained troops in that prison to do the job, but it is not just those troops. I think it is wrong simply to single out people we know from photographs who have done despicable things. They will be punished. They are being punished. We have a responsibility to look not only at the young soldiers, but the leadership, the chain of command, the policies they adopted or did not adopt, the confusion they created and did not resolve. We have had several investigations so far. Each one goes a little bit down the road but then seems to stop.

We waited, frankly, for months for the report of General Fay and General Jones, thinking this would be the final authoritative report that would look from the level of three star and four star all the way down. It turns out that for one of the most significant issues, the issue of ghost detainees—those individuals who were not properly recorded by the authorities when they came into our custody—General Jones and Fay had no real answers because they didn't get any cooperation from the Central Intelligence Agency. Now we have another investigation presumably conducted by the IG and the Department of Defense. This is not the way to get to the core of what happened. It might be an effective way of postponing real review and investigation, but it is not the way to get the answers.

These answers are important, not simply because of individual culpability of soldiers up and down the ranks, but because we have to have a military force that understands that they are subject to the laws, that it is not optional for leaders to ignore some or modify them at will. This is the very challenging situation, but it is an example, once again, of the lack of preparedness, the lack of sufficient personnel, and the lack of clear guidance that has plagued our operations in Iraq from the beginning.

I have spent a great deal of time talking about Iraq. The interesting thing in some respects is what we are not talking about. We are not talking about North Korea. But just this week on Monday, at the United Nations, Vice Foreign Minister Choe Su Hon said North Korea had been left with ''no other option but to possess a nuclear deterrent'' because of U.S. policies that he said were designed to eliminate his country. He stated:

> We have already made clear that we have already reprocessed 8,000 wasted fuel rods and transformed them into arms.

Reprocessing 8,000 rods would extract enough plutonium for as many as eight nuclear warheads. Here is a situation where, as we focused on Iraq, we have sat by as the North Koreans blatantly and boldly opened up the cans in which IAEA sealed the rods and, according to their comments, have reprocessed this material into nuclear weapons. One of the worst possible situations, a nuclear-armed North Korea, may have evolved. We are at this point taking troops out of South Korea to fulfill our requirements in Iraq. What signal does that send to the North Koreans?

It is not a question of deterrence. We have the capability of deterring the

North Koreans from coming south. But it certainly is not aiding us in what ultimately must be our objective of disarming North Korea, hopefully through peaceful means and through negotiations, not just our efforts alone but the world community, because the great fear that we all have, that transcends the current struggle in Iraq, is that terrorists will obtain nuclear material and nuclear weapons.

Here we have a situation where over the last several months the North Koreans have finally said: We have them. Part of our lack of response is an internal debate within the administration that has been going on for months, if not years: Do you negotiate, which means some type of arrangement between the world and North Korea, or do you once again embark on a regime change operation? The difference over the last several months is the growing realization that Iraq has put so much stress on our military forces, that in the event of a need to disarm North Korea, there would be far fewer forces to draw on. So that is another huge cost of our involvement in Iraq.

Then add another development: The Iranians continue to insist they have every right to a full, complete nuclear fuel cycle. Of course, the concern—not just of the United States but the international community—is that if they achieve that cycle, they will be able to obtain material with which to construct a nuclear weapon.

Despite their protestations that that is not their objective, there is a growing suggestion, if not conclusive evidence, that certainly that possibility might exist. And once again, what are we doing? Why have we not focused attention on Iran in a more meaningful and decisive way?

One has to question a strategy that has led us into Iraq, to the instability, to the costs, to the lost opportunity, when there appear to be much more serious threats abroad.

We have an opportunity to be much more candid, much more truthful about what is going on. That is an opportunity I would hope the administration would embrace because unless we operate with the facts and unless we operate with the reality of the situation, there will be no way we can effectively plan to deal with the threats we face.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, before initiating my remarks, let me express the admiration and respect I have for the chairman of this committee, Senator COLLINS of Maine, as well as the ranking Democrat, Senator LIEBERMAN of Connecticut. What they have presented to the Senate is an extraordinary work product, if one considers the fact that we first received the 9/11 Commission report on July 22, and a mere 8 or 9 weeks later we are on the floor of the Senate considering landmark legislation. The first reaction of anyone who listens to those dates would be that they must be acting in haste.

The fact is that no sooner did Senator COLLINS and Senator LIEBERMAN receive this report than they announced they would take it extremely seriously and they would do some things unprecedented around this institution to try to move the legislation on a timely basis. It meant asking Senators to return in the month of August, a month when we are usually either back in our States or vacationing with our families, to come back and to have a series of hearings, starting with Governor Kean and Congressman Hamilton, Chair and Vice Chair of the Commission, and then a long series of many scores of witnesses who came and talked to us about aspects of this report.

They followed those hearings in August and early September with a markup last week which I attended as a member of the committee, a markup which considered 33 different amendments. Those were serious amendments, complicated amendments. Each one of them tested us to think long and hard about the 9/11 Commission report as well as the bill that is before us.

The interesting thing about the amendments that were considered is that when all was said and done—some had been adopted, some had been defeated—not a single amendment passed or was defeated on a partisan rollcall.

It wasn't Republicans versus Democrats. That is a good sign. It shows we took to this task in a bipartisan fashion and made concessions to try to find solutions.

I, frankly, do not disparage debate on the Senate floor. It is an important part of what we do. Even heated debate I find informative and sometimes entertaining. But this morning at the town meeting which I had with Senator FITZGERALD, a constituent from Illinois came up and said: Why do you argue so much? Why don't you just get together, the two political parties, and solve the problems?

I understand that sentiment. And though our arguments and debate may sound adolescent or a waste of time, they are, in fact, the noise of democracy. The debate in our committee, the Governmental Affairs Committee, which led to the adoption of some amendments and rejection of some amendments, led to a good bipartisan work product which we bring to the Senate floor today. I am proud to support it and proud to be a cosponsor.

There are two parts of it in which I take particular pride. One relates to the civil liberties board. The civil liberties board was an idea of the 9/11 Commission. They understood, as I think all of us do, that historically when the United States was concerned about security issues and safety issues, those were the moments when our Government asked for more power to protect America, usually at the expense of individual rights and liberties. It is a delicate balance and delicate negotiation between security and liberty.

Again, after 9/11, the first invasion in the continental United States since the British stormed this building in the War of 1812, after that our Government came and asked for more authority to go after the terrorists and to protect our Nation. On a bipartisan basis we gave that authority to the Government.

We understood that it was a risky decision. We were enacting the PATRIOT Act at a time of high emotion, when we were still very mindful of the tragedy of 9/11 and the thousands of innocent Americans killed, as well as their families who were grieving. We gave that authority to our Government and said we will put a time limit on some of these new powers and we will revisit them in the future to see if we have gone too far.

At every step of the way, we want to balance the security of this country and the liberty of Americans, and not to go too far in giving powers to Government at the expense of the rights and freedoms that we enjoy and which make us America. This civil liberties board, proposed by the 9/11 Commission, was consistent with that value. On a bipartisan basis, the Commission came and said, create within the executive branch a civil liberties board; this civil liberties board will be a guardian, if you will, of the basic rights of Americans. It will measure the policies and activities of our intelligence community and report regularly, on a public basis, as to whether there has been a Government effort that has gone too far.

I am not sure there is another board like this in any other part of our Government, but I applaud the 9/11 Commission for suggesting it. I certainly applaud Chairman COLLINS and Senator LIEBERMAN for incorporating the original civil liberties board in this legislation and accepting several amendments that I offered, which I think make the board even more independent and worthy of the duties that are entrusted to it.

Senator KYL of Arizona came to the floor this morning and suggested amendment No. 3801. It is an amendment to the civil liberties board section. In my estimation, it would really undermine the effectiveness of this civil liberties board.

The Senator from Arizona said Chairman COLLINS and Senator LIEBERMAN failed to make tough choices, in his words, because they were trying to win unanimous approval of the bill. It is true the bill was reported unanimously from the committee; despite reservations of some members, we all came together to report it out. I disagree with the Senator's premise that this unanimous vote was at the expense of making hard choices. Trust me, hard choices were made on almost every page of this lengthy legislation. There is nothing wrong with trying to work

together in a bipartisan fashion. I think Senator COLLINS and Senator LIEBERMAN did just that. They made some of the toughest choices.

This legislation would authorize the most significant reorganization of our intelligence community in 50 years. I believe this legislation will save lives.

In his remarks on the amendment, Senator KYL of Arizona suggested those who were concerned about our fundamental constitutional rights need to balance our concerns with concerns about the lives of American citizens. If that is the premise of his position, I don't quarrel with it. It is always a balance. If you give the Government too much authority to make us safe and take away from individuals the basic rights of our country, then what do we have left? When it is all over, those unique American values have not been protected. Rather, they have been taken by the Government. So we always want to make sure we have enough authority in the Government to protect us, but not too much. That is what this legislation does.

One of the issues we weighed heavily was how to fight the war on terrorism, while protecting basic liberties. The American people expect no less.

Let me quote from the 9/11 Commission when they addressed this issue:

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

The 9/11 Commission recommended this board and, following their recommendation, the legislation included it.

In fact, the Commission has already endorsed the board created by this bill. Commissioner Slade Gorton, a former Republican Senator from the State of Washington, and a member of the 9/11 Commission, and Richard Ben-Veniste, a Democratic appointee to the Commission, told the House Government Reform Committee:

> A civil liberties board of the kind we recommend can be found in the Collins-Lieberman bill in the Senate.

Those were the words of two commissioners. If nothing else, it is a seal of approval of what we offer on the floor today.

I am not surprised that there is some opposition to the board, as there is some opposition to other provisions in the bill. The board is a new entity, and many of us are trying to understand exactly what it would do. But I urge my colleagues to read carefully what we have achieved with this board. It is an integral part of intelligence reform. It is independent. Those who serve on the board will be nominated by the President, confirmed by the Senate, and have fixed terms.

In addition, there is a requirement for public reporting. So what the board discovers will not be kept deep in some file or on some computer in an intelligence agency, but will be reported to the public through Members of Congress and their committees.

The board will help to ensure that a powerful consolidated intelligence community does not violate privacy and civil liberties. I am afraid the Kyl amendment will upset this delicate balance. I want to speak about three problems associated with that amendment.

Number one, very wisely, Senator COLLINS and Senator LIEBERMAN included in their bill a standard of review for the civil liberties board. I think you need to give the board guidelines as they review government actions. The board is to determine, under current language, whether Government power actually materially enhances security, whether there is adequate supervision of the use of the power to ensure protection of civil liberties, and whether there are adequate guidelines and oversight to properly confine its use.

Where did we find this particular approach? We found it in the 9/11 Commission report.

Frankly, I cannot understand Senator KYL's amendment on this issue. He wants to take out the 9/11 Commission's standard of review. Should Congress not give this guidance to the board? Shouldn't the members of the civil liberties board understand their charge and responsibility? Can it be stated more simply and clearly than in the language I just read from the 9/11 Commission report? Taking away the standard of review is to leave the board with no guidance from Congress. That is an abdication of responsibility.

Secondly, the bill gives the board the authority to obtain the information they need to determine whether the Government is violating civil liberties. If somebody outside the Government refuses to provide information, the board would have the power to issue a subpoena to obtain it.

That is common sense. An investigative body doesn't have much authority in this society if it cannot, in compelling circumstances, subpoena materials it needs.

It is not unusual to give this subpoena authority to a federal commission or board. Let me name a few of the Federal agencies with similar authority: National Labor Relations Board, Equal Employment Opportunity Commission, Federal Trade Commission, and Federal Energy Regulatory Commission.

The Senator from Arizona, in speaking to his amendment this morning, suggested this subpoena authority would give the power to the board to ''haul in any agent anywhere in the world and drill him.'' I am afraid that statement is not accurate. The subpoena authority in this bill is a narrow one. It only applies to people outside the Government. So for the Senator from Arizona to argue that we are going to call in an intelligence agent before the board and drill him is to overlook the obvious: The subpoena authority in the bill only applies outside of the Government.

The obvious question is, why do you need subpoena authority outside of the Government? Here are two specific examples: First, the Abu Ghraib prison scandal. Implicated in that scandal were private contractors hired by our Government to interrogate prisoners. Information they generated might be the domain and property of these private companies. If the civil liberties board wanted to look into prisoner abuse and the companies refused to provide that information voluntarily, they would need a subpoena. That is why this subpoena power is in the bill.

In addition, if our Government engages in a cooperative agreement to obtain data from a private company to protect America from a terrorist attack, materials possessed by that private company would not be reviewable, except on a voluntary basis, by the civil liberties board, unless they had subpoena power. Senator KYL wants to take away that subpoena power. In doing that, he will tie the hands of this board when it comes to gathering the necessary information to meet its responsibility.

The other thing the Kyl amendment addresses is the section of the bill entitled ''Informing the Public,'' which requires this civil liberties board to share information about its work with the public. This is a good thing, from my point of view. It is a healthy aspect of the bill. We make provisions so that if the Board is dealing with classified information, there is no requirement to disclose it. Otherwise, we say the civil liberties board should inform the public about their work.

So if the Government has gone too far, there is a public report that could be reviewed to understand how the civil liberties board reached its conclusion.

The Kyl amendment would delete this section from the bill so that the board would not be required to inform the public about its activities. This directly contradicts the recommendations of the 9/11 Commission. As Commissioners Gordon and Ben-Veniste told the House Government Reform Committee:

> Such a board should be transparent, making regular reports to Congress and the American public.

I think sunshine is a great disinfectant, and I think the fact that this information will be made public is a further incentive for those in our Government not to abuse their power. In the name of protecting America, they should not destroy America's values and America's freedoms in a way that jeopardizes what is truly the character of this Nation.

I think the Kyl amendment, in those three instances, not only violates the spirit of the 9/11 Commission Report but directly violates language in the 9/11 Commission Report that has guided this committee in the creation of this bill.

I urge my colleagues to oppose the amendment.

In addition, Mr. President, I wish to speak for a moment to another provision in this bill that is near and dear to

me. As I mentioned earlier, when we went through the lengthy hearings on this legislation, there were many things that motivated us—this great Commission report on a bipartisan basis, the need to protect America as effectively as possible and as quickly as possible—but there was another factor.

At many of our hearings, in fact, even appearing as witnesses, were the survivors in the 9/11 families, the men and women who lost a loved one in the tragedy of 9/11. I want to take a moment and salute them. They gave of their time and their lives. They made a commitment to make certain that those they love did not die in vain. They came to this committee and asked us to do our part, and we did. I think this committee was faithful to its charge: to follow the 9/11 Commission and to come up with a reasonable change in reforming our intelligence community.

Why is reform necessary? It almost goes without saying. We found in the 9/11 Commission Report ample evidence that our intelligence community failed us before September 11. In the Senate Intelligence Committee on which I serve, we took a review of the intelligence leading up to the invasion of Iraq. As hard as it is to believe, with the millions of dollars and thousands of conscientious people involved, the intelligence gathering before the invasion of Iraq was in many respects just plain wrong.

The American people, and many Members of Congress, were convinced that we needed to invade Iraq because of charges that there were weapons of mass destruction, nuclear weapons programs, linkage with al-Qaida—things that turned out to be patently wrong. The intelligence failed us.

In one celebrated book, an author wrote that the head of the Central Intelligence Agency, in response to the President's question, Are you sure there are weapons of mass destruction in Iraq? is reported to have said: It's a slam dunk. He said with some certainty the weapons of mass destruction were there. When we arrived, they could not be found.

We understand the gravity of the threat of terrorism. Those of us who remember 9/11 and understand the seriousness of this threat want to get it right, and intelligence is truly our first line of defense. But I have to tell my colleagues that the 9/11 Commission Report kept returning to one basic and recurring theme when it came to improving intelligence and making America safe.

Let me show my colleagues what they said because I think it demonstrates in a few words why this section of the bill is so important to me and why I am glad it is part of our work effort.

The 9/11 Commission Report said:

> The biggest impediment to all-source analysis—to a greater likelihood of connecting the dots—is the human or systemic resistance to sharing information.

And that turned out to be a major obstacle.

We have a weak system for processing and using the information that we need to make America safe, and the Commission pointed that out. I have said this before on the Senate floor, and it bears repeating, that those who think our information technology was adequate to the task on 9/11 should consider the following.

The computer system at the FBI, the premier law enforcement agency in America on 9/11/2001, did not have e-mail within their system, had no access to the Internet, was unable to sort and trace by more than a one-word reference, and when they finally came up with the photographs of the 19 terrorists on September 11, the computer system of the FBI was incapable of sending a photograph over its computer system. They had to overnight the photographs to their regional offices.

That, to me, is as solid a condemnation of the computer system at the FBI as anything I read. That is a fact. And if you wonder why we failed to gather information, to process it, analyze it, and use it effectively, that is what it comes down to.

On July 10, 2001, an FBI agent in the Phoenix field office sent a memo to FBI headquarters and to two agents on the international terrorism squads in the New York field office advising of the ''possibility of a coordinated effort by Osama bin Laden'' to send students to the United States to attend civil aviation schools. The date of that memo is July 10, 2001. The agent based his theory on the ''inordinate number of individuals of investigative interest'' attending such schools in Arizona.

The agent made four recommendations to the FBI. The agent recommended that we compile a list of civil aviation schools, establish a liaison with those schools, discuss the theories about bin Laden with the intelligence community, and seek authority to obtain visa information on persons applying to flight schools. This was July 10, 2001. Those were the recommendations in the FBI memo.

The flare went off. The notice was there. Something needed to be done. His memo was forwarded to one field office. Managers of the bin Laden unit and the radical fundamentalist unit at FBI headquarters were addressees but did not even see the memo until after September 11. No managers at headquarters saw the memo before September 11. The New York field office took no action. It was not shared outside the FBI.

As its author told the 9/11 Commission, the Phoenix memo was not an alert about suicide pilots. His worry was more about a Pan Am 103 scenario in which explosives were placed on aircraft. Because it was not shared, because it was not processed, we find ourselves in situations more vulnerable.

Mr. President, let me give another illustration of why this information sharing is so important.

The 9/11 Commission Report tells us that on August 15, 2001, the Minneapolis FBI field office initiated an intelligence investigation of Zacarias Moussaoui, a name well known to us now. This man entered the country on February 23, 2001, began flight lessons at a flight school in Oklahoma City, and began flight training at Pan American flight training school in Minneapolis on August 13. Mr. Moussaoui had none of the usual qualifications for flight training on Pan Am's Boeing 747 flight simulators.

Contrary to popular belief, he did not say he was not interested in learning how to take off or land. Instead, he stood out because, with little knowledge of flying, he wanted to learn how to take off and land a Boeing 747. The FBI agent who handled the case in conjunction with the INS representative on the Minneapolis Joint Terrorism Task Force suspected Moussaoui of wanting to hijack airplanes. This is August 15, 2001.

If these respective agencies had the benefit of the Phoenix memo, brought it together with this information about Mr. Moussaoui, wheels would have started to turn and dots would have been connected. But, sadly, that information was not shared.

I can go through other illustrations about why we need to share information when it comes to ships coming into the United States using the Great Lakes, which are near and dear to me as a Senator representing the great State of Illinois, and the city of Chicago, and how we can use existing information technology to link up facts and draw good conclusions to protect America.

Sadly, what we have found, despite the passage of 3 years since 9/11, is we still have not figured out how to make critical information in our Government computers and other systems of records compatible and combat terrorism with that new information.

In a statement before the House Government Reform Committee last month, James Dempsey, executive director for the Center for Democracy and Technology, a nonprofit public interest group, validated my concern. He wrote:

> To date, however, the government still does not have a dynamic, decentralized network for sharing and analysis of information.

He goes on with a much longer statement, but to think that 3 years after 9/11, after the omissions, errors, and shortcomings which I have pointed out, we still do not have a dynamic decentralized method for sharing and analyzing information, which is one of the key elements in the 9/11 Commission Report.

A case in point I frequently cite is the chronic delays in integrating FBI and Border Patrol fingerprint databases. This problem goes back at least 6 years, where the agencies have been unable to work out the transfer of information. In March of this year, the

Justice Department's Inspector General reported it will take at least 4 more years to combine fingerprint systems. In other words, fingerprints collected at the border cannot be checked against fingerprints at the FBI in an integrated fashion so that a suspect at the border can be found to have been someone with a criminal record or a history which gives us caution and pause. How can we be any safer if that basic technology cannot be in place? Six years we failed to come up with it. The estimate is another 4 years is needed before it might happen.

The FBI fingerprint database contains about 43 million ten-finger sets of known criminals' prints; the Border Patrol's separate fingerprint system, about 6 million two-finger sets of prints. One has to ask, at some point in time, did anyone think that both agencies should collect the same number of fingerprints from each person? Today it is much different. They did not integrate their effort because they were not going to integrate their information. Not integrating that information does not make us any safer.

For well over 2 years I have urged that we do something significant and historic to address this failure of our information-sharing system. I refer back to GEN Leslie Groves, who was authorized and empowered by President Franklin Roosevelt after Pearl Harbor to start what was then known as the Manhattan Project.

General Groves understood the possibilities of an atom bomb. At that point, there had been a cursory and casual inquiry into how it might be weaponized. After Pearl Harbor, President Roosevelt said: We need to get serious. We need to develop these atom bombs. He said to General Groves: Turn to the private sector, turn to Government, turn to academia, bring them all together, and do it in a hurry. We may need this atom bomb to end this war.

That is how the Manhattan Project was born. I have argued for quite some time now that if General Groves could accomplish that historic task in 1,000 days, we can in even less time see dramatic progress in developing the information technology we need as a Nation. I am sad to remind my colleagues in the Senate, it has been over 1,000 days since September 11, and reports from agencies across the board tell us we have not done that.

The Commission offers two key recommendations for achieving this unity of effort in sharing information. First, information procedures should provide incentives for sharing to restore a better balance between security and shared knowledge. Second, the President should lead the Governmentwide effort to bring the major national security institutions into the information revolution.

This is from the 9/11 Commission Report:

He should coordinate the resolution of the legal, policy and technical issues across the agencies to create a ''trusted information network.''

We understand that without this sharing of information we cannot be safer as a nation. No agency can do this alone. They have to cooperate with one another. Throughout the eight hearings of the Governmental Affairs Committee conducted over the past 9 weeks, I have urged that we make revolutionary change in information sharing an essential element.

I will tell my colleagues what section 206 of this bill, which comprises a large portion of the bill, does. We set forth precise and prudent directives for implementing a trusted information-sharing network. The President is directed to establish this network. The network is to be an environment consisting of policies and technology designed to facilitate and promote sharing. It is modeled on the comprehensive proposal by the Markle Foundation Task Force on National Security in the Information Age, which I would like to salute as another major factor in the development of this section of the bill, as well as the 9/11 Commission Report.

The network must have certain attributes. This network of information must be a decentralized, distributed, and coordinated environment; built upon existing systems' capabilities currently in use across the Government; utilize the industry's best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible. I want to dwell on this for one moment.

Some of the critics have the wrong notion that we are trying to create a massive Government database. That is not what this bill sets out to do. What it sets out to do is to share the information to solve problems, to alert America to threats to our security. It is not a massive Government database.

Employ an information access management approach that controls access to data rather than just networks; facilitate sharing of information; provide directory services for locating information; and incorporate protections for privacy and civil liberties. This is another one that is absolutely essential. We want to have this information collected, processed, analyzed, and shared every step of the way.

Through the civil liberties board and express language in this legislation, we are mindful that we do not want to compromise the liberties and freedoms of Americans unless there is an absolute need to protect our lives and our security.

Guidelines must be issued. Requirements satisfying governing the collection, sharing, and use of information have to be made known so that this will be an item that is followed very closely.

Let me say what the network is not. Describing what the network is is only half of the issue. First and foremost, the network called for in this bill is not a centralized, consolidated system or database. Furthermore, it is not a mere network; it is a capability. It does not move data from current systems. It does not require all new systems. It is a means to make information in existing legacy systems sharable to authorized users. It is not based on any one architecture or platform. It does not require one encryption standard. It does not contemplate or require broad distribution of personally identifiable information. It does not remove authorization and access control from existing processes. It is not limited to supporting just the IC. It does not require next-generation technology to implement.

I see other Members have come to the floor of the Senate to address aspect of this bill, and I have spoken for a little over 30 minutes. I want to give them a chance to express their feelings. I will return to this issue next week.

I hope colleagues on both sides of the aisle will understand that this historic bill includes in it what I consider to be some of the most important weapons and important tools for protecting America against another terrorist attack. We have to be creative, which the 9/11 Commission Report admonishes us to do, but we also have to use information in sensible, thoughtful ways to make us safer.

A large section of this bill is directed towards that information sharing. I tried to engage the Senate in this debate when we created the Department of Homeland Security, but the time was not right. Everybody nodded in agreement, but I could not get anything done on the bill. Thank goodness this bill on the future of the intelligence community is different, and thank goodness on a bipartisan basis we have come to understand and believe that if we follow the 9/11 Commission Report, with trusted information sharing, America will be safer.

I thank Chairman COLLINS and Senator LIEBERMAN for providing this section in the bill. I look forward to working with them on the passage of this important legislation.

Mr. President, I ask unanimous consent to print in the RECORD an additional illustration on information sharing.

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

ILLUSTRATION NO. 3 SHIP IN U.S. WATERS

Of course, representing Chicago and Lake Michigan, I understand the importance of port security. Take a ship entering the U.S. waters that comes down the St. Lawrence Seaway. It comes into the Great Lakes.

What happens? Four agencies of the Federal Government collect information on that ship. One agency determines whether the ship is carrying contraband. Another Federal agency checks whether the ship has paid its tariffs and fees. Another agency determines whether the ship and its crew comply with immigration law. And another agency checks for adherence to health and safety regulations. One ship, four different Federal agencies.

Much of this information will end up in separate data systems. One of those, a $1.3

billion Customs Services project known as the automated commercial environment, is an import processing system. Another, the student exchange and visitor information system, is being developed by the Bureau of Immigration and Customs Enforcement within Homeland Security. Other border protection is held on databases held by the Coast Guard and by the Department of Agriculture.

The Transportation Security Administration also will collect and hold relevant information in its systems. Consider how many different agencies are concerned about the one ship that we might fear may be bringing the wrong people with the wrong cargo to threaten the United States.

None of these information systems are designed to communicate with one another. How in the world can we assure the American people of their safety when we are ignoring the most basic requirement—that these agencies—both people and technology—work together and share information? Don't we want to make certain that the FBI and the CIA had access to that information? In addition, the NSA, DoD, Department of Defense, State Department, State and local officials, all of them could benefit by having access to that information.

Observation: The information sharing environment of the Network would facilitate full and timely information access and exchange of the disparate information housed in each of the data systems. The Network would allow information to remain where it is created, but using standards, guidelines, and rules to be developed, make it share-able and accessible to authorized Network participants.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Illinois for his terrific contributions to this bill. He was the individual who brought to the committee's attention the woefully deficient information systems that have hindered the war against terrorism.

I remember how shocked I was at our first hearing, when the Senator from Illinois described the FBI being unable to transmit pictures of the 9/11 terrorists to its field offices. He also told us the FBI did not have the capacity to transmit fingerprints to the Border Patrol. Those underscored, in a way that few have been able to do, the lack of an adequate, integrated communications network within the Federal Government.

We worked very closely with the Senator from Illinois on this section of the bill. It incorporates his thoughts, his language, and it is his leadership that is behind those important provisions. So I salute him for being out in front on this issue and helping us come up with provisions that I think are going to make a real difference.

I salute and thank the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, even I want to thank the Senator from Illinois, a dear friend, a great colleague. He has made a very substantial contribution to this bill.

Senator DURBIN has a quality of service in the Senate that I have noted in some of the best colleagues with whom I have had the honor to serve. He thinks about matters, focuses on a problem, comes up with a solution, and he doesn't let it go until he gets it done. He saw a real problem here which others have seen but, frankly, have not focused on or grabbed ahold of as much, which is the woeful, outrageous, infuriating inability, up until this time, of our Government to put the best information technology at the disposal of those who are working to protect us.

The terrorists have figured this out. We all know about the opportunities for cyberterrorism. If you look at the number of hits that are made on even Defense Department sites, you can see the potential. We are beginning to have a very good capacity to launch our own offensives here, but this is about something else. This is just taking information, which is a key to protecting ourselves in the age of terrorism, and moving it quickly to the places it can do the most good. Talk about connecting the dots.

Anyway, Senator DURBIN is really singlehandedly responsible for this substantial title of the bill. I thank him very much for his contribution. It is part of why this bill is going to make a real difference in protecting the security of the American people.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 3823

Ms. COLLINS. I know Senator CONRAD is waiting to have a colloquy with the managers of the bill. I do have an amendment that I think I can dispose of very quickly. I ask unanimous consent that the pending amendment be set aside. On behalf of Senator VOINOVICH, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine (Ms. COLLINS), for Mr. VOINOVICH, proposes an amendment numbered 3823.

Ms. COLLINS. 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 improve the financial disclosure process under the Ethics in Government Act of 1978)

At the appropriate place insert the following:

SEC. ___. FINANCIAL DISCLOSURE AND RECORDS.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Office of Government Ethics shall submit to Congress a report—

(1) evaluating the financial disclosure process for employees of the executive branch of Government; and

(2) making recommendations for improving that process.

(b) TRANSMITTAL OF RECORD RELATING TO PRESIDENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL CANDIDATES.—

(1) DEFINITION.—In this section, the term ''major party'' has the meaning given that term under section 9002(6) of the Internal Revenue Code of 1986.

(2) TRANSMITTAL.—

(A) IN GENERAL.—Not later than 15 days after the date on which a major party nominates a candidate for President, the Office of Personnel Management shall transmit an electronic record to that candidate on Presidentially appointed positions.

(B) OTHER CANDIDATES.—After making transmittals under subparagraph (A), the Office of Personnel Management may transmit an electronic record on Presidentially appointed positions to any other candidate for President.

(3) CONTENT.—The record transmitted under this subsection shall provide—

(A) all positions which are appointed by the President, including the title and description of the duties of each position;

(B) the name of each person holding a position described under subparagraph (A);

(C) any vacancy in the positions described under subparagraph (A), and the period of time any such position has been vacant;

(D) the date on which an appointment made after the applicable Presidential election for any position described under subparagraph (A) is necessary to ensure effective operation of the Government; and

(E) any other information that the Office of Personnel Management determines is useful in making appointments.

(c) REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.—

(1) DEFINITION.—In this subsection, the term ''agency'' means an Executive agency as defined under section 105 of title 5, United States Code.

(2) REDUCTION PLAN.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to—

(i) the President;

(ii) the Committee on Governmental Affairs of the Senate; and

(iii) the Committee on Government Reform of the House of Representatives.

(B) CONTENT.—The plan under this paragraph shall provide for the reduction of—

(i) the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and

(ii) the number of levels of such positions within that agency.

(d) OFFICE OF GOVERNMENT ETHICS REVIEW OF CONFLICT OF INTEREST LAW.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Attorney General of the United States, shall conduct a comprehensive review of conflict of interest laws relating to Federal employment and submit a report to—

(A) the President;

(B) the Committee on Governmental Affairs of the Senate;

(C) the Committee on the Judiciary of the Senate;

(D) the Committee on Government Reform of the House of Representatives; and

(E) the Committee on the Judiciary of the House of Representatives.

(2) CONTENT.—The report under this subsection shall—

(A) examine all Federal criminal conflict of interest laws relating to Federal employment, including the relevant provisions of chapter 11 of title 18, United States Code; and

(B) related civil conflict of interest laws, including regulations promulgated under

section 402 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

Ms. COLLINS. Mr. President, I know the Presiding Officer has a great interest in the issue that we are about to briefly discuss. The amendment of Senator VOINOVICH would require the Office of Government Ethics to report to Congress on recommendations for streamlining the financial disclosure forms for the executive branch. In addition, the amendment would require each executive branch agency to examine the number of positions requiring Senate confirmation. It would ask the Office of Government Ethics to conduct a comprehensive review of the Government's conflict of interest laws, and it would require the Office of Personnel Management to provide Presidential candidates with a list of all appointed positions within 15 days of their party's nomination. This amendment is based on legislation that was favorably reported by the committee during the last Congress.

The 9/11 Commission recommended that the Senate should not require confirmation of appointees within the national security team below level 3 of the executive schedule. The Voinovich amendment lays the groundwork for this recommendation by requiring the executive branch to identify which positions could be eliminated from the confirmation process.

Review of that information by all Senate committees will help those of us in the Senate make a more informed and thoughtful decision on reducing specific positions that now require confirmation.

The financial disclosure requirements have been in effect for almost 25 years. Unfortunately, in some cases, they have deterred very good people from serving in the Federal Government. I hope this will lead to more effective, more efficient, and simpler requirements so it no longer will deter potential nominees from serving, or force them to go through great expense in order to comply with overly burdensome laws and regulations.

Again, this proposal is very consistent with the recommendations made by the 9/11 Commission and I urge acceptance of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am pleased to join the chairman of our committee in urging acceptance of this amendment. I thank Senator VOINOVICH and the occupant of the chair, the distinguished Senator from Tennessee, for their work on this issue.

This is a topic we have been talking about in the Congress for a long time. The occupant of the chair, having been vetted, considered, and confirmed for a Cabinet position in the past, knows the difficulties he and others have faced in fulfilling all those obligations, well beyond what most would deem to be reasonable.

What motivates this now is an extra dimension of concern. The September 11 Commission made it very clear that a catastrophic attack might well be more likely to occur during the transition from one administration to the other. Therefore, the Commission recommended that we should do anything we could reasonably think of that would speed up the process of filling national security positions in our Government.

Earlier today, I am pleased to say, the Senate adopted an amendment that Senator MCCAIN and I and others introduced to accomplish some of those specific recommendations of the 9/11 Commission. This amendment builds on that, goes beyond it, and makes the bill stronger by helping an incoming administration fill a wide range of its appointive positions more promptly, in some cases, doing what is just plain logical: requiring the OPM, Office of Personnel Management, to send information to Presidential candidates 15 days after they are nominated; describing positions that must be filled in the new administration. This would not only allow time to prepare it, it would create a sense of optimism and fantasy in the minds of candidates nominated as to what they would do when they were elected. The amendment also calls for reports that will help us and the President to consider ways to further improve and streamline the process of getting officials appointed and put into place.

It is a very good amendment. It builds on some substantial contributions Senator VOINOVICH made to the bill in committee. I am pleased to urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no further debate, without objection the amendment is agreed to.

The amendment (No. 3823) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, I come to the floor to ask a number of questions of my colleagues who are managing the bill. I have very high regard for the chairperson, Senator COLLINS. I have worked with her on other matters and found that she is an extremely able and diligent Member. I admire the way she has handled this legislation. I have watched the process as it went through the committee. I am not on the committee but I watched as it was being televised. I thought it was a very professional process.

I also have very high regard for the Senator from Connecticut, Mr. LIEBERMAN. I am not on the relevant committees. I am not on the Intelligence Committee. I am not on the Defense Committee. I am on the Budget Committee and the Finance Committee and deal with these issues from a budget point of view and financing point of view.

With that said, I come to the floor to ask a series of questions. I want to indicate that I have with me charts that were prepared by the office of Senator LIEBERMAN to talk about what the structure currently is and what this legislation would do to change it and to raise a number of concerns that I have about that change.

First, I think we should indicate the problem we are confronting with the American intelligence community, where there is a lack of coordination and communication, which has been clearly outlined in a series of hearings and a series of reports, including the report by the 9/11 Commission, including the report by the Intelligence Committee, including the work of the very able chairman, the Senator from Maine, all that has been laid across the record very clearly.

This chart from the office of Senator LIEBERMAN shows the organization of the intelligence community as it is, with the President and the National Security Council overseeing the various agencies of Government, including the Director of Central Intelligence, the Secretary of Defense, but has within it the National Security Agency, the National Geospacial-Intelligence Agency, the National Reconnaissance Office, the Defense Intelligence Agency, and the Military Services and Combatant Commands. The large majority of the funding of the intelligence community is in the Department of Defense.

I think maybe that is too little understood by the general public. But that is fact. The large majority of the funding is not at the Central Intelligence Agency. I think people in the United States probably assume that is the case; it is not. The vast majority of the funding for intelligence operations is within the Department of Defense.

Other agencies that have a significant role, of course, are the Attorney General's office, because he oversees the FBI, and the FBI has responsibility for intelligence operations within the United States.

Then we have the Secretary of Homeland Security within which we have the Information, Analysis and Infrastructure Protection Director and the Coast Guard intelligence. The Secretary of State has the Bureau of Intelligence and Research, and the Secretary of Treasury has an intelligence branch, as does the Secretary of Energy.

The problem with this structure, which has been pointed out repeatedly, is that these are a series of stovepipes, basically leading only to the White House. There is nobody that is in overall coordination and direction of these various intelligence agencies. And the idea has been to have a national intelligence director that would have responsibility to coordinate and communicate with respect to these various agencies.

So the proposal before us is to create a national intelligence director with these other various agencies already

existing reporting to the national intelligence director, so there is someone in a position to coordinate and ultimately communicate what intelligence agencies are finding.

Let me just say that I thought that what was going to happen with the national intelligence director is that funds were going to be brought together and we would not have the continuing existence of all of these other agencies.

That is really what I want to ask the managers about. The concern that I have is if we have a failure of communication and coordination, especially between the FBI and the CIA, how does adding another entity, how does adding another player improve the chances for coordination and communication?

Let me say that I was trained in business management. My career before I came here was to manage organizations. My experience has been the more layers, the less communication, the more inefficient the communication.

When this was first outlined and I found out that the CIA is still going to exist, I must say I was taken aback. I was surprised by that. I thought the Central Intelligence Agency would become the new intelligence, with a new national intelligence director. Therefore, we wouldn't be adding another player to the mix, but we would be putting somebody in a position of authority so that we could hold them accountable.

The concern I have is instead of that, we have maintained a Central Intelligence Agency and all of the other intelligence agencies we had before, and added a national intelligence director.

The fundamental concern I have and the question I have is, Why has the committee concluded that this is the right way to proceed? Why wouldn't it be better by joining the function, reducing the number of players, reducing the number of boxes on the organizational chart, instead of adding a layer?

I would be quick to say I think you need to have a national intelligence director, somebody who is in overall coordination and control because before we did not have that.

That is really the question I came to the floor this afternoon to query the chairman and ranking member about.

I would be happy to yield so they might respond.

Mr. LIEBERMAN. Mr. President, I thank the Senator from North Dakota for his questions. I want to assure him, first, there will be no rental charges for the charts that were a joint product of Senator COLLINS's and my office.

To very briefly give the background, most immediately from the 9/11 Commission Report, when we said here repeatedly, and Lee Hamilton said during the course of our hearings during the investigation about how 9/11 happened, the Commissioners very often would say, Who is in charge? The answer more often than not was: No one. They concluded it was an organization without a head. That explained why the CIA would have information and not share it with the Immigration and Naturalization Service about people they would want to keep out of the country, or the FBI would have information and not share it with the CIA.

The result was we are athletes—a homelier analogy—that the American intelligence community is like a football team with a lot of very good players but no quarterback. So they are kind of doing their own thing; some of them sometimes seem to be in another stadium and we are not getting the benefit of the billions of dollars that we are investing.

The Commission recommended that we put someone in charge as a national intelligence director.

Right now, the President is at the top on the chart. The President can't exercise day-to-day control over the intelligence community.

Incidentally, this was the report of the 9/11 Commission. Most immediately, it was essentially the recommendation of the Joint Intelligence Committee of the Congress, and in the recent past created a national intelligence director. The Scowcroft report—though we have not seen it—everybody knows that it says there has to be a national intelligence director. In fact, these recommendations go way back to 1947 when the National Security Act was passed post-Second World War and the CIA was officially created. Here is part of the problem. This is part of what I want to answer about the question.

Part of the problem that all of these groups found was that the Director of Central Intelligence—as that position exists today, which was the same person as the Director of the Central Intelligence Agency—effectively became only the Director of the Central Intelligence Agency. That is part of why nobody was really directly overhead.

As we can see in the first chart, the director of the Central Intelligence Agency is over the CIA. The major recommendation was we have to separate those two, have a separate CIA Director, and then the national intelligence director who will be over all those stovepipes.

How will he or she break them up? Two things. First, and this goes on from Colin Powell and others, we said the existing DCI was supposed to oversee the whole intelligence operation. We gave them some power but did not get them budget power. As my friend from North Dakota said, 80 percent of the budget for intelligence goes through the Department of Defense.

In an episode that Senator COLLINS and I were struck by in the 9/11 report, Director of Central Intelligence George Tenet, in 1998, after a series of al-Qaida attacks, sends out a directive—then classified, now public—to the agencies under him and says, war has been declared against us by these terrorists: They hit the World Trade Center in 1993 with the bomb, they went after the embassies in Africa, et cetera. This is a declaration of war by us and the American intelligence community against al-Qaida, a war on terrorism. And no one responded. No one did anything because he is a general without authority.

It is the old biblical line, at the sound of the trumpet, be uncertain who will follow into battle and, unfortunately, here, one of the elements of a certain trumpet in the Washington bureaucracy is money, budget authority. So no one did anything.

When the Commission asked one of the heads of the boxes on the chart, Why didn't you respond to George Tenet, he said, We didn't think we had to; we thought that was a memo.

Separate CIA from the Director so he is not responsible only for that agency but everyone in the community, with the budget authority to enforce decisions, with transfer authority for personnel within the intelligence community and, one of the most important, form the budget. Do not let other agencies do it. Actually do the budget.

The Senator from North Dakota is one of the Senate's experts on budgeting, one who worries most about whether we are getting taxpayers their money's worth. Billions of dollars—it is a classified number, so I cannot state it—but billions go into intelligence every year.

One of my hopes, because we do not talk about it much, we talk about connecting the dot, the national intelligence director will, one, be a tough budget official; two, make sure we get our money's worth; and third, more budget authority and oversight over the constituents. And, too, maybe decide this box under me is getting more money in terms of the current threat to America than it should, but this one is not getting enough; I have to move this money around.

One more point. A critical element under the national intelligence director to help him or her connect the dots is the National Counterterrorist Center. The other centers he can create for separate problems such as nuclear proliferation or separate geographic public areas like Iran and North Korea. This is the place where he will bring together as never before all the constituent parts of the intelligence community. They will sit down. He can transfer people to those centers. He can give them assignments. Most of all, he can make sure they will pool their collection of intelligence, their analysis of intelligence and, very importantly, since they are around the table—they are talking with one another, they see the problem, they have an idea from the best intelligence, signal intelligence, imagery from the satellites we have, human intelligence from people on the ground—they will do some joint operational planning as to how to deal with the problem. How do we get bin Laden? Or if there is a terrorist cell in America, what is the best way to pool our resources to get them? We put somebody in charge and we give them real authority.

Incidentally, there will be amendments introduced, or already have been, that will come to a vote in the next 2 or 3 days aimed at cutting away at that power. I say, with all respect, probably folks worried about the Department of Defense losing some authority—Senator COLLINS and I are both on the Armed Services Committee. We have a deep commitment to the warfighters. We are confident this structure will actually give better intelligence to the warfighters.

That is my answer to your question.

Mr. CONRAD. Might I ask a followup question, because the Senator referenced these earlier reports going all the way back from 50 years ago. I fully support the concept of a national intelligence director. My concern is how we are implementing it. Did the earlier reports, including the most recent from the Intelligence Committees, from the 9/11 Commission, contemplate with the creation of a national intelligence director we would still have a Central Intelligence Agency?

Mr. LIEBERMAN. They did. Interesting question. As a matter of fact, this was a real priority for the 9/11 Commission, that we separate the CIA from the national intelligence director. The point is that the CIA is only one element of the remarkable assets we have in our intelligence community, including the so-called signal intelligence, the imagery from the satellites we have, the work coordinating domestic and foreign. Because the terrorists do not separate between domestic and foreign, now for the FBI it is made statutory under the bill creating a new directorate of intelligence, counterterrorism, working with the CIA under the national intelligence director. So the answer is yes.

In fact, my understanding of the original proposal for the National Security Act post-World War II was there be a separate national intelligence director overlooking a whole community and a separate CIA. Folks in the military community were able to blend the two and diminish—here in Congress we were worried about this—and diminish and separate the power of the DCI. We look back now, and the 9/11 Commission certainly did, and say that was part of the problem. They created the vulnerabilities and weaknesses and openings the terrorists took advantage of on September 11.

Mr. CONRAD. One additional question, if I could, on the budget authority inherent in this plan. I indicated the vast majority of resources actually go to the Department of Defense and the various intelligence operations within the Department of Defense. The Senator from Connecticut indicated it was as much as 80 percent.

In terms of management of an operation, are we going to be left with a circumstance in which 80 percent of the funding is at the Department of Defense? And if so, how do we avoid a circumstance in which the tail is wagging the dog? That is, typically one finds in organizations that initiative and power follows money. If there is at the top a relatively weak national intelligence director, with most of the functions and resources in a subordinate agency, that creates its own management challenges.

I am interested to know what the concept is with respect to budget authority. Who will have that overall authority over resources?

Mr. LIEBERMAN. I thank the Senator from North Dakota. He is absolutely right in his statement.

We heard from witness after witness in our committee's deliberations in August and into September that probably worse than the status quo—which is bad, without leadership—would be to create a national intelligence director and not give him the power to direct. This may be an old quote my friend is familiar with, but former CIA Director Jim Woolsey said: In Washington, there is a different definition of the golden rule. He who has the gold makes the rules.

We are making sure the national intelligence director has the gold, which is to say the budget authority, both to formulate the budget for this entire community of national intelligence—the so-called tactical military intelligence budget—that stays with the Department of Defense.

But while I cannot say the specific percentage, I will tell you under our proposal—again this is classified, but well over 50 percent of the budget authority will now go from the Department of Defense to the national intelligence director. So that position will have that budget authority in two ways. The first is to formulate the budget. Again, this is a very important colloquy because we are going to see some amendments that are intended to reduce the authority of the national intelligence director over budget to say he basically has to accept the budget proposals of the constituent agencies. That is not so in our bill.

The second very important point: Right now the budget for the intelligence agencies goes to the Department of Defense. Even for the CIA it goes to the Department of Defense, then to the CIA. In our proposal, the money goes to the national intelligence director and then that position parcels it out to the others.

Mr. CONRAD. Might I just conclude on that point, and then I am finished. I know there are other Senators waiting. I waited to have this opportunity because I think this is very important. These are questions I am getting.

Mr. LIEBERMAN. Sure.

Mr. CONRAD. In my position on the Budget Committee, people are asking me, how is this money going to be controlled? People are given responsibility. Do they have authority?

The final question I have with respect to the Department of Defense is, we heard the other day from the Secretary of Defense, Secretary Rumsfeld, who has a very strong management background. He expressed great concern, and I think it is a concern that absolutely deserves full consideration. His great concern, as I heard it the other day in our briefing, was that he is going to have a separation of responsibility from authority; that is, resources that are currently under his control and direction are going to move up the line to the national intelligence director. He and the warfighters have a fundamental responsibility and need for intelligence. He is concerned, with the separation of these resources—as the Senator describes, much of the budget moving from the Department of Defense level up to the national intelligence director—that he not be shortchanged and that his combatant commanders not be shortchanged of the resources they need to make tactical and strategic decisions.

This is my final question: What is the response of the leadership of the committee to his concerns?

Mr. LIEBERMAN. I thank the Senator from North Dakota.

Mr. President, I will begin, and if the Senator from Maine wants to get into this, I would welcome her doing so.

First, I would say, again, Senator COLLINS and I are members of the Armed Services Committee of the Senate. If we felt there was the remotest possibility this proposal of ours would shortchange the warfighters, we would not make it. And believe me, it does not.

A couple things to say: First, we make a distinction in this bill between the tactical military budget on one hand and the national intelligence budget on the other. The tactical military budget—intelligence officials who are working for individual services; Army, Navy, combatant commanders working on joint programs within the military for more than one service—that money all stays with the Department of Defense. But the national intelligence assets, which are used, let's say, for satellites—which are clearly used by the military but also provide information that is critically important for the Department of Homeland Security or the State Department in advising the President on critical foreign policy decisions—that is under the national intelligence director, as it should be.

The fact is, a lot of this is worked out in a consulting, consensus way. But we want to just raise that national interest here. The military will always be a priority customer of the intelligence community, but it is not the only customer. The President of the United States is the most important recipient of intelligence. The Secretary of State is very important; now the Secretary of Homeland Security.

I believe we have struck exactly a balance here in making sure the warfighter is well supported. We had very interesting testimony, which I can share with my friend, from two generals who are heads of two of the

constituent national intelligence agencies. They said to us they believe this proposal establishing a national intelligence director would be an improvement and be an improvement from the point of view of their agencies because it ended the ambiguity that exists now which they think is not good for their agencies and ultimately not good for the military.

I wonder if the Senator from Maine wants to get into this and answer some of the very good questions my friend from North Dakota has asked.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, first of all, I thank the Senator from North Dakota for the thought he has given to this issue. I know he has a great interest in management structures, in making sure we have the most efficient structure possible to serve the taxpayers. So I very much appreciate the spirit with which he has raised these questions.

I want to make three concluding points to emphasize some of the points already made by my colleague from Connecticut.

First, it was evident as we studied this issue and read the 9/11 Commission Report that the current system does not foster the kind of communication and cooperation we desperately need. It is a series of stovepipes with no one having the ability to make the final decisions, to resolve conflicts, to move resources and people where they are most needed. You cannot go to the President of the United States on everything.

I have seen that firsthand in the staffing of the Terrorist Threat Integration Center where the Director feels he needs more resources, other decisions have been made by various agency heads, and there is no one to step in and set the priorities, move the people, and direct the resources. I think our bill really changes that.

Like Senator LIEBERMAN, I was struck by Director Tenet's 12/98 memo in which he does this call to be at war and that all resources should be marshaled, and virtually nothing happened. That will change under our structure. There will be accountability under our structure because people will know who is in charge and whose call it is, and that is the national intelligence director. Our organization enhances accountability, cooperation, coordination, communication, and, most of all, results.

Second, the 9/11 Commission considered doing the kind of structure you have raised questions about. Essentially, that would be creating a department of intelligence. You would take all of these units out of the other agencies and do a brandnew department. And it felt—and I agree—that would be too disruptive, particularly at a time when we are at war; that it would be expensive, it would be complicated, it would take a long time to put into effect.

We have seen that with the Department of Homeland Security. That has been a massive undertaking. I am very proud of the leadership of Secretary Ridge and Admiral Loy, but it has not been without its growing pains. We just could not afford that kind of disruption right now.

Third would be the reaction of DOD if we took all of those entities out and put them in a new department. There was testimony of a former head of the Defense Intelligence Agency at a hearing on the House side in August. He said if you pulled those agencies, like the National Security Agency, the DIA, the NGA, the NRO—those that serve DOD and other consumers—if you pulled them out, you would see DOD re-creating within the Department new entities to replace those if you severed that link and transferred them. To quote William Odom, ''You're just going to end up with a big mess'' if you do that. That is why we came up with this structure.

Mr. CONRAD. The last reference of winding up ''with a big mess,'' whose quote is that?

Ms. COLLINS. William Odom, who is a former head of DIA. So we felt the case was very persuasive for the kind of organizational structure we came up with. That was recommended by the 9/11 Commission.

Having said that, I am sure it is not perfect. I am sure we are going to learn from it. That is why we have reports required back to Congress after a year's time and by the General Accounting Office Accountability Office in 2 year's time, because we want to make sure we get this right.

I think we have struck the right balance in the organizational structure we propose.

Mr. CONRAD. Let me conclude on this note: The thing I am most concerned about is having an entirely separate Central Intelligence Agency and an office of national intelligence director. The thing that I have a difficult time understanding is how that is not going to create its own turf battles, its own communications problems. I hope I am proved wrong by this, but it is the one thing I looked at and I was surprised by and, I must say, I wondered about.

I read the reports on the difficulties we had with the coordination between the CIA and the FBI and their turf battles and their unwillingness to share information. When we preserve the Central Intelligence Agency and create an office of national intelligence director and we still have, of course, the FBI's Office of Intelligence, I wonder whether we don't wind up with more turf battles. I know the intention is to avoid that and to appropriately create a place that will coordinate all the work of the intelligence community.

My great management concern is that we will wind up with additional turf battles. I hope that is not the case. I am glad the reviews are built in because I think that is important. I wanted to express these concerns publicly. I wanted to raise these issues and have a chance for the managers to fully respond.

I very much thank the chairman and the Senator from Connecticut.

Ms. COLLINS. I thank the Senator from North Dakota.

Mr. CONRAD. I yield the floor.

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

Ms. COLLINS. Mr. President, I know Members are eager for us to vote on Senator LAUTENBERG's amendment, which I believe is the pending amendment. I hope to conclude the debate on that shortly and move to table his amendment. Senator STEVENS is in the Chamber and would like to lay down a couple of amendments. I will delay the debate on the Lautenberg amendment until after Senator STEVENS.

I ask unanimous consent that the pending amendment be set aside so Senator STEVENS may offer his amendment.

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

The Senator from Alaska.

AMENDMENT NO. 3839

(Purpose: To strike section 201, relating to public disclosure of intelligence funding)

Mr. STEVENS. Mr. President, I have filed a series of amendments. I would like to address the one on disclosure of intelligence funding.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. WARNER, and Mr. INOUYE, proposes an amendment numbered 3839.

On page 115, strike line 13 and all that follows through page 116, line 23.

Mr. STEVENS. Mr. President, I direct the attention of the Senate to page 115. This is title II. It pertains to the amounts to be disclosed. It deals with amounts authorized and appropriated in each fiscal year.

My amendment follows the recommendation of the administration and, I might add, the intelligence community to think twice before we do this. It may be that we will want to do this after the NID comes into being and we all have a better knowledge of how these funds are going to be handled.

This amendment would require a further study of the disclosure of funds that are provided for intelligence programs. The basic need for this amendment rests on the testimony of the Acting Director of Central Intelligence John McLaughlin before the Governmental Affairs Committee. He said:

I would not go so far as to declassify the numbers for the individual agencies. I think that gives too much opportunity for adversaries to understand how we are moving our money from year to year from technical programs to human source collection and to other objectives.

In the administration's statement of policy, the administration is also concerned that the committee bill mandates disclosure of sensitive information about the intelligence budget. The

legislation should not compel disclosure, including to the Nation's enemies in war, of the amounts requested by the President and the amounts provided for the conduct of the Nation's intelligence activities.

I understand that the committee intends to comply with the recommendations of the 9/11 Commission with regard to this. But I think it is time we slow down a little bit and respond at least in part to some of the comments of those people who have spent their lifetimes now in our intelligence service.

I can tell you that I have not spent my whole lifetime there, but I have spent some 30 years now in terms of watching over the Defense Appropriations Committee and being part of it at least. In terms of being chairman and ranking member, it has been now 23 years. This concerns me greatly because one of the problems of the appropriators is to find ways to have an honest budget but to put the money where the enemies of this country, those who want to do us harm, do not know what our emphasis is way out into the future.

I remember when we started transitioning to electronic intelligence and how we traveled from place to place to look at these new satellites and the things they were going to do and got briefings on capacities. Those were developed over a series of years, and they got more complicated as they went along. But the money that was involved was substantial.

To have a disclosure of ''we are engaging in an entirely new effort in intelligence'' would be highly unwise.

I quote from the second page of the administration statement:

> The Administration is also concerned that the Committee bill mandates disclosure of sensitive information about the intelligence budget. The legislation should not compel disclosure, including to the Nation's enemies in war, of the amounts requested by the President, and provided by the Congress, for the conduct of the Nation's intelligence activities.

I am deeply concerned about some of the problems of how we find a way to maintain the secrets of this country with regard to what we are doing in terms of human intelligence. We are building up human intelligence at the same time as we are changing the utilization of the electronic concept of intelligence. And while I believe the time may come when we can find a way to disclose certain portions of the budget, I have a real resistance to this proposal that says:

> Congress shall disclose . . . for each fiscal year after fiscal year 2005 the aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated by Congress for such fiscal year for the National Intelligence Program.

Then it directs the study of disclosure of additional information. We are certainly not opposed to the study. It is the mandate beginning in 2005. We are going to start, for the fiscal year 2006, disclosing these amounts at a time when there is great change in the intelligence community. The whole structure of the intelligence community will be changed by this bill. To start disclosing where money is going is to tell the enemies of this country where our emphasis for the future is. It is the future I am concerned about in terms of disclosure.

In the future we set up reserve accounts, and I will be talking about some of those soon. But if we set up reserve accounts, the reserves are classified as reserves because that is where they get the money for innovation and new developments. We don't have to disclose it. We don't have to tell them: Yes, we are going to build new satellites or we are going to build other devices that can listen to transmissions in the air and on the land and under sea.

We have a lot of secrets in this country. They are all related to intelligence. Let me repeat that. Every one of our secrets is related to intelligence. They are highly classified. Many of them are known only to the President and a close circle. Part of that circle includes Members of Congress who deal with the very high-level, classified programs of the intelligence services.

I urge that the Senate listen to us and listen to the administration and to those who have been involved in these activities. Again, I call to the attention of the Senate that when we returned and found there were a whole series of people who had not been heard on their viewpoints—they wanted to express their concerns—we held a hearing and listened to the intelligence people, who had great, distinguished records in the past. We listened to Secretary Kissinger and a whole series of people who wore our uniform and have been the top officers of our military. To a person, they do not believe we should move this fast on this disclosure item.

Let us have the study. We are entirely in favor of the study. But to mandate the disclosure in the bill we will prepare in 2005, I think, is much too early, in view of the changes taking place in the area of intelligence. This is where we are going to start to see if there is any reaction to those who have had experience in the area, to the President, and to those who have reviewed the whole thing. Is the Senate going to listen to these people with some experience and say, OK, let's study it, but not make the judgment first and then study it?

This disclosure in the next fiscal year is wrong, until we know what the policies of the NID are and what are going to be the policies of Congress and how we are going to handle this appropriation. It appears to me that the result of this bill will be to fractionalize the intelligence appropriation, anyway. Part of it is going to go to the Department of Defense; part will be split up into several agencies within the NID.

I think we ought to know first what we are doing before we decide what we are going to disclose so we can maintain the secrecy that is required in order to prepare for the future. This is not something to correct mistakes of the past; this is something to prevent making mistakes in the future.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I have enormous respect for the Senator from Alaska. He is an extraordinary Senator, with many years of experience. I do want to assure the Senator from Alaska that, contrary to the implication in his statement, the committee did not adopt the recommendation of the 9/11 Commission to declassify the aggregate budget totals of all the agencies that make up the national intelligence program. We did not adopt that recommendation of the 9/11 Commission because, based on our hearings and the testimony of our witnesses, we concluded that that goes too far and might well reveal information that would be helpful to those who would do us harm.

The only declassification in the Collins-Lieberman bill is the top line aggregate amount for the entire national intelligence program. It does not declassify the specific appropriations amount distributed to agencies such as the National Security Agency, or the Defense Intelligence Agency, or the CIA, even though the 9/11 Commission recommended declassification at that level.

Declassification, the top line, only that aggregate figure which has been estimated in the newspapers many, many times, I believe, will improve congressional and public oversight of the intelligence budget. It will help us with better decisionmaking on resource distribution, and it will make the structure and the management of the intelligence community more transparent.

We asked our witnesses, including the Acting Director of the CIA, John McLaughlin, his views. And he, like most of our other expert witnesses, told us that as long as the specifics of the intelligence budget remain classified, there was no harm to national security to declassify just that top line aggregate amount.

I think we struck the right balance in this regard. What we did is we included a study asking the national intelligence director to report back to us—to the Congress—on whether further declassification was appropriate. But the only step we took was that top line aggregate amount. If you don't declassify that in order to have a separate appropriation, then you end up, I fear, with the status quo—the money going through DOD accounts once again. That greatly weakens the budget authority of the national intelligence director.

Again, I have enormous respect for the Senator from Alaska. I wanted to make clear what our bill does and what it doesn't do, because I think we have reached the right decision.

Mr. STEVENS. Will the chairman yield for a question?

Ms. COLLINS. Yes.

Mr. STEVENS. I am looking at the bill. The bill says the President shall disclose to the public for each fiscal year after fiscal year 2005 the aggregate amount of funds authorized and appropriated for the national intelligence program. Then I go back to the page 6 for the definition of national intelligence programs. It says:

Refers to all national intelligence programs, projects, and activities of the elements of the intelligence community;

Includes all programs, projects, and activities (whether or not pertaining to national intelligence) of the National Intelligence Authority, the Central Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, the Office of Intelligence of the Federal Bureau of Investigation, and the Office of Information Analysis of the Department of Homeland Security.

That involves five different bills in the appropriations process. We currently put in any one of those five bills a portion of the clandestine activities we are financing with these moneys. So what you are going to tell us is, we no longer can use any portion of those because we are going to disclose the whole amount in every one of those bills.

Listen to me. You have not lived with how we have financed the intelligence community. The money is not disclosed. It is put in parts of the budget and you don't know where it is. It rests with Senator INOUYE and me, to be honest about it, and we make sure that is what it is. Maybe four people in the House and Senate know where this is. You are telling us to disclose it, without regard to where we put that money—disclose the money that is in each account and it goes into five separate bills. I say that is wrong. Wait until the NID comes into office and have him tell us how we can disclose what should be disclosed to the public. The public should not ask us to disclose this very classified, secret information to protect the future of the country through clandestine activities and acquisitions.

I ask the question, does the Senator understand what her bill does? It will disclose the aggregate amount of funds—disclose them all, including the very, very top secret items, which probably three or four people in the White House, a few people in the CIA, or the DIA, and maybe eight people in the Congress would know.

Ms. COLLINS. Mr. President, I direct the attention of the Senator from Alaska to line 16 on page 115, which clearly says that:

The President shall disclose to the public for each fiscal year after fiscal year 2005 the aggregate amount of appropriations requested . . . for the National Intelligence Program.

It does not say that we are requiring disclosure of the appropriations for the elements that make up the national intelligence program.

Mr. STEVENS. It says:

The aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated, by Congress for each fiscal year for each element of the intelligence community.

Both authorized and appropriated. That is on page 116, line 9.

Ms. COLLINS. Mr. President, I say respectfully to the Senator from Alaska that that refers to the study on whether there should be further declassification. It does not refer to the disclosure. The disclosure is only—and it is very clearly stated—of the aggregate amount of the appropriations for the national intelligence program.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, this is a very important discussion about another critical part of this bill. Obviously, the Senator from Alaska has had an extraordinary record of leadership in this and so many areas of the Senate. He knows the subject matter. He has lived with it a long time. I understand what we are proposing represents change. He is quite sincerely concerned about it from the point of view of our national security interests.

I most of all want to assure him we spent a lot of time thinking about this. We did not just go for the 9/11 Commission recommendation. The 9/11 Commission recommended that we disclose not only the bottom line of the national intelligence budget but, in fact, the budget of every single agency.

Their argument, as I am sure the Senator from Alaska knows, was that, one, the public has a right to know. Of course, we have to balance it—what we disclose to our enemies—against national security, but if the budgets of those constituent agencies were out in the public, then maybe over the years the public and more Members of Congress might have decided we were not putting enough money into human intelligence, CIA, et cetera, and that we were putting too much into signal intelligence and that we would not have had the shortfall many people think we have now.

In our committee, Senator COLLINS and I decided we were not ready to make that leap of disclosing the budgets of the 15 constituent agencies of the intelligence community because we thought there was some risk involved about signaling the movement of our resources to those who wish us ill.

Incidentally, there were some members of the Commission who felt very strongly about the disclosure of the budgets of all the agencies, including some former Members of this Chamber who really feel this was at the heart of it. We did not think so, and that is why we called for the study.

We think we have, however, achieved something for asking for the disclosure of the bottom line because at least that tells the taxpayers and all the Members of Congress how much money we are spending for intelligence.

In the course of this investigation, I asked some specific questions, obviously in closed settings, about the amount of money we are spending overall and for each individual agency. I was surprised at the answers I got. I think maybe more Members of Congress should ask those questions.

But this is what I think we do achieve by having the bottom line disclosed. We are fulfilling a responsibility to the taxpayers to let them know how much money we are spending on intelligence because it is just the bottom line, without giving any particular guidance to our enemies as to where we are putting that money.

The second point is, one result of this might be when more Members of Congress and the public see what we are spending on intelligence, which is so critical in the war on terrorism—intelligence is always critical in warfare and even more critical today because of the nature of this enemy which strikes at undefended targets, innocent civilians, and is crazy enough to blow themselves up.

So the more we can see and hear and know what they are planning, the more likely we are going to be able to stop them.

One conclusion, I say to my friend from Alaska, might be that Members of Congress and the public might conclude we are not spending enough on intelligence if they see the bottom line.

Mr. STEVENS. Will the Senator yield?

Mr. LIEBERMAN. Yes.

Mr. STEVENS. The problem is not that, from my point of view. My problem is we are going through a transition and saying for the very first year we are going to be asked to disclose the full amounts appropriated to the whole intelligence community.

My amendment strikes all of section 201, in effect. I urge, at the very least, that we strike that provision that requires disclosure in 2005. Let's have the study. I hope the NID will be able to make studies and get back to us sometime next year. But why put on us the requirement that we must collate and take all the moneys going to the intelligence community in 2006 when we are going to be working on that and, at the same time, he is making his adjustments in the whole community?

My effort is to protect the clandestine amounts, protect the amounts that are necessary for security. Why can we not at least agree to make it just the study? We all agree on the study. Maybe the Commission is right, and the Senator from Connecticut is wrong and I am wrong. Why don't we have the study and find out what the NID people think is right and then let us act on 2006?

Mr. LIEBERMAN. Mr. President, I say to my friend from Alaska, it is impossible that he and I can both be wrong.

Mr. STEVENS. We have been there before.

Mr. LIEBERMAN. We have been there before.

Listen, because of who you are and what you stand for, Senator COLLINS

and I will certainly think about this. We think we have struck a good balance in just asking for disclosure of the bottom line, no details, beginning public consideration of what we are spending on intelligence, and this study we ask for in 180 days, 6 months, and then we can make some judgments beyond that.

I yield the floor. I thank the Senator. This is an important discussion.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I believe I am a cosponsor of the amendment.

Mr. STEVENS. Yes, Mr. President, the Senator is, along with Senator INOUYE.

Mr. WARNER. This is a debate we had many years on the floor of the Senate. It has been a debate we have talked about so many times, and there has been a consistency in the voting in the Senate to recognize the wisdom not to release the budgets.

As yet, with all due respect to our managers and others, I have not heard an absolutely convincing argument to turn back at least several decades that this has been an issue of debate on this floor. What is it in the public interest or, most importantly, our national security interests that requires us at this time to reverse positions that have been taken by this Chamber, together with the other body, over the period of several decades that I have been privileged to serve here?

My concern is that this world today is so rapidly changing, and with the advancement of electronics and so many devices to determine what we in an open society are doing, why put the roadmap on the table for all to begin to search?

It has been my experience that if you put out half a loaf, it will be followed by a request to get the other half of the loaf. Were this provision to prevail, we would be back here in a very short time, some colleagues with the best of intentions, saying: Why don't you put it all out? Why should we have any of it secret? That, coupled with the fact I have in my lifetime never seen a period where there is greater uncertainty about the security of this country—because of the progression of weapons of mass destruction, because of the progression of terrorism, and the proliferation of individuals who are willing to give up their lives to do harm in this country and other parts of the world—I just do not think at this point in time, without following, I think, the sage advice of our distinguished President pro tempore, we need to reverse what this Chamber has considered and decided upon year after year that I have been here.

So I urge colleagues to support the amendment of the senior Senator from Alaska. I intend to strongly do so.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I heard the last part of the comments of the Senator from Connecticut. I suggest we put this aside and see if we can come to some conclusion.

The Senator makes a good suggestion of putting a time limit on the study and getting us to the point where we might be able to follow this suggestion by the fiscal year 2006 bill. That bill will, in all probability, move through the Congress, I would say, by the May, June, and July timeframe. With the 180 days, I am afraid the Senator may be referring to the start of the fiscal year. That bill goes through the House and Senate. These are the first bills—Defense and Homeland Security, and Intelligence. Obviously; It is going to be in the first three without any question.

So the 180 days is going to be June, and this bill will be moving through the House before that time.

We probably could catch it before they finish in terms of if there is a recommendation we need, but I would urge my colleagues to consider repealing the requirement for disclosure and say that we urge the NID to give us the earliest possible date for that disclosure, when it could be done in the national interest.

We are putting a lot of control and power in this person. Let's have him tell us when and if it should happen rather than direct it now. Make the study and leave it up to him to recommend to us, at least to what extent we should disclose, commencing in fiscal year 2006.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I want to read a few sentences from the 9/11 Commission Report on page 416 which I think are relevant. It says:

> . . . Opponents of declassification argue that America's enemies could learn about intelligence capabilities by tracking the top-line appropriations figure. Yet the top-line figure by itself provides little insight into U.S. intelligence sources and methods. . . .

Here is a point that one of the members of the Commission, again a former member of this body, made from the 9/11 Commission Report.

> The U.S. Government readily provides copious information about spending on its military forces, including military intelligence. The intelligence community should not be subject to that much disclosure. But when even aggregate categorical numbers remain hidden, it is hard to judge priorities and foster accountability.

That is in defense of disclosing the 15 individual agency budgets.

I say to the Senator from Alaska, who knows this better than I—and I am honored to serve on the authorizing Armed Services Committee—we give a fair amount of detail of the budget in terms of military programs.

Mr. STEVENS. Will the Senator yield?

Mr. LIEBERMAN. Yes.

Mr. STEVENS. Unfortunately, that is not a part of the report. That is a comment after the recommendation. It sort of demonstrates the extent of the knowledge they had about what they were dealing with in the recommendations, because that is not true. We do not disclose the amount we appropriate for defense intelligence. We disclose the amount in the budget that we support defense intelligence agencies with pay, facilities, and offices, but the amounts of their programs are not disclosed.

What I am saying to the Senator is, as we approach this, I think there is a growing desire to know how much money we are spending. The Senator may be right. Maybe people want us to spend more. I have wanted to spend more for a long time.

Mr. LIEBERMAN. I know that is true.

Mr. STEVENS. The problem is people ought to know what they are talking about before they change the system. In these budgets are both moneys for acquisition and for salaries, and somewhere in there is some money that everybody knows, in the intelligence community, where it is and what it is for.

In the Defense authorization bill there is a classified portion of that budget.

Mr. LIEBERMAN. Sure.

Mr. STEVENS. I am not even sure, other than the chairman and ranking member, if the Senator knows what is in there. I am saying so apologetically, but the system that requires secrecy in this country on some things is kept secret. This disclosure prematurely might trigger someone saying ''watch that'' in answering the question, and that would be bad because if they answer the question about what they knew was in there, that would disclose what they did not know was in there.

Mr. LIEBERMAN. A final response on this point. The Senator from Alaska says correctly if one looks at the overall budget of a given military agency, it does not tell what they are spending on different programs. So I want to assure the Senator from Alaska that under the committee's proposal, not only do we not talk about what is being spent on specific programs and specific intelligence agencies, we do not talk about what is being spent in those agencies. We talk about the one number, the conglomerate bottom line or top-line number, and I think that only gives a general idea of what we are investing in intelligence, far from any specific information about what we are investing in particular kinds of intelligence, signal, human, image, let alone specific programs.

I would not do this if I thought it would jeopardize our national security. In fact, that is why we did not call, as the Commission requested, for disclosure of individual agency budgets because we worried it might, and that is why we are asking for a report from the national intelligence director.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I will quote Acting CIA Director John McLaughlin from our September 8 hearing on this very issue. He said:

If there is a separate appropriation for the foreign intelligence program, the national intelligence program, as distinct from the current arrangement where that appropriation is buried in the larger Defense Department bill, I think it would make some sense to declassify the overall number for the foreign intelligence program.

That was typical of our witnesses.

I also note that the top line has been made public on occasion in the past. It was made public in 1997 and 1998 by the DCI.

At this point there are numerous Senators who are asking what the plan is for today and who are trying to catch planes. I ask for the regular order with respect to Lautenberg amendment No. 3802, and I ask unanimous consent that there be 2 minutes on each side prior to a motion to table the amendment. I further ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, it is my understanding that that would set aside the pending amendment and take up that procedure. We would come back to this amendment. Or is there another amendment in the queue by regular order?

The PRESIDING OFFICER. There is no other amendment in the queue by regular order.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HOLLINGS. Mr. President, I ask unanimous consent the pending amendment be set aside so I can call up my amendment.

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

AMENDMENT NO. 3795

Mr. HOLLINGS. I call up my amendment numbered 3795.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 3795.

Mr. HOLLINGS. 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 propose a substitute.)

Strike all after the enacting clause and insert the following:

SECTION 1. NATIONAL INTELLIGENCE COORDINATOR.

(a) NATIONAL INTELLIGENCE COORDINATOR.—There is a National Intelligence Coordinator who shall be appointed by the President.

(b) RESPONSIBILITY.—Subject to the direction and control of the President, the National Intelligence Coordinator shall have the responsibility for coordinating the performance of all intelligence and intelligence-related activities of the United States Government, whether such activities are foreign or domestic.

(c) AVAILABILITY OF FUNDS.—Funds shall be available to the National Intelligence Coordinator for the performance of the responsibility of the Coordinator under subsection (b) in the manner provided by law or as directed by the President.

(d) MEMBERSHIP ON NATIONAL SECURITY COUNCIL.—The National Intelligence Coordinator shall be a member of the National Security Council.

(e) SUPPORT.—(1) Any official, office, program, project, or activity of the Central Intelligence Agency as of the date of the enactment of this Act that supports the Director of Central Intelligence in the performance of responsibilities and authorities as the head of the intelligence community shall, after that date, support the National Intelligence Coordination in the performance of the responsibility of the Coordinator under subsection (b).

(2) Any powers and authorities of the Director of Central Intelligence under statute, Executive order, regulation, or otherwise as of the date of the enactment of this Act that relate to the performance by the Director of responsibilities and authorities as the head of the intelligence community shall, after that date, have no further force and effect.

(f) ACCOUNTABILITY.—The National Intelligence Coordinator shall report directly to the President regarding the performance of the responsibility of the Coordinator under subsection (b), and shall be accountable to the President regarding the performance of such responsibility.

Mr. HOLLINGS. Mr. President, I support the Hollings-Stevens amendment, numbered 3795. My amendment strikes and replaces the underlying bill with language creating a national intelligence coordinator, or NIC. Important work since September 11th of the 9/11 Commission, numerous Senate committees and others has convinced all of us that we must enact intelligence reform. I am impressed by the efforts of my friends Senators COLLINS and LIEBERMAN, and others, who have used their considerable skills to implement most of the recommendations of the 9/11 Commission. But I worry that the Senate is moving ahead with enormous restructuring, when we could address the main problem more immediately. 9/11 was clearly an intelligence failure, and we must act now to fix the most glaring problem—the lack of an intelligence coordinator.

My amendment fixes this most obvious, most severe problem with our intelligence structure by creating a national intelligence coordinator, or NIC. It will be the NIC's responsibility to sift through the work of all of our intelligence entities, both foreign, domestic and military and keep the President abreast of the intelligence community's findings in a coordinated, complete way. As it exists, the intelligence community's communications with the President cannot help but be haphazard. The President needs to have the huge volumes of intelligence information coordinated by someone he trusts, so he can make informed policy judgments. Thus, my amendment allows the President to select an intelligence coordinator as a member of the National Security Council, not subject to Senate approval. Just as President Bush has Karl Rove, whom he trusts and who coordinates the political intelligence throughout this Administration, the President needs a Karl Rove for national security intelligence.

This NIC will need sufficient staff and resources. So my amendment assigns to the NIC in his or her role as coordinator of intelligence activities, the staff and resources currently assigned to the Director of Central Intelligence, or DCI, that is now employed in the performance of his role as coordinator of the intelligence community, which he is not doing.

Many of the dozens of provisions in Collins-Lieberman would likely improve our system of intelligence. The Senate should study each of these provisions carefully, and enact the best of these provisions after such consideration. My amendment fixes the main problem in the meantime—the lack of a coordinator.

Collins-Lieberman creates a National Intelligence Director, or NID, and gives that person considerable power over budgets and personnel. The NID will control a new national counterterrorism center, and generally manage the intelligence community. The bill is problematic because the NID will wield unheard of influence over work of the intelligence entities, before that work even gets done. This is groupthink—personnel from 15 agencies work to get the Director the answers they know he wants. Personnel will neglect intelligence that takes them in directions they know the NID opposes. Reform should encourage more creativity, not less; more diversity within the intelligence community, not less. These agencies each do different things well—we need to take advantage of differentiation, not squelch it under the NID.

The national intelligence coordinator created by my amendment is unlikely to lead to this problem of Groupthink. The NIC will not control personnel and budget decisions. He will not have the power to fire people in other agencies that he disagrees with, or promote only people who share his worldview. He will not be able to manipulate policy direction of intelligence agencies and centers we may create. The NIC will coordinate, not meddle in the work itself. The 9/11 Commission decided that part of the reason the 9/11 plot was successful is the lack of creativity in our intelligence community. Stopping complicated terror plots before they happen requires flourishing intelligence diversity, and Collins-Lieberman will undermine diversity by concentrating intelligence output in one manager—the NID. We don't need a Director of Intelligence. We need a coordinator. We need to change the NID to NIC, the ''D'' to ''C''.

I would like to address concerns I have with the underlying bill related to Defense. In deciding what to do with

the Department of Defense's control over most intelligence dollars, Collins-Lieberman splits the baby. The bill transfers control over the budgets and some personnel decisions of the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office, from the Secretary of Defense to the NID without transferring control of the agencies themselves to the NID. The NID will develop and present the President with an annual budget request for these and other intelligence programs. It is unclear whether the Secretary of Defense or the NID will control the actual payroll. Under Collins-Lieberman, ''tactical'' military intelligence and the Defense Intelligence Agency will remain under the DOD. But the bill does not define ''tactical.'' Obviously, DOD will seek to define that term broadly, and the NID will seek to define it narrowly. I understand Senator FEINSTEIN may offer an amendment that would define ''tactical'' and provide some clarity, but even if that amendment is enacted, the battle will be waged over how to interpret the Feinstein definition of ''tactical.'' My friends Senators SPECTER, ROBERTS, SHELBY, DEWINE, BOND, WYDEN, BAYH and others already think the NID should have even more control over agencies currently within the DOD than the Collins-Lieberman bill would allow, but their amendment failed.

In short, there is confusion over what Collins-Lieberman transfers from the DOD to the NID and what it does not transfer. There is confusion over what ought to be placed underneath the NID, and what stays with the DOD. There is confusion over how budget, personnel and other types of authority can be bifurcated and trifurcated. This is a time for clarity, not confusion. The NID will also receive the appropriation for these and other intelligence programs, and in Collins-Lieberman the NID can transfer funds from one office to another as the Director sees fit. If the underlying bill is enacted as it is currently written, I forecast open warfare between the Secretary of Defense and the NID. Especially during a time of war, DOD will insist on funding defense/military-related intelligence work its way. This kind of turf war is bad for the country, and we should not enact intelligence that we can see is likely to pit the Secretary of Defense against the NID. If this painful transition needs to occur, we should at least consider waiting until after combat operations in Iraq have ended.

I am also concerned about some potential problems with the underlying bill's blurring of domestic and foreign intelligence. While I support the concept of fusing foreign and domestic intelligence, because that is what modern investigating and technology requires, this is a very sensitive and tricky area. Our Nation's history of domestic covert governmental operations shows the need to be careful here. Collins-Lieberman places the FBI's domestic counterterrorism activities and those of the CIA and DOD under the NID. But it does not address problems with locating domestic covert operations outside the FBI. The NID would have the power to ask the CIA or DOD to engage in such covert domestic operations. Our current governmental arrangements keep the CIA from participating in domestic intelligence activities, yet none of this would apply to the NID. Who is to say that the NID will not begin using the CIA to conduct extensive covert domestic activities? This new role for the CIA may actually be appropriate, but we have to be careful to draw rules for CIA domestic conduct that respect our Bill of Rights and other basic traditions. Using agencies other than the FBI for these domestic tasks also removes the Attorney General from its supervisory function. The Department of Justice is qualified to make difficult Bill of Rights judgments, but these other agencies may not be. These other agencies may not even be inclined to exercise restraint when they are investigating Americans. We could ruin cases against suspected domestic terrorists, because our intelligence operatives do not conduct their investigations according to constitutional requirements, and the cases get thrown out. And unless the stovepipes we hear so much about are eradicated immediately under this bill, which seems unrealistic, we may even have multiple agencies conducting duplicate investigations against American citizens, trampling all over each other and the law.

Collins-Lieberman also enacts the largest ever surveillance intelligence network, which can be data-mined by personnel in various levels of government. Senator STEVENS and others point out that we do not even have the technology to meld all this intelligence in one database. While coordinating information among agencies is laudable, it is unclear that Collins-Lieberman addresses dangerous side effects of a new network database. Collins-Lieberman directs the White House to violate privacy protections, but of the three branches, the executive branch has the least incentive to balance individual rights concerns. Congress never held any hearings to address the civil liberties problems with such a network, or with turning over to the White House power to write privacy guidelines. Administration guidelines and a civil liberties board, contained in the bill, are not as likely to strike the correct balance over privacy issues as Congressional oversight and public debate would. At the very least, we need committee hearings to consider the consequences to our civil liberties of enacting a national network database.

At this time I would like to say a few words about this underlying bill's possible impact on a couple of our intelligence agencies. Because of the bill's considerable scope, I will only raise a few of the potential problems with the bill's agency reforms. The bill hampers the FBI Director's ability to manage the FBI. The bill creates conflicting reporting requirements for the FBI's Executive Assistant Director for Intelligence, making her responsible to the FBI Director and the NID. She will support not only the FBI's counterterrorism and counterintelligence programs, under the NID, but also the FBI's criminal and cyber missions, which are not under the NID. The bill provides no clear way to separate FBI criminal investigations from its intelligence work. I would not want to be the Executive Assistant Director of Intelligence under this structure—with dueling bosses and duplicative reporting requirements. Also, will the National Security Council's role be weakened by the creation of a separate board chaired by the NID? Will the NID be allowed to deny the Secretary of State and other cabinet-level Secretaries personnel decision-making over their own subordinates? I understand Collins-Lieberman will give the NID authority over analysis. Where does this leave CIA analysts? The bill does not address what the new role for CIA analysts will be. Have these matters been worked out, or even discussed in a public forum? I have focused on several agencies I am particularly acquainted with through my experience on the Commerce, Justice, State Appropriations Subcommittee. I am sure my colleagues are raising similar problems with reforming the agencies under their Committees' jurisdictions, and I encourage them to come forward and help us understand these important issues.

Mr. President, I'd like to say a few words about policy too. This administration is extremely reticent to spend money in Afghanistan, and it was trying to funnel to Iraq funds Congress allocated for Afghanistan long before the President started the Iraq war. Collins-Lieberman empowers the NID to transfer funds and personnel directed by Congress from one agency to another. For example, this body may substantially increase U.S. assistance to Afghanistan—I understand Senators MCCAIN and LIEBERMAN have advocated just such an increase. If we add funds for Afghanistan onto this bill, the NID could scrap the funds for Afghanistan and transfer them to fund a new operation in Syria or Iran. The NID would have a responsibility to inform Congress that he had moved this money, but these funds would be moved nonetheless. It is Congress's duty to allocate such funds. Empowering the NID to override Congress's funding priorities is bound to lead the NID to undermine Congress's powers, and instead use shift funds allocated by Congress to advance the administration's agenda.

As we consider this bill under great political pressure and with the election looming, we have considerable analogous precedent to reference. Recent hasty Congressional enactments of Homeland Security legislation and the Patriot Act show the need for more

measured action. Collins-Lieberman is thrown together in a matter of weeks. Surely most of us agree that at least some of its provisions are problematic. Much of the conversation I have heard on the floor this week sounds more like campaigning than legislating. The White House identifies problems throughout Collins-Lieberman—will the House version appeal more to the White House? A hastily thrown together conference resolving differences in the House and Senate versions will not be conducive to finding and fixing these inevitable problems. My friend Senator STEVENS says, ''Do no harm''. Whatever comes back from conference will have a tremendous head of steam behind it. By acting too fast on Collins-Lieberman, the Senate may get stuck with House provisions in a conference report that are unpalatable. Once reform is enacted, fixing missteps is extremely difficult. Experiences of homeland security legislation, passed right before an election, and the Patriot Act, prove that hasty restructuring results in confusion, mistakes and paralysis.

I conclude by asking my colleagues to support my amendment. Let's act now and enact my amendment, which fixes the main problem of the lack of a coordinator, and then let's continue to act as we learn. Let's sift through the litany of approaches being advanced by my colleagues in the underlying bill, and the rival approaches being advocated by others both within this body and outside it. My amendment starts us on the right track to improving our intelligence structure, and it avoids the potential to start us on the wrong track.

I appreciate the outstanding work Senator COLLINS and Senator LIEBERMAN have done and thank them for that. They met over the break in August and worked around the clock to produce a product so we could get something done before we leave in time for the elections in November.

However, in those pressures of time, they have come out with a product that needs many more hearings, more deliberation, and more consideration. In essence, they have a national intelligence director who directs and manages. Immediately that raised the red flag for this particular Senator.

When I say ''raised the red flag for this particular Senator,'' let me tell of an experience. It was 50 years ago we had the Hoover Commission Task Force investigating the intelligence activities of this Nation. We had the McCarthy days, McCarthy charging there were Communist spies and agents within the State Department, within the Defense Department, within the executive branch, and everywhere throughout the Government. President Eisenhower appointed the Doolittle Commission and they came out with what was considered generally in the Congress as a whitewash. The White House and Congress got together and agreed efforts should be conducted to reorganize the executive branch, thus, President Hoover's commission came to be.

A task force was headed by General Mark Clark. I served as one of those members of the task force investigating the CIA, the FBI, the Army, Navy, air intelligence, Secret Service, Q clearance, atomic energy intelligence, and on down the list. We spent some 2 years. After hearings and consideration of the generally speaking minute intelligence information at that time—I say ''minute'' for the simple reason that the intelligence information now correlated by the various entities and departments and agencies is like drinking water out of a fire hydrant. You have much, much greater volume. But even then we found the need for a coordinator.

I can see Allen Dulles of the Central Intelligence Agency. Director Dulles of the CIA said, I have my hands full trying to get the work done properly of the CIA, much less as the head of intelligence activities in the Government, namely the coordinator of all intelligence, the centralizer of all intelligence. That is why it was called the Central Intelligence Agency. He said, I have too much work to do. What we need is one single intelligence coordinator to coordinate all of it—my work, the FBI, Defense Department, military.

In those days all we had was foreign intelligence and military to bother with. We did not have terrorism threats and counterterrorism within the continental limits. Now we have heaped upon the responsibilities of the intelligence community all kinds of duties that need further deliberation and estimation because, as I say, the director of the national intelligence, when they said ''direct,'' when they said ''manage,'' I said heavens above, here is a flaw of September 11 intelligence. It was directed. It was managed. Everyone knows that now after the hearings.

The Vice President had his own little cabal in that Department of Defense. They had met with the head of the Defense Advisory Council, Richard Perle, and Scooter Libby and that group. They had submitted to the country of Israel in 1996—Benjamin Netanyahu was coming in as Prime Minister, and they submitted at that time that Saddam ought to be replaced with the Hashemite rule and they wanted to democratize Iraq back in 1996.

When Netanyahu refused doing that, they came back and organized themselves into the Project for the New American Century and they have been pressing forward ever since.

So when you direct and when you manage intelligence, you have a flawed product. We need coordination. You need to take the best of the best from the CIA, from the FBI, from the National Security Agency, from the National Reconnaissance Organization, and all these other entities and coordinate into a product to give to the President.

Suppose you were President in the next 10 minutes and you heard about a terrorist threat, not only foreign but domestic. What you would want in line, you would want a Karl Rove on intelligence. Now, the President has a Karl Rove on political intelligence. Karl Rove can tell you for any section of the country what is going on in any particular State. He has pollsters. He can give a consummate judgment or alternative to the President to make a judgment. That is fine business. We have that without legislation.

We need just that in security intelligence—not only foreign, not only domestic, not only military, but all three—security intelligence coordinator.

So when I say the national intelligence director directing and managing, I am saying, here is a flaw of September 11. You know the groupthink policy of the President. If you are directing and managing intelligence, what you do is go immediately and give that intelligence to the folks making the Presidential policy and you develop a group-think and a flawed product.

We do not want, necessarily, a director, certainly with all the duties that this particular director is burdened with but, rather, we want a coordinator. He should be or she should be in the National Security Council, appointed by the President, without confirmation by the Senate. You have to have your own person in there. And you have to not have him or her running over to several committees in the Senate and several committees in the House testifying about this management, this direction, this decision, this or that policy. He will have his hands full just with what the President wants.

Necessarily, we transfer those coordination responsibilities from the CIA over to this national intelligence coordinator. This is a short, two-page amendment by Senator STEVENS, Senator INOUYE, Senator COCHRAN, and myself. This was worked out this afternoon. I was trying to listen to the debate, and the more I listened, the more it impressed me that we needed much more deliberate work and consideration, and not the crunch of a national election to get all of us out of town and do something. So we are trying to respond to that edict of ''don't just stand there, do something.'' I am afraid we are going to enact the ''Alka Seltzer'' intelligence bill: I don't believe we passed the whole thing.

Look what it does. It directs and manages, but what intelligence is under the Department of Defense and what intelligence is under the national intelligence director. I searched and I found conflicts throughout the particular Collins-Lieberman measure, especially during a time of war. I can tell you, you are going to find all kinds of conflicts there. There are conflicts going on right now with the war in Iraq and the Secretary of Defense saying he is not going to stand for it. The national intelligence director has the defense intelligence budget, but then the

secretary of intelligence has the defense intelligence function and responsibility. And the Secretary of Defense does not have budget control over what he has responsibility. And then there is the ''ying'' and the ''yang'' of defense intelligence versus tactical intelligence. And I have listened to some, the distinguished Senator from California and others, on what they consider tactical intelligence.

On civil liberties, there are real grave concerns there because there is within the Federal Bureau of Investigation, that investigates crimes and protects civil liberties, a culture, a paradigm, and a discipline. The Justice Department has developed that over the years of different FBI Directors. Now, with respect to the national intelligence director, he can direct covert activity to be taken on by the FBI with none of that discipline and none of those checks and balances.

You have heard the distinguished Senator from Alaska with respect to the national intelligence director's transfer of funds, not only the reporting of funds. I can tell you now that will never happen where you can transfer funds because the Appropriations Committee has that responsibility.

I can go down the different disclosure of funds and various other things. What I want to emphasize is that I am not trying to disparage any of the wonderful work being done by our Governmental Operations Committee. They have a product out here now that we can develop and work upon and iron out the differences. But it should not be under the pressure that we are in and having passed ipso facto the Collins-Lieberman bill. You would not satisfy the problem of 9/11, and that is coordination.

You need the President's man or woman in that National Security Council, auditing, gaining, and getting. And mind you me, don't worry about getting it, now that you have a coordinator sitting there with the President. For example, that Arizona flight school information that did not get through the FBI to the coordinator, because they did not have one, is excused. That Minnesota terrorist who did not want to land the plane, all he wanted to do was fly it into a building; that came to the CIA but did not get to the White House. Known terrorists came into the country, passed the Immigration department, and the Naturalization Service. That did not get to the Director.

But mind you me, if you have a coordinator, and the information of that importance does not get through to that coordinator, the opposite is going to be true. Rather than the old days when you held within your particular department or agency your intelligence and your information, and you did not tell the FBI, and the FBI did not tell the CIA, here you are going to try to regurgitate and spit up and throw out and report to that coordinator. Because if he does not get it at the White House level, heads are going to roll.

So we have changed the culture and discipline by having one coordinator. That is all you need. We can go home and know that the job is done. The FBI is working. The CIA is working. The National Security Agency now knows not to wait until tomorrow to translate their go signal. As they went into the World Trade Towers, they were a day late in translating documents.

We can go home and know that the President is equipped with a coordinator. And immediately, if I am running the CIA or FBI, I am going to start getting my information out rather than hiding it. That is the real difficulty: The dots were there, but the dots were not joined. With the Collins-Lieberman bill what you are instituting and legislating into law is the flaw of 9/11. You have a director of intelligence. You have a manager of intelligence. And that is how they got into the World Trade towers and into the Pentagon. It was managed.

I can see the President on October 7, 2002, in Cincinnati. ''Facing clear evidence of peril, we cannot wait until the smoking gun is a mushroom cloud,'' he said. Seven days later I voted for the authority to go to the war when the President asked—I did not sit on the Intelligence Committee. When my Commander in Chief says: ''Facing clear evidence of peril, we cannot wait until the smoking gun is a mushroom cloud,'' I voted aye. Then I found out there weren't no smoking guns, there were no mushroom clouds, there were no facilities, there were no weapons, there were no terrorist threats. But that is another argument.

I am trying to get something done where we in good conscience can protect our national security, protect us against domestic terrorism. And we can fix this bill.

Now, let me add one little thing. I don't know whether Senator STEVENS, my dear colleague, or Senator INOUYE or Senator COCHRAN wants to talk. But I would agree, I don't need, unless I am questioned, another 10 minutes. And I know they have amendments of their own. So I would agree to a time limit on either side if the distinguished managers of the bill are trying to get to a vote.

Ms. COLLINS. How much more time does the Senator from South Carolina believe he would require?

Mr. HOLLINGS. Let me reserve 10 minutes. I don't know if I will use it.

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from South Carolina be accorded up to 10 minutes more for his debate, and then that Senator LIEBERMAN and I have up to 10 minutes for us to use in opposition to the Hollings amendment. Then it is my intention to move to table.

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

Mr. HOLLINGS. Mr. President, I will use just 1 minute for the Hollings-Stevens-Inouye-Cochran amendment. It is my policy, and it is not to be treated casually. It is to be treated seriously because what we are going through is this exercise here. And if you had the Collins-Lieberman bill up, I would vote to get it to the House and let them try to hammer it out. They don't have the coordinator.

I was just about to say, the reason they didn't have that coordinator is that the 9/11 Commission is even Stephen, Republican-Democrat. And they wanted to have a unanimous report, and I agree with that. So they didn't hammer and zero in or bull's-eye the real need and the real fault of 9/11. They didn't join the dots. They didn't have a coordinator. And if they were going to come out on that unanimously, they would have found fault at the White House level. It is just as simple as that.

I know another time in the history of this Government where we knew full well that President Reagan knew about the Contras, at least I was convinced so. But you couldn't report it. You couldn't say it. You couldn't do it for the simple reason that these so-called commissions that are now sanctified are really politically balanced, and they leave out the necessary one. In this particular instance, we need a coordinator. You can get all of the directors. You can get all of the budgets. You can get all hammered out about the Defense Department. Just leave it all alone or put it all through. And you haven't satisfied and gotten a coordinator at the National Security Council.

We had that amendment early on last year, and the vote was 49 to 48. We put him on. I had that amendment up. It was a partisan vote.

Now I have worked yesterday and today to explain it to colleagues on the other side of the aisle, and it is bipartisan by the most responsible of Senators other than myself. I hope we don't treat it casually as something to be tabled and walk away and say: Let's have another amendment. We don't want to vote on Friday. Let's get some votes.

We are all thinking about procedure and not thinking about the country. We are all thinking about the campaign and not the country.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the amendment offered by the Senator from South Carolina eviscerates the underlying bill. I want to be very clear about that. His amendment takes a radically different approach to intelligence reform. The Hollings amendment creates a national intelligence coordinator and transfers to this individual the responsibility and authority that the Director of Central Intelligence now has as head of the intelligence community. The DCI would remain as head of the CIA and principal adviser to the President.

This approach is completely contrary to the recommendations of the 9/11

Commission. It is completely contrary to the report of the congressional joint inquiry. It is completely contrary to numerous government and private sector reports over the past five decades.

The Hollings amendment gives the national intelligence coordinator the responsibility to manage the intelligence community but does not give that individual any additional authority to allow him to accomplish that task. The Hollings amendment also provides that except as otherwise provided by law, the national intelligence coordinator shall not be accountable to Congress regarding the performance of the responsibility of the coordinator. It is difficult to imagine why we would establish such a position with a list of legally defined responsibilities and authorities currently in the National Security Act of 1947, very important responsibilities and authorities which affected the security and the liberty of the American people, and then specifically provide that this individual is not accountable to Congress.

I am strongly opposed to this amendment. It guts the entire Collins-Lieberman bill. I urge my colleagues to defeat it.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to oppose the Hollings amendment. The Senator from South Carolina raised a question: Who cares about the country? Who is putting the country's interests and security first?

I assure him that Senator COLLINS and I, the members of our committee from both parties, care about the country, care about the security of the country, worry about the imminence of a terrorist attack, read the reports, came in in July and August and September, worked real hard to produce this proposal.

Talk about treating something casually, the amendment of the Senator from South Carolina would casually eliminate all our work and that of the 9/11 Commission and a series of commissions going back to 1947, when the National Security Act was adopted, recommending a strong national intelligence director.

What you are doing is creating a position that is cosmetic, that has no teeth to it, and will not be able to do what we need to do. It will bring us back to where we were before September 11, with no one in charge and, even worse, the appearance of someone in charge.

Witness after witness—people no one would treat casually, Secretaries of State, heads of the intelligence community, the past three or four of those people said: The worst thing you can do is to create a position and not give that position the authority to direct the intelligence community.

With all respect, that is what the amendment of the Senator from South Carolina is doing.

Secretary Powell said to us on September 13 of this year at a hearing:

> A [Director of Central Intelligence] was there before, but the DCI did not have that kind of authority. And in this town, it's budget authority that counts. Can you move the money? Can you set standards for people? The [national intelligence director]—

The one created in our bill—

> will have all of that, and so I think this is a far more powerful player. And that will help the State Department.

Stansfield Turner, CIA Director under President Carter, told us on August 16:

> I think it's empowering somebody to run a $40 billion a year . . . operation. And we just don't have that. And we need to have a CEO. So the real issue is just how much authority to give that CEO and still protect the Department of Defense. And I, as a military officer, would err on the side of giving it to the national intelligence director.

That is what we do.

With all respect, not casually, we have built in a lot of time and effort that this committee put in over a period of time on a totally bipartisan basis. This amendment would take us back to where we were when we were struck on September 11, 2001. I don't want to go back there, and that is why I oppose this amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Well, two points quickly: I don't go back to 1947, but I go back to 1953 and 1954 under the Hoover Commission. And I would refer you to that report. They ask for a national intelligence coordinator. Allen Dulles would say—he was directing Central Intelligence—you can run the National Security Agency, you over at the Department of Defense, and you can direct and manage military intelligence and these different departments. But take those cold turkey facts of intelligence and information and have them coordinated—not superduper $40 billion. It sounds pretty on paper, but I can tell you right now, that is what was wrong with 9/11. The intelligence was directed, was managed.

Why do you think the head of the CIA hammered and slammed his fist on the desk of the President and said, Slam dunk, Mr. President, we got all the information you need on weapons of mass destruction, when he didn't even have an agent in downtown Baghdad. We were about to invade Iraq, and we had not an agent. That was the same director who was the staff director before Gulf Storm and Senator Bill Cohen and I came back to be briefed on Iraq and Baghdad, against Saddam. And George Tenet, the staff director at that time, said: Gentlemen, we don't have an agent in Baghdad. We don't have one in Iraq. We will have to call over to the Defense Department. Here, 11 years later, we still don't have somebody down there. Now we have operative agents and everything else trying to manage elections and what have you. So the idea is to coordinate impartial, objective intelligence facts, not manage intelligence.

Secondly, the Congress stays out of it, Senator COLLINS, most respectfully. The Congress stays out of the affairs of Condoleezza Rice. She is the National Security Adviser. We don't call her up willy-nilly before 15 different committees here on the Hill and say testify here and there. You don't want that. If you are the President, you want it coordinated subject to you. That is what you need. You don't call Karl Rove up here and ask him about political intelligence; you have him working around the clock. He has us Democrats on the run.

I want the same kind of job done in domestic intelligence, foreign intelligence, and military intelligence. I want it coordinated for the President so the buck doesn't stop here because the dots were not joined. Now we are about to join the dots in this amendment. Of all people, they say let's don't join them, let's just manage; and we have $40 billion or $30 billion, whatever it is, and we are going to manage indirectly and we are going to screw up the Defense Department, the FBI, civil rights, and everything else, in the head-on rush we have here this afternoon.

I yield back the remainder of my time.

Ms. COLLINS. Mr. President, I move to table the Hollings amendment and 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. MCCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. KYL), and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Georgia (Mr. MILLER), and the Senator from Florida (Mr. NELSON), are necessarily absent.

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

The result was announced—yeas 82, nays 7, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—82

Alexander	Chambliss	Durbin
Allard	Clinton	Ensign
Allen	Coleman	Enzi
Baucus	Collins	Feingold
Bayh	Conrad	Feinstein
Bennett	Cornyn	Fitzgerald
Bingaman	Corzine	Frist
Bond	Craig	Graham (SC)
Breaux	Crapo	Grassley
Brownback	Daschle	Gregg
Bunning	Dayton	Hagel
Campbell	DeWine	Harkin
Cantwell	Dodd	Hatch
Carper	Dole	Hutchison
Chafee	Dorgan	Inhofe

Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Murkowski
Murray
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Shelby
Smith
Snowe
Specter
Stabenow
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—7

Burns
Byrd
Cochran
Hollings
Inouye
Sessions
Stevens

NOT VOTING—11

Akaka
Biden
Boxer
Domenici
Edwards
Graham (FL)
Kerry
Kyl
McCain
Miller
Nelson (FL)

The motion was agreed to.

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

AMENDMENT NO. 3802

Ms. COLLINS. Mr. President, I move to table the Lautenberg amendment and 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 assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN) and the Senator from Kansas (Mr. BROWNBACK) are necessarily absent.

I further announce that if present and voting the Senator from Kansas (Mr. BROWNBACK) would vote ''yea.''

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Illinois (Mr. DURBIN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY) and the Senator from Florida (Mr. NELSON) are necessarily absent.

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

The result was announced—yeas 47, nays 41, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—47

Alexander
Allard
Allen
Bennett
Bond
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Lieberman
Lott
Lugar
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—41

Baucus
Bayh
Bingaman
Breaux
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Feingold
Feinstein
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Specter
Stabenow
Wyden

NOT VOTING—12

Akaka
Biden
Boxer
Brownback
Domenici
Durbin
Edwards
Graham (FL)
Kerry
Kyl
McCain
Nelson (FL)

The motion was agreed to.

Ms. COLLINS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 3819

Mr. ENSIGN. Mr. President, I ask unanimous consent to lay the pending business aside and call up amendment No. 3819.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mr. KYL, Mr. CHAMBLISS, Mr. CORNYN, Mr. GRASSLEY, and Mr. SESSIONS, proposes an amendment numbered 3819.

Mr. ENSIGN. 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 require the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators)

At the end, add the following:

TITLE IV—OTHER MATTERS

SEC. 401. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: ''All immigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(2) NONIMMIGRANT VISAS.—Subsection (d) of such section is amended by adding at the end the following: ''All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: ''As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.''.

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) PLACEMENT OF SPECIALIST.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify 100 of such posts that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall place in each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 2,000 the number of positions for full-time active duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were allotted for the preceding fiscal year. At least half of these additional investigators shall be designated to investigate potential violations of section 274A of the Immigration and Nationality Act (8 U.S.C 25 1324a). Each State shall be allotted at least 3 of these additional investigators.

Mr. ENSIGN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 3815

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the pending amendment be laid aside and call up amendment No. 3815, which is at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER], for himself, Mrs. HUTCHISON, Mr. ROBERTS, and Ms. MIKULSKI, proposes an amendment numbered 3815.

The amendment is as follows:

(Purpose: To improve and provide for the review of intelligence estimate and products)

On page 17, between lines 19 and 20, insert the following:

(11) direct an element or elements of the intelligence community to conduct competitive analysis of analytic products, particularly products having national importance;

(12) implement policies and procedures to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community and to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

On page 17, line 20, strike ''(11)'' and insert ''(13)''.

On page 17, line 22, strike ''(12)'' and insert ''(14)''.

On page 18, line 1, strike ''(13)'' and insert ''(15)''.

On page 18, line 4, strike ''(14)'' and insert ''(16)''.

On page 18, line 7, strike ''(15)'' and insert ''(17)''.

On page 18, line 14, strike ''(16)'' and insert ''(18)''.

On page 18, line 17, strike ''(17)'' and insert ''(19)''.

On page 18, line 20, strike ''(18)'' and insert ''(20)''.

On page 19, line 5, strike ''(19)'' and insert ''(21)''.

On page 19, line 7, strike ''(20)'' and insert ''(22)''.

On page 31, line 1, strike ''112(a)(16)'' and insert ''112(a)(18)''.

On page 49, line 13, insert '', and each other National Intelligence Council product'' after ''paragraph (1)''.

On page 49, line 15, insert ''or product'' after ''estimate''.

On page 49, line 17, insert ''or product'' after ''estimate''.

On page 49, line 19, insert ''or product'' after ''estimate''.

On page 49, line 22, strike ''such estimate and such estimate'' and insert ''such estimate or product and such estimate or product, as the case may be''.

On page 49, line 24, insert ''or product'' after ''estimate''.

On page 51, between lines 5 and 6, insert the following:

(i) NATIONAL INTELLIGENCE COUNCIL PRODUCT.—For purposes of this section, the term ''National Intelligence Council product'' includes a National Intelligence Estimate and any other intelligence community assessment that sets forth the judgment of the intelligence community as a whole on a matter covered by such product.

On page 56, line 20, strike ''(15) and (16)'' and insert ''(17) and (18)''.

On page 87, line 16, strike ''and'' at the end.

On page 87, between lines 16 and 17, insert the following:

(D) conduct, or recomend to the National Intelligence Director to direct an element or elements of the intelligence community to conduct, competitive analyses of intelligence products relating to suspected terrorists, their organizations, and their capabilities, plans, and intentions, particularly products having national importance;

(E) implement policies and procedures to encourage coordination by all elements of the intelligence community that conduct analysis of intelligence regarding terrorism of all Directorate products of national importance and, as appropriate, other products, before their final dissemination; and

On page 87, line 17, strike ''(D)'' and insert ''(F)''.

On page 96, line 16, strike ''foreign''.

On page 100, between lines 3 and 4, insert the following:

SEC. 145. OFFICE OF ALTERNATIVE ANALYSIS.

(a) OFFICE OF ALTERNATIVE ANALYSIS.—There is within the National Intelligence Authority an Office of Alternative Analysis.

(b) HEAD OF OFFICE.—The National Intelligence Director shall appoint the head of the Office of Alternative Analysis.

(c) INDEPENDENCE OF OFFICE.—The National Intelligence Director shall take appropriate actions to ensure the independence of the Office of Alternative Analysis in its activities under this section.

(d) FUNCTION OF OFFICE.—(1) The Office of Alternative Analysis shall subject each National Intelligence Estimate (NIE), before the completion of such estimate, to a thorough examination of all facts, assumptions, analytic methods, and judgments utilized in or underlying any analysis, estimation, plan, evaluation, or recommendation contained in such estimate.

(2)(A) The Office may also subject any other intelligence estimate, brief, survey, assessment, or report designated by the National Intelligence Director to a thorough examination as described in paragraph (1).

(B) Not later than 180 days after the date of the enactment of this Act, the Director shall submit to the congressional intelligence committees a report on the estimates, briefs, surveys, assessments or reports, if any, designated by the Director under subparagraph (A).

(3)(A) The purpose of an evaluation of an estimate or document under this subsection shall be to provide an independent analysis of any underlying facts, assumptions, and recommendations contained in such estimate or document and to present alternative conclusions, if any, arising from such facts or assumptions or with respect to such recommendations.

(B) In order to meet the purpose set forth in subparagraph (A), the Office shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community and such other reports and information as the Director considers appropriate.

(4) The evaluation of an estimate or document under this subsection shall be known as a ''OAA analysis'' of such estimate or document.

(5) Each estimate or document covered by an evaluation under this subsection shall include an appendix that contains the findings and conclusions of the Office with respect to the estimate or document, as the case may be, based upon the evaluation of the estimate or document, as the case may be, by the Office under this subsection.

(6) The results of each evaluation of an estimate or document under this subsection shall be submitted to the congressional intelligence committees.

On page 194, line 9, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 195, line 16, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 195, line 23, strike ''112(a)(11)'' and insert ''112(a)(14)''.

On page 196, line 7, strike ''112(a)(11)'' and insert ''112(a)(14)''.

Mr. ROCKEFELLER. Mr. President, I rise to offer, along with Senator HUTCHISON, and also Senator ROBERTS and Senator MIKULSKI, this amendment. I will explain it in further detail. But the main objective of our amendment is to institutionalize much needed reform, based upon our recent experience, which is, namely, the practice of alternative analysis, or, as we say, ''red teaming,'' in the production of significant intelligence assessments.

As to this Rockefeller-Hutchison amendment, I am very pleased to say I believe the distinguished chair and ranking member of the Committee on Governmental Affairs have indicated their support for this amendment—that is my hope—and that, therefore, the amendment will be accepted by them and supported, obviously, by our colleagues without the need for a vote.

Section 123 of the Collins-Lieberman bill provides for placement of the National Intelligence Council within the office of the national intelligence director. The Council is currently under the Director of Central Intelligence.

As the Senate Intelligence Committee report on prewar intelligence on Iraq explains, National Intelligence Estimates are the intelligence community's most authoritative written judgments—they are the golden standard—on national security issues.

The Collins-Lieberman bill reforms the work of the National Intelligence Council, based in significant part on the findings of the Intelligence Committee's Iraq review.

Importantly, it requires the National Intelligence Estimates to distinguish between the intelligence underlying estimates and the judgments of analysts about the intelligence itself. The bill also requires that the estimates describe the quality and reliability of the intelligence underlying the analytical judgments, present and explain alternative conclusions, and characterize any uncertainties. Our amendment builds upon this important reform in two ways.

First, our amendment applies these reforms not only to National Intelligence Estimates, to which they are currently limited, but also to other analytical products of the National Intelligence Council, which is the senior group made up of intelligence people and people from public and private sectors—the senior group.

Second, our amendment will institutionalize a method of ensuring that an alternative analysis is used in the preparation of National Intelligence Estimates and is available to policymakers reviewing the estimates so they get the full picture.

It does this by providing for the establishment within the national intelligence authority of an office of alternative analysis, whose head will be appointed by the national intelligence director. The national intelligence director is required to ensure the independence of the office of alternative analysis. The unit is directed to review every National Intelligence Estimate, and any other intelligence report designated pursuant to guidelines established by the director.

The important purpose of the Rockefeller-Hutchison bill is the following: To thoroughly examine all facts, all assumptions, analytical methods, and judgments used in the estimate—in other words, the ability to question, to

be a contrarian, to dig deeper, to ask questions that otherwise and heretofore have not been asked. To make sure that the alternative analysis is available to policymakers, our amendment also requires that each National Intelligence Estimate or other product that is subject to an alternative analysis include the alternative analysis in its appendix.

While our Intelligence Committee's Iraq review did not include committee recommendations, I can assure our colleagues of the widespread support within our committee of the importance of alternative analysis or ''red teaming'' as it is called informally. It remains important for the body of the National Intelligence Estimate to state dissent from within the intelligence community. But beyond that, it is vital for a dedicated group of analysts to examine all aspects of an estimate—data, assumptions, analytic methods, and judgments.

The ultimate objective is to enable the National Intelligence Council personnel, the national intelligence director, and the executive and legislative branch policymakers to appraise the intelligence community's analysis on matters central to our national security.

I would like to express my special appreciation to Senator HUTCHISON who has been working on this for a long time and had a similar amendment. Our staffs worked flawlessly together. Senator ROBERTS, chairman of the full Intelligence Committee, also had a related amendment making it clear that the national intelligence director is responsible for ensuring competitive analysis throughout the intelligence community. I thank both Senators for their contribution.

I also wish to express my appreciation to Congresswoman JANE HARMAN for developing in the House an alternative analysis proposal from which we have benefited preparing this amendment.

I hope the Rockefeller-Hutchison amendment is acceptable.

I yield to the distinguished Senator from the State of Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank Senator ROCKEFELLER for working with me on this amendment. We had very similar amendments that both of us filed independently and our staffs got together with the distinguished chairman of the Governmental Affairs Committee, Senator COLLINS, and the ranking member, Senator LIEBERMAN, and I think we have come up with a comprehensive approach to competitive analysis. It is something the majority of people who have served on the Intelligence Committee know is desperately needed. Particularly as we are consolidating agencies and trying to make our agencies mesh better together. It is very important that we keep the competition of ideas, challenge assumptions, and ensure a forum is provided for alternative ideas and recommendations. The end result is an office which will perform what many refer to as ''red teaming'' that is so important to an effective intelligence network.

When Dr. Henry Kissinger testified before the Appropriations Committee, of which I am a member, he said, particularly with the consolidation of intelligence oversight, you have to make sure that you have some way of finding out if there were different conclusions reached with the same or even other extraneous material.

We had the challenge of making sure that the competition of ideas was not lost. I believe the Rockefeller-Hutchison amendment does exactly that.

I thank the Senator from West Virginia, Mr. ROCKEFELLER. I appreciate Senator ROBERTS also working with us on this, and Senator MIKULSKI. Senator KYL was interested in this as well. Everyone came together, and I think the result will be an office which is able to quickly adapt to terrorist threats. It will be an office of alternative intelligence analysis that will be able to challenge the assumptions and make sure that our highest policymakers, including the President of the United States, have access to this alternative analysis so that he will be able to make the very best decisions.

I thank the distinguished chairman and ranking member of the committee. I thank Senator ROCKEFELLER. I think we have a wonderful approach, a wonderful amendment that will add greatly to the bill and the goal we are all trying to reach of a quality intelligence product with which our President and our Secretary of State, Secretary of Defense can make decisions.

I yield the floor and urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I commend Senator ROCKEFELLER and Senator HUTCHISON for their amendment to improve the quality of intelligence analysis by creating a red team. Both of them talked to me very early on about the need for this improvement in our bill. Senator ROBERTS and Senator MIKULSKI have also been very interested in this issue. I am very pleased they have been able to come together. They have produced an excellent amendment that will improve the quality of intelligence analysis.

I also urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank our colleagues from West Virginia, Texas, and Kansas for this amendment. It has been a priority of our focus, Senator COLLINS and mine and the committee, to make sure that intelligence is not only coordinated by the national intelligence director and the dots are connected, but that intelligence be high quality and objective and subjected to the competition of ideas. This amendment makes that basic approach even stronger.

I thank our friends for all they have done. Senator ROCKEFELLER, again, if I haven't said it on the floor, has been a tremendous contributor to our effort. I thank him for all the support he has given.

The PRESIDING OFFICER. Is there further debate on amendment No. 3815?

If not, without objection, the amendment is agreed to.

The amendment (No. 3815) was agreed to.

AMENDMENT NO. 3942

Mr. LIEBERMAN. Mr. President, I have an amendment which I send to the desk at this time.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

Without objection, the amendment is in order, and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. MCCAIN, and Mr. BAYH, proposes an amendment numbered 3942.

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

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

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

Mr. LIEBERMAN. Mr. President, I rise with Senator MCCAIN to offer this amendment that takes the fight against terrorism right to where they live—right to their front lines.

This amendment says we will identify terrorist havens and—working with our allies—we will break them up and keep them on the run.

They will have no peace, no rest, no time to settle in and plot destruction.

This amendment also says we will attack and cut their most vital supply line—the disaffected young who serve as recruits.

We will do this by showing the Muslim world—especially the young—that we believe in and can help them achieve their dreams of living in a 21st century world that still respects the tenets of Islam.

These goals are a challenge. But if we succeed—and we must—this generation will see the calls to jihad fade and the global chorus celebrating our shared humanity and peaceful futures grow.

Let us start with the challenge of eliminating terrorist sanctuaries and their sense of safety.

As the 9/11 Commission reported, terrorist cells stretch from Afghanistan right into the major cities of Europe. And as 9/11 proved, into the United States as well.

To fight and win this war, we need to identify these pockets of terrorist sanctuaries and, working with other nations, develop strategies that in the words of the Commission:

Keep possible terrorists insecure and on the run using all instruments of national power.

The Commission did identify specific countries where we should concentrate our immediate efforts and I would like to focus on two of them.

One is Afghanistan. This almost goes without saying.

This is where al-Qaida trained its killers. This is where the 9/11 plot was hatched. This is where the tyrannical Taliban rulers enslaved an entire nation except for those who plotted global destruction.

This amendment says that Congress needs to authorize the aid and support necessary for the entire Afghan nation to finally realize its freedom, which is so close but still so fragile.

At this stage, half measures in Afghanistan are the same as throwing a five-foot rope to someone drowning 10 feet away. We can't let that happen.

Another country identified by the Commission was Pakistan.

In the immediate aftermath of 9/11, the Pakistani government made the choice to stand with us in the fight against terrorism at great risk to the stability of the nation and the lives of its leaders.

We have no choice but to stand by them.

Pakistan may be an imperfect ally at times. But they have been a loyal ally—committing troops on their own frontiers to hunt down al-Qaida fighters and denying them safe bases.

This amendment says we not only need to maintain our current financial support of Pakistan, but let the Pakistanis know we are making a long-term commitment to the future of their nation.

They need to know they have our support for as long as they remain true to their goals of defeating domestic extremists, promoting a civil society and preserving the hope of Pakistani democracy that can become another beacon for the Muslin world in the years to come.

Just imagine if one of the outcomes of the global war against terrorism was stable democracies in Afghanistan, Pakistan, and Iraq.

This goal is within our grasp. It is within our means. Only our vision can fail us now.

And vision—long-term vision—is what we will need to fulfill the second part of the strategy outlined in this amendment.

We must win over the minds of the Muslim world, especially the young, by reaching out and talking to them in ways we never have before.

Let me pose a question the 9/11 Commission asked.

How can a man hiding in a cave be communicating more effectively with the Muslim world than the nation that invented mass media and the Internet?

The 9/11 Commission report said:

> To Muslim parents, terrorists like bin Laden have nothing to offer their children but visions of violence and death.
>
> America and its friends have a crucial advantage. We can offer these parents a vision that gives their children a better future.

But it doesn't matter if we don't effectively communicate that vision.

This amendment says we must improve our mass communications efforts with the Muslim world through sustained and well-funded broadcast efforts on satellite television and radio.

That is a good start. But this can't just be an air war. Minds are won over more by actions than words.

And this amendment looks to engage the minds of Muslim youth by rebuilding scholarship, student exchange and library programs.

It also calls for establishing an International Youth Opportunity Fund—that other nations would be asked to contribute to—that would help build and operate primary and secondary schools in Muslim nations committed to public education.

Why do this? Because most of these nations are too poor to pay for public education.

Instead, students attend Madrassahs that far too often are classrooms where hatred is taught and bigotry affirmed.

Consider this: In Karachi, Pakistan, 200,000 students attend Madrassahs; 200,000 in one city alone. Multiply that over the entire Muslim world. We can't possibly keep up with those numbers year after year.

The challenges ahead of us are daunting. But with this amendment we say that we are ready and willing to go to the front lines of the terrorist world and take away the sanctuaries where they hide—and take back the minds that they steal.

This is another in a series of amendments that Senator MCCAIN and I have offered to carry out the recommendations of the 9/11 Commission. This one has to do with recommendations they have made with regard to foreign policy. It has been cleared on both sides. I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 3942) was agreed to.

Mr. LIEBERMAN. I thank the Chair.

AMENDMENT NO. 3781, AS MODIFIED

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask the Senate to turn to the consideration of amendment No. 3781 which is pending at the desk.

The PRESIDING OFFICER. Without objection, it will be the pending business.

Mr. WARNER. Mr. President, I send to the desk a modification of the amendment.

The PRESIDING OFFICER. Is there objection to the modification or has the modification been cleared by the leader?

Mr. WARNER. My understanding is the modification is accepted by the managers.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 119, strike lines 16 through 18 and insert: ''The National Intelligence Director shall convene regular meetings of the Joint Intelligence Community 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.''.

Mr. WARNER. Let me explain the modification. The original text required that the national intelligence director, in his capacity as chairman of the to-be-created joint intelligence community council that was part of the President's message, originally I had it that he would have monthly meetings of the council or meetings upon the request of the members of the council. But I think it more appropriate that that be modified, which has now been done, such that the amendment will read: Strike that paragraph and in its place put the national intelligence director shall convene regular meetings of the joint intelligence community council. And then I will address the balance of the amendment.

It has been my concern, and I think from a fair reading of the 9/11 Commission report, that we have to keep the views of those individuals primarily responsible for the collection, dissemination, and analysis of intelligence, those individuals who are on, incidentally, the council, who are your principal Cabinet officers—and that is the Secretaries of State, Defense, Homeland Security, Energy, Treasury, and the Attorney General—those individuals from time to time could develop positions regarding an intelligence issue which are at variance with the national intelligence director.

That collection of Cabinet officers is a vast array of individuals who will be working on issues of intelligence, collaborating with other agencies. From time to time, I am of the opinion that one or more of the members of the council might well have opinions that are at variance with the national intelligence director, and that when the national intelligence director goes to brief the President, there should be an obligation in law—I feel that strongly

about it—that those opinions at variance with the national intelligence director must be given to the President and such others who may be in attendance at the time the national intelligence director presents his or, as the case may be, her viewpoint.

The strength of our intelligence system has to be predicated on competition of thinking. I have always liked the word that the 9/11 Commission seized upon, ''imagination.'' It seems to me that type of competition and imagination is likely to develop better if we have the certainty that the viewpoints the President receives from the national intelligence director are not held by one or more of the members of that council, but that the President will receive the benefit of the other viewpoints. I think that system has to be made and put into law. It is so vitally important because, for example, as a member of the Intelligence Committee, when we examined, in extensive hearings conducted by Chairman ROBERTS and Vice Chairman ROCKEFELLER, the issue of weapons of mass destruction—and the conclusion that is being reached is that there was a substantial variance between the intelligence opinions and what is evolving as the actual, factual situation—it appears that the caveats were not given the proper emphasis by people, from the President on down, as they reviewed the work of the various intelligence-collecting agencies.

For example, the CIA had its position. From time to time, the Department of Energy had opinions at variance with the CIA. At times, there were opinions of the DIA, the Defense Intelligence Agency, which were at variance with the opinions of other departments and agencies. I think it is essential. Those caveats, in the case of weapons of mass destruction—I will use the phrase that they were not given the emphasis that was needed. That is a whole chapter. It is all laid out in a very extensive report developed by the Intelligence Committee, which is now public record.

This amendment, hopefully, will go a long way to ensure that diverse opinions will be given to our President. That is the thrust of it. It is patterned after the Goldwater-Nichols Act—a piece of legislation on which I was privileged to have a very active role, enacted by the Congress in the late 1980s—which organized some elements of the Department of Defense and, most specifically, the joint staff.

Mr. President, the act said that when the Chairman of the Joint Staff meets with the President of the United States, if there were members of the Joint Chiefs—i.e., Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps—who held opinions at variance with the Chairman, the Chairman was obligated under law to share those opinions with the President and such others as the Chairman of the Joint Chiefs of Staff was addressing. That has been a very effective piece of legislation.

This amendment is patterned almost verbatim after, and consistent with, the Goldwater-Nichols Act. Frequently, the 9/11 Commission, quite properly, paid a great deal of respect to that piece of legislation.

In concluding my remarks—and I have worked on this, but I have not found a solution yet—this Senator is concerned about the future of the Central Intelligence Agency as an organization and the role of the head of that agency—now our former distinguished former colleague, Porter Goss. Therein resides an enormous wealth of professional people in all the nations of the world, in one way or another, who have come up through the ranks, training and taking risks, often commensurate with the risks the men and women of the Armed Forces take, often with long separations from their families in some of the more difficult posts in the world. All of that infrastructure is going to remain under the Director of the CIA, who will now report no longer directly to the President but to the concept of the new national intelligence director. That has been decided.

I may eventually come up with the solution. I am trying to figure out how, if the Director of the CIA has a view that is held strongly, and it is at variance with the viewpoint of the national intelligence director, how that view can be properly emphasized and given to the President and such other persons as the NID will be addressing.

Mr. STEVENS. Will the Senator from Virginia yield for a question?

Mr. WARNER. Yes.

Mr. STEVENS. Mr. President, I am a cosponsor of this amendment. As I listen to the Senator from Virginia, I wonder, I don't see anything in this bill that allows the separate agencies to communicate with the Congress, as they have in the past, such as the CIA and the NRO. They have all come directly to us. Would your amendment preserve the right of the people who would disagree with the NID to communicate with the Congress, as well as the Executive?

Mr. WARNER. Yes. My last section, recommendations to Congress, says:

> Any member of the Joint Intelligence Community Council may make such recommendation to Congress relating to the intelligence community as such member considers appropriate.

So in this particular law is specific authority for those Cabinet officers and others to come directly to the Congress. I am glad my colleague brought that up.

Mr. STEVENS. Will the Senator yield for another question?

Mr. WARNER. Yes.

Mr. STEVENS. The Senator from Virginia and I both served for a while in the executive branch. We know Cabinet officers often put down in the law about who can contact Congress on what. I don't know if it happened on your watch. It happened on mine.

Mr. WARNER. It happened on mine when I was in the Department of Defense.

Mr. STEVENS. Some people don't believe this language is necessary. Would the Senator agree if there is going to be the right to communicate, to go up the line toward the President or to the Congress, it has to be in the law? People's rights have to be protected to contact us?

(Mr. CORNYN assumed the Chair.)

Mr. WARNER. Mr. President, I think it does, and that is why I have put in this paragraph, which is very explicit. This paragraph relates to the members of the Joint Intelligence Community Council, which I enumerated before as the several Cabinet officers—Secretaries of State, Defense, Homeland Security, Energy, and the Attorney General.

Mr. STEVENS. Mr. President, if the Senator will yield once more, I sort of feel we have to put some meat on the bones of this commission a little bit as we go along to allow the Secretaries of the whole community to participate in the process—budget, management, and oversight. Will not the amendment of the Senator from Virginia strengthen oversight by giving the people involved in oversight the chance to hear the dissenting opinions as well as the opinion of the NID?

Mr. WARNER. The Senator is correct, Mr. President.

Mr. STEVENS. I thank the Senator.

Mr. WARNER. The Senator is correct.

I yield the floor for a moment for the purpose of receiving the distinguished chairman's views on this matter.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, let me begin by saying that I very much appreciate the distinguished Senator from Virginia, the chairman of the Senate Armed Services Committee, working with Senator LIEBERMAN and me to modify his amendment so that it is consistent with the goals of our legislation.

The JICC was suggested by the White House when we drafted our bill. I view it as an important component of the Collins-Lieberman bill because it provides a forum for the national intelligence director to solicit the views of and to receive advice from key Cabinet members on a wide variety of issues.

It is important for the members of the JICC—the Secretaries of State, Defense, Homeland Security, and the Attorney General, and other Departments, Treasury as well—to see the council as a way to communicate their views freely to the NID to help the NID reach the right decisions and to be a forum for a wide variety of issues.

It is also important for the NID to remain firmly in control as chairman of the council, and I believe the modification makes clear that it is the NID who is the chairman and who will regularly convene this council.

Senator WARNER's amendment, as modified, meets both those goals. It

strengthens the bill. I can speak on behalf of the ranking member of the committee in urging its adoption. I thank the Senator again for working with us.

Mr. WARNER. Mr. President, I thank my distinguished friend and colleague, the manager. Might I solicit her views on the concern I have—and I have not figured out how to do it. The views of the Secretaries of State and Defense are very important because they have their own internal intelligence functions and they are subjected to this, particularly those two Cabinet officers, on a daily basis.

The Director of the CIA will report to the national intelligence director. The national intelligence director—I do not know quite what the infrastructure will be. It is conceived, as the Senator from Maine said earlier today and several times, that she is not creating a whole new department. But the CIA Director will remain in charge of what I say is the most magnificent reservoir of professionals to be found anywhere in the world. I cannot give, because of classification, the numbers, but it is in the tens of thousands of these individuals all over the world. The CIA Director has instantaneous contact with them and personal association as he travels—or she, as the case may be—worldwide. It is a network of these intelligence people who have knowledge that comes back up to the Director. He is hands on. The NID will not have that hands-on experience, cannot possibly because he has so much to manage.

One of the reasons for this legislation is to split off the functions of the former head of the CIA, the Director of the whole Central Intelligence, and to give those responsibilities, as it relates to the national collection of the intelligence program, portions of it to the NID to operate now, leaving the Director of the CIA to manage primarily that agency.

Supposing the Director of the CIA has a strongly held opinion and viewpoint which is at variance with the national intelligence director, but when the national intelligence director goes in to brief the President and the Security Council, in all likelihood the Director of the CIA will be at Langley. I am not certain how that varying opinion is given to the President and the other structure at the White House and the other Cabinet officers who may be present—for instance, at the meetings of the council, how that opinion can be expressed. I have not thought of it. Maybe the chairman and I can work on this in the few days remaining on this bill. But I am concerned about it.

Ms. COLLINS. Mr. President, I would be happy to consult further with the Senator about his concern in this area. I note that the 9/11 Commission and numerous other commissions have determined that the CIA Director has too many roles right now; that he has three roles. He is the principal adviser to the President for intelligence, he is the head of the CIA, and he is the manager of the intelligence community. There is widespread consensus that is too much for the CIA Director to have, so our legislation alters those roles.

The CIA Director would run the CIA. The national intelligence director would not run the day-to-day operations of the CIA, but the national intelligence director would become the principal adviser to the President on intelligence. The national intelligence director would also be the manager of the national intelligence programs. So we have defined those roles in that manner, but we have not altered the fact that the CIA Director would still be a Presidential appointee, he would still be confirmed by the Senate, and he would still have lots of access, in my view, just as Cabinet members are always going to be able to get their views to the President.

I think the structure the Senator has improved, the joint intelligence community council, strengthens that flow of communication, but that structure is there. I do not believe that is going to be a problem.

I also point out to the Senator that the Senator made an excellent point earlier when he was talking about the need for competitive analysis for a variety of viewpoints to be presented to the President and that we did not see that work as well as it should have in recent cases.

We have put in extensive language in our bill due to amendments authored by Senator LEVIN, as well as the work Senator LIEBERMAN and I and others have done, that makes very clear, for example, that when a National Intelligence Estimate is produced, that it has to highlight dissenting views. That does not happen now sufficiently. Often those dissenting views are hidden away in a footnote when they really should be up front for us to be aware that there are dissenting views and who has those dissenting views.

Another example: We require these estimates to have a confidence level attached to the prevailing view so we will know how much support that prevailing view has.

So throughout our bill there are requirements to make sure that dissenting views are heard. Indeed, the Rockefeller-Hutchinson amendment we just adopted also strengthens that by having the office of alternative analysis. So I think there are numerous safeguards to make sure that all voices are heard; that competitive analysis is strengthened; that dissenting views are highlighted.

Mr. WARNER. Mr. President, all along I have expressed complete concurrence in what the Senator has done in this bill to the extent the Senator and I have looked at various sections. I may have reservations about others and tomorrow I hope to engage with the Senator on a number of amendments.

As to the basic charter that the Senator outlined in her opening remarks, I am not going to at this time in any way indicate an objection. I just wanted to focus on this one individual, the CIA Director, who, as the Senator knows, under previous Presidents, and certainly President Bush, was in his office one way or another almost every day of the week working with him.

The CIA Director had this—I understand all of these responsibilities may be too much for one individual and I am not arguing about shifting that at the moment, but I am talking about this magnificent collection of individuals—and he is the boss—who take all of these risks together, collect and analyze and develop opinions and it comes up to him and he may form a view which is totally opposite to the NID, and the NID goes into the President. I have guaranteed here that the Cabinet officers have the right to have their views presented simultaneously, one view after another, to the President, but I am not satisfied yet that the views of the CIA Director, which could well be different than the analysis and conclusion of the NID, would be given to the President with the weight and sufficiency I think they merit.

Ms. COLLINS. I am certainly open to working with the distinguished Senator to address his concerns. I believe it would work similarly to how the views of the head of the NSA, the NRO, the NGA, and DIA get to the President now through the Secretary of Defense.

Under our bill, the CIA Director clearly reports to the NID, much as the head of the NSA reports to the Secretary of Defense. Nothing prevents the CIA Director or the NSA Director from going to the President, but we have changed the structure.

We are making the NID the principal adviser to the President for intelligence, but I cannot conceive of a situation where the NID would not be relying very heavily on the CIA Director for the advice that he is giving to the President. It would be foolhardy for him not to.

Mr. WARNER. I see the Senator's point. The Senator put out a very clear example of the NRO, the NSA, the old mapping agency, they report to the SECDEF—we have just given the SECDEF the right to have his views presented simultaneously if they are at variance with the NID at the time he meets with the President. That is not present in the Central Intelligence Agency. If those views vary, there is no obligation under the law to see that they are presented simultaneously.

The Senator says she cannot envision how they would not be. Well, it depends on the human factor, that these two individuals would get along and have a mutual respect. I can remember in my first term on the Intelligence Committee, there was a very colorful Director of the CIA, Mr. Casey. He was an extraordinary man. I remember he used to come in and testify before the committee. All the members would lean up like this because they could not understand him, to be honest. He spoke in a rather unusual way. I think he did that

to get through his testimony pretty quickly and get out of that hearing room. I am trying to put a note of humor into some serious things, but let us hope the Senator is right that as this law goes forward those individuals entrusted, the NID and CIA Director, can have a mutual respect and a mutual professional bond that will enable the views of the CIA Director to be given to the President if they are at variance with the NID. That is left up to the human quotient. This amendment, if adopted, puts it in law, not for the CIA Director but for the other members.

Ms. COLLINS. I say to the distinguished Senator that I think the analogy is very similar. The Secretary of Defense is not required to present the views of the NSA to the President. I think this works in a more collaborative way than we are giving the system credit for.

We have to be careful, while we put in all of these safeguards—and I support the chairman's amendment—that we do not create a situation where it is unclear who is the principal adviser to the President. And that, under our bill, is the national intelligence director.

Mr. WARNER. In no way do I wish to in any way diminish the significance of the NID that is now being created presumably by law in the future. I think we have had a healthy discussion. I appreciate the distinguished manager accepting this amendment, and I will continue to work on the Director of the CIA issue which I continue to be concerned about. Maybe as a consequence of this colloquy, those who might be following it could come up with an idea. I hope they would communicate it to me or to the distinguished chairman.

If there is no further debate, I ask that the amendment be agreed to.

I ask unanimous consent that the following Senators be added as cosponsors to the amendment: Senators STEVENS, INOUYE, TALENT, ALLARD, DOLE, CHAMBLISS, CORNYN, ENSIGN, and INHOFE.

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

Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 3781, as modified.

The amendment (No. 3781), as modified, was agreed to.

Mr. WARNER. 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.

Mr. WARNER. I wish to express my appreciation to the distinguished manager. I look forward to rejoining her tomorrow. Let us hope that those amendments that I bring forward largely with my colleague Mr. STEVENS will add to the strength of this bill.

Ms. COLLINS. I thank the Senator from Virginia for his contributions. It is always a pleasure to work with him, particularly on an issue that is so important to our Nation's security.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. 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. REID. Mr. President, we are still on the bill being managed by Senators LIEBERMAN and COLLINS?

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask unanimous consent to lay aside any pending amendment.

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

Mr. REID. On behalf of Senator SCHUMER, I ask unanimous consent it be in order to call up eight amendments, and after their reporting, they be set aside. Senator SCHUMER understands these can be acted upon in different ways, but we offer those on his behalf. He indicated to me that a number of these he thinks will be accepted. This gives the staff a chance to look at them and the manager can tell Senator SCHUMER which of those will not be accepted and he can come and debate those.

Ms. COLLINS. Mr. President, reserving the right to object, I ask the Democratic whip that those amendments be interspersed with Republican amendments.

Mr. REID. That is appropriate. I modify my request that that be the case.

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

AMENDMENTS NOS. 3887 THROUGH 3894, EN BLOC

Mr. REID. I call up amendments numbered 3887 to 3894, en bloc.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] for Mr. SCHUMER, proposes amendments numbered 3887 through 3894, en bloc.

The amendments are as follows:

AMENDMENT NO. 3887

(Purpose: To amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group)

At the appropriate place, insert the following:

SEC. ___. AMENDMENTS TO FISA.

(a) TREATMENT OF NON-UNITED STATES PERSONS WHO ENGAGE IN INTERNATIONAL TERRORISM WITHOUT AFFILIATION WITH INTERNATIONAL TERRORIST GROUPS.—

(1) IN GENERAL.—Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following new subparagraph:

''(C) engages in international terrorism or activities in preparation therefor; or''.

(2) SUNSET.—The amendment made by paragraph (1) shall expire on the date that is 5 years after the date of enactment of this section.

(b) ADDITIONAL ANNUAL REPORTING REQUIREMENTS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—

(1) ADDITIONAL REPORTING REQUIREMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(A) by redesignating—

(i) title VI as title VII; and

(ii) section 601 as section 701; and

(B) by inserting after title V the following new title VI:

''TITLE VI—REPORTING REQUIREMENT

''ANNUAL REPORT OF THE ATTORNEY GENERAL

''SEC. 601. (a) In addition to the reports required by sections 107, 108, 306, 406, and 502 in April each year, the Attorney General shall submit to the appropriate committees of Congress each year a report setting forth with respect to the one-year period ending on the date of such report—

''(1) the aggregate number of non-United States persons targeted for orders issued under this Act, including a break-down of those targeted for—

''(A) electronic surveillance under section 105;

''(B) physical searches under section 304;

''(C) pen registers under section 402; and

''(D) access to records under section 501;

''(2) the number of individuals covered by an order issued under this Act who were determined pursuant to activities authorized by this Act to have acted wholly alone in the activities covered by such order;

''(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding; and

''(4) in a manner consistent with the protection of the national security of the United States—

''(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted;

''(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted.

''(b) The first report under this section shall be submitted not later than six months after the date of the enactment of this Act. Subsequent reports under this section shall be submitted annually thereafter.

''(c) In this section, the term 'appropriate committees of Congress' means—

''(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

''(2) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.''.

(2) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking the items relating to title VI and inserting the following new items:

''TITLE VI—REPORTING REQUIREMENT

''Sec. 601. Annual report of the Attorney General.

''TITLE VII—EFFECTIVE DATE

''Sec. 701. Effective date.''.

AMENDMENT NO. 3888

(Purpose: To establish the United States Homeland Security Signal Corps to ensure proper communications between law enforcement agencies)

At the appropriate place, insert the following:

SEC. ___. U.S. HOMELAND SECURITY SIGNAL CORPS.

(a) SHORT TITLE.—This section may be cited as the ''U.S. Homeland Security Signal Act of 2004''.

(b) HOMELAND SECURITY SIGNAL CORPS.—

(1) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

''SEC. 510. HOMELAND SECURITY SIGNAL CORPS.

''(a) ESTABLISHMENT.—There is established, within the Directorate of Emergency Preparedness and Response, a Homeland Security Signal Corps (referred to in this section as the 'Signal Corps').

''(b) PERSONNEL.—The Signal Corps shall be comprised of specially trained police officers, firefighters, emergency medical technicians, and other emergency personnel.

''(c) RESPONSIBILITIES.—The Signal Corps shall—

''(1) ensure that first responders can communicate with one another, mobile command centers, headquarters, and the public at disaster sites or in the event of a terrorist attack or a national crisis;

''(2) provide sufficient training and equipment for fire, police, and medical units to enable those units to deal with all threats and contingencies in any environment; and

''(3) secure joint-use equipment, such as telecommunications trucks, that can access surviving telephone land lines to supplement communications access.

''(d) NATIONAL SIGNAL CORPS STANDARDS.—The Signal Corps shall establish a set of standard operating procedures, to be followed by signal corps throughout the United States, that will ensure that first responders from each Federal, State, and local agency have the methods and means to communicate with, or substitute for, first responders from other agencies in the event of a multi-state terrorist attack or a national crisis.

''(e) DEMONSTRATION SIGNAL CORPS.—

''(1) IN GENERAL.—The Secretary shall establish demonstration signal corps in New York City, and in the District of Columbia, consisting of specially trained law enforcement and other personnel. The New York City Signal Demonstration Corps shall consist of personnel from the New York Police Department, the Fire Department of New York, the Port Authority of New York and New Jersey, and other appropriate Federal, State, regional, or local personnel. The District of Columbia Signal Corps shall consist of specially trained personnel from all appropriate Federal, State, regional, and local law enforcement personnel in Washington, D.C., including from the Metropolitan Police Department.

''(2) RESPONSIBILITIES.—The demonstration signal corps established under this subsection shall—

''(A) ensure that 'best of breed' military communications technology is identified and secured for first responders;

''(B) ensure communications connectivity between the New York Police Department, the Fire Department of New York, and other appropriate Federal, State, regional, and local law enforcement personnel in the metropolitan New York City area;

''(C) identify the means of communication that work best in New York's tunnels, skyscrapers, and subways to maintain communications redundancy;

''(D) ensure communications connectivity between the Capitol Police, the Metropolitan Police Department, and other appropriate Federal, State, regional, and local law enforcement personnel in the metropolitan Washington, D.C. area;

''(E) identify the means of communication that work best in Washington, D.C.'s office buildings, tunnels, and subway system to maintain communications redundancy; and

''(F) serve as models for other major metropolitan areas across the Nation.

''(3) TEAM CAPTAINS.—The mayor of New York City and the District of Columbia shall appoint team captains to command communications companies drawn from the personnel described in paragraph (1).

''(4) TECHNICAL ASSISTANCE.—The Signal Corps Headquarters, located in Fort Monmouth, New Jersey, shall provide technical assistance to the New York City Demonstration Signal Corps.

''(f) REPORTING REQUIREMENT.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Secretary shall submit a report, to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives, which outlines the progress of the Signal Corps in the preceding year and describes any problems, issues, or other impediments to effective communication between first responders in the event of a terrorist attack or a national crisis.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) DEMONSTRATION SIGNAL CORPS.—There are authorized to be appropriated $50,000,000 for fiscal year 2005 to carry out subsection (e).

''(2) FISCAL YEARS 2006 THROUGH 2009.—There are authorized to be appropriated $100,000,000 for each of the fiscal years 2006 through 2008—

''(A) to create signal corps in high terrorism threat areas throughout the United States; and

''(B) to carry out the mission of the Signal Corps to assist Federal, State, and local law enforcement agencies to effectively communicate with each other during a terrorism event or a national crisis.''.

(2) TECHNICAL AMENDMENT.—Section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296) is amended by inserting after the item relating to section 509 the following:

''Sec. 510. Homeland Security Signal Corps.''.

AMENDMENT NO. 3889

(Purpose: To establish a National Commission on the United States-Saudi Arabia Relationship)

At the appropriate place, insert the following new section:

SEC. ___. COMMISSION ON THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.

(a) FINDINGS.—Congress makes the following findings:

(1) Despite improvements in counterterrorism cooperation between the Governments of the United States and Saudi Arabia following the terrorist attacks in Riyadh, Saudi Arabia on May 12, 2003, the relationship between the United States and Saudi Arabia continues to be problematic in regard to combating Islamic extremism.

(2) The Government of Saudi Arabia has not always responded promptly and fully to United States requests for assistance in the global war on Islamist terrorism. Examples of this lack of cooperation have included an unwillingness to provide the United States Government with access to individuals wanted for questioning in relation to terrorist acts and to assist in investigations of terrorist activities.

(3) The state religion of Saudi Arabia, a militant and exclusionary form of Islam known as Wahhabism, preaches violence against nonbelievers or infidels and serves as the religious basis for Osama Bin Laden and al Qaeda. Through support for madrassas, mosques, cultural centers, and other entities Saudi Arabia has actively supported the spread of this religious sect.

(4) The Secretary of State designated Saudi Arabia a country of particular concern under section 402(b)(1)(A) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)(1)(A)) because the Government of Saudi Arabia has engaged in or tolerated systematic, ongoing, and egregious violations of religious freedom.

(5) The Department of State's International Religious Freedom Report for 2004 concluded that religious freedom does not exist in Saudi Arabia.

(6) The Ambassador-at-large for International Religious Freedom expressed concern about Saudi Arabia's export of religious extremism and intolerance to other countries where religious freedom for Muslims is respected.

(7) Historically, the Government of Saudi Arabia has allowed financiers of terrorism to operate within its borders.

(8) The Government of Saudi Arabia stated in February 2004 that it would establish a national commission to combat terrorist financing within Saudi Arabia, however, it has not fulfilled that promise.

(9) There have been no reports of the Government of Saudi Arabia pursuing the arrest, trial, or punishment of individuals who have provided financial support for terrorist activities. The laws of Saudi Arabia to combat terrorist financing have not been fully implemented.

(b) COMMISSION ON THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.—

(1) ESTABLISHMENT.—There is established, within the legislative branch, the National Commission on the United States-Saudi Arabia Relationship (in this section referred to as the ''Commission'').

(2) PURPOSES.—The purposes of the Commission are to investigate, evaluate, and report on—

(A) the current status and activities of diplomatic relations between the Government of the United States and the Government of Saudi Arabia;

(B) the degree of cooperation exhibited by the Government of Saudi Arabia toward the Government of the United States in relation to intelligence, security cooperation, and the fight against Islamist terrorism;

(C) the status of the support provided by the Government of Saudi Arabia to promote the dissemination of Wahabbism; and

(D) the efforts of the Government of Saudi Arabia to enact domestic measures to curtail terrorist financing.

(3) AUTHORITY.—The Commission is authorized to carry out purposes described in paragraph (2).

(c) COMPOSITION OF COMMISSION.—The Commission shall be composed of 10 members, as follows:

(1) Two members appointed by the President, one of whom the President shall designate as the chairman of the Commission.

(2) Two members appointed by the Speaker of the House of Representatives.

(3) Two members appointed by the minority leader of the House of Representatives.

(4) Two members appointed by the majority leader of the Senate.

(5) Two members appointed by the minority leader of the Senate.

(d) REPORT.—Not later that 270 days after the date of the enactment of this Act, the Commission shall submit to the President and Congress a report on the relationship between the United States and Saudi Arabia. The report shall include the recommendations of the Commission to—

(1) increase the transparency of diplomatic relations between the Government of the United States and the Government of Saudi Arabia;

(2) improve cooperation between Government of the United States and the Government of Saudi Arabia in efforts to share intelligence information related to the war on terror;

(3) curtail the support and dissemination of Wahabbism by the Government of Saudi Arabia;

(4) enhance the efforts of the Government of Saudi Arabia to combat terrorist financing;

(5) create a foreign policy strategy for the United States to improve cooperation with the Government of Saudi Arabia in the war on terror, including any recommendations regarding the use of sanctions or other diplomatic measures;

(6) curtail the support or toleration of violations of religious freedom by the Government of Saudi Arabia; and

(7) encourage the Government of Saudi Arabia to improve the human rights conditions in Saudi Arabia that have been identified as poor by the Department of State.

(e) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

AMENDMENT NO. 3890

(Purpose: To improve the security of hazardous materials transported by truck)

At the end, add the following new title:

TITLE IV—SECURITY OF TRUCKS TRANSPORTING HAZARDOUS MATERIALS

SEC. 401. IMPROVEMENTS TO SECURITY OF HAZARDOUS MATERIALS TRANSPORTED BY TRUCK.

(a) PLAN FOR IMPROVING SECURITY OF HAZARDOUS MATERIALS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall develop a plan for improving the security of hazardous materials transported by truck.

(2) CONTENT.—The plan under paragraph (1) shall include—

(A) a plan for tracking such hazardous materials;

(B) a strategy for preventing hijackings of trucks carrying such materials; and

(C) a proposed mechanism for recovering lost or stolen trucks carrying such materials.

(b) INCREASED INSPECTION OF TRUCKS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall require that the number of trucks entering the United States that are manually searched and screened in fiscal year 2005 is at least twice the number of trucks manually searched and screened in fiscal year 2004.

(2) WAIT TIMES AT INSPECTIONS.—In carrying out this section, the Secretary shall ensure that the average wait time for trucks entering the United States does not increase.

(c) BACKGROUND CHECKS.—Beginning not later than 3 years after the date of the enactment of this Act, the Secretary of Homeland Security shall require background checks of all truck drivers with certifications to transport hazardous materials.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3891

(Purpose: To improve rail security)

At the end, add the following new title:

TITLE IV—RAIL SECURITY

SEC. 401. IMPROVEMENTS TO RAIL SECURITY.

(a) PROTECTION OF PASSENGER AREAS IN RAIL STATIONS.—The Secretary of Homeland Security shall require that, not later than 2 years after the date of the enactment of this Act, each of the 30 rail stations in the United States with the highest daily rate of passenger traffic be equipped with a sufficient number of wall-mounted and ceiling-mounted radiological, biological, chemical, and explosive detectors to provide coverage of the entire passenger area of such station.

(b) USE OF THREAT DETECTORS REQUIRED ON CERTAIN TRAINS.—The Secretary of Homeland Security shall require that, not later than 3 years after the date of the enactment of this Act, each train traveling through any of the 10 rail stations in the United States with the highest daily rate of passenger traffic be equipped with a radiological, biological, chemical, and explosive detector.

(c) REPORT ON SAFETY OF PASSENGER RAIL TUNNELS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall—

(A) review the safety and security of all passenger rail tunnels, including in particular the access and egress points of such tunnels; and

(B) submit to Congress a report on needs for improving the safety and security of passenger rail tunnels.

(2) CONTENT.—The report under paragraph (1) shall include recommendations regarding the funding necessary to eliminate security deficiencies at, and upgrade the safety of, passenger rail tunnels.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3892

(Purpose: To strengthen border security)

At the end, add the following new title:

TITLE IV—STRENGTHENING BORDER SECURITY

SEC. 401. TECHNOLOGY STANDARDS TO CONFIRM IDENTITY.

Section 403(c)(1) of the USA PATRIOT ACT (8 U.S.C. 1379(1)) is amended to read as follows:

''(1) IN GENERAL.—The Attorney General, the Secretary of State, and the Secretary of Homeland Security jointly, through the National Institute of Standards and Technology (NIST), and in consultation with the Secretary of the Treasury and other Federal law enforcement and intelligence agencies that the Attorney General, Secretary of State, and the Secretary of Homeland Security deem appropriate and in consultation with Congress, shall prior to October 26, 2005, develop and certify a technology standard, including appropriate biometric identifier standards for multiple immutable physical characteristics, such as fingerprints and eye retinas, that can be used to verify the identity of persons applying for a United States visa or such persons seeking to enter the United States pursuant to a visa for the purposes of conducting background checks, confirming identity, and ensuring that a person has not received a visa under a different name.''.

SEC. 402. REQUIREMENTS FOR ENTRY AND EXIT DOCUMENTS.

(a) IN GENERAL.—Paragraph (1) of section 303(b) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732(b)) is amended to read as follows:

''(1) IN GENERAL.—Not later than October 25, 2005, the Attorney General, the Secretary of State, and the Secretary of Homeland Security shall issue to aliens only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers for multiple immutable characteristics, such as fingerprints and eye retinas. The Attorney General, the Secretary of State, and the Secretary of Homeland Security shall jointly establish biometric and document identification standards for multiple immutable physical characteristics, such as fingerprints and eye retinas, to be employed on such visas and other travel and entry documents.''.

(b) CONSULTATION REQUIREMENTS.—Such section is further amended—

(1) in paragraph (2)(A), by striking ''in consultation with the Secretary of State'' and inserting ''in consultation with the Secretary of State and the Secretary of Homeland Security''; and

(2) in paragraph (2)(B) in the matter preceding clause (i), by striking ''in consultation with the Secretary of State'' and inserting ''in consultation with the Secretary of State and the Secretary of Homeland Security''.

(c) USE OF READERS AND SCANNERS.—Paragraph (2)(B) of such section, as amended by subsection (b), is further amended—

(1) by redesignating clauses (i), (ii), and (iii) as (ii), (iii), and (iv), respectively; and

(2) by inserting before clause (ii), as redesignated by paragraph (1), the following:

''(i) can authenticate biometric identifiers of multiple immutable physical characteristics, as such fingerprints and eye retinas;''.

(d) CERTIFICATION REQUIREMENTS.—Subsection (c) of such section is amended to read as follows:

''(1) IN GENERAL.—Not later than October 26, 2005, the government of each country that is designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) shall certify, as a condition of designation or a continuation of that designation, that it has a program to issue to its nationals machine-readable passports that are tamper-resistant and incorporate biometric and authentication identifiers of multiple immutable physical characteristics, such as fingerprints and eye retina scans. This paragraph shall not be construed to rescind the requirement of subsections (a)(3) and (c)(2)(B)(i) of section 217 of the Immigration and Nationality Act.''.

AMENDMENT NO. 3893

(Purpose: To require inspection of cargo at ports in the United States)

At the end, add the following new title:

TITLE IV—OTHER MATTERS

SEC. 401. CARGO INSPECTION.

(a) MANUAL INSPECTION.—Not later than 2 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the number of containers manually inspected at ports in the United States is not less than 10 percent of the total number of containers off-loaded at such ports.

(b) INSPECTION FOR NUCLEAR MATERIALS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the number of containers screened for nuclear or radiological materials is not less than 100 percent of the total number of containers off-loaded at ports in the United States.

(c) INSPECTION FOR CHEMICAL, BIOLOGICAL, AND EXPLOSIVE MATERIALS.—Not later than 4 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the 10 ports in the United States that off-load the highest number of containers have the capability to screen not less than 10 percent of the total number of containers off-loaded at each such port for chemical, biological, and explosive materials.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on port security technology. Such report shall include—

(1) a description of the progress made in the research and development of port security technologies;

(2) a comprehensive schedule detailing the amount of time necessary to test and install appropriate port security technologies; and

(3) the total amount of funds necessary to develop, produce, and install appropriate port security technologies.

(e) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3894

(Purpose: To amend the Homeland Security Act of 2002 to enhance cybersecurity, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. ENHANCING CYBERSECURITY.

(a) SHORT TITLE.—This section may be cited as the ''Department of Homeland Security Cybersecurity Enhancement Act of 2004''.

(b) ASSISTANT SECRETARY FOR CYBERSECURITY.—

(1) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

''SEC. 203. ASSISTANT SECRETARY FOR CYBERSECURITY.

''(a) IN GENERAL.—There shall be in the Directorate for Information Analysis and Infrastructure Protection a National Cybersecurity Office headed by an Assistant Secretary for Cybersecurity (in this section referred to as the 'Assistant Secretary'), who shall assist the Secretary in promoting cybersecurity for the Nation.

''(b) GENERAL AUTHORITY.—The Assistant Secretary, subject to the direction and control of the Secretary, shall have primary authority within the Department for all cybersecurity-related critical infrastructure protection programs of the Department, including with respect to policy formulation and program management.

''(c) RESPONSIBILITIES.—The responsibilities of the Assistant Secretary shall include the following:

''(1) To establish and manage—

''(A) a national cybersecurity response system that includes the ability to—

''(i) analyze the effect of cybersecurity threat information on national critical infrastructure; and

''(ii) aid in the detection and warning of attacks on, and in the restoration of, cybersecurity infrastructure in the aftermath of such attacks;

''(B) a national cybersecurity threat and vulnerability reduction program that identifies cybersecurity vulnerabilities that would have a national effect on critical infrastructure, performs vulnerability assessments on information technologies, and coordinates the mitigation of such vulnerabilities;

''(C) a national cybersecurity awareness and training program that promotes cybersecurity awareness among the public and the private sectors and promotes cybersecurity training and education programs;

''(D) a government cybersecurity program to coordinate and consult with Federal, State, and local governments to enhance their cybersecurity programs; and

''(E) a national security and international cybersecurity cooperation program to help foster Federal efforts to enhance international cybersecurity awareness and cooperation.

''(2) To coordinate with the private sector on the program under paragraph (1) as appropriate, and to promote cybersecurity information sharing, vulnerability assessment, and threat warning regarding critical infrastructure.

''(3) To coordinate with other directorates and offices within the Department on the cybersecurity aspects of their missions.

''(4) To coordinate with the Under Secretary for Emergency Preparedness and Response to ensure that the National Response Plan developed pursuant to section 502(6) of the Homeland Security Act of 2002 (6 U.S.C. 312(6)) includes appropriate measures for the recovery of the cybersecurity elements of critical infrastructure.

''(5) To develop processes for information sharing with the private sector, consistent with section 214, that—

''(A) promote voluntary cybersecurity best practices, standards, and benchmarks that are responsive to rapid technology changes and to the security needs of critical infrastructure; and

''(B) consider roles of Federal, State, local, and foreign governments and the private sector, including the insurance industry and auditors.

''(6) To coordinate with the Chief Information Officer of the Department in establishing a secure information sharing architecture and information sharing processes, including with respect to the Department's operation centers.

''(7) To consult with the Electronic Crimes Task Force of the United States Secret Service on private sector outreach and information activities.

''(8) To consult with the Office for Domestic Preparedness to ensure that realistic cybersecurity scenarios are incorporated into tabletop and recovery exercises.

''(9) To consult and coordinate, as appropriate, with other Federal agencies on cybersecurity-related programs, policies, and operations.

''(10) To consult and coordinate within the Department and, where appropriate, with other relevant Federal agencies, on security of digital control systems, such as Supervisory Control and Data Acquisition (SCADA) systems.

''(d) AUTHORITY OVER THE NATIONAL COMMUNICATIONS SYSTEM.—The Assistant Secretary shall have primary authority within the Department over the National Communications System.''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to subtitle A of title II the following:

''203. Assistant Secretary for Cybersecurity.''.

(c) CYBERSECURITY DEFINED.—Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by adding at the end the following:

''(17)(A) The term 'cybersecurity' means the prevention of damage to, the protection of, and the restoration of computers, electronic communications systems, electronic communication services, wire communication, and electronic communication, including information contained therein, to ensure its availability, integrity, authentication, confidentiality, and nonrepudiation.

''(B) In this paragraph—

''(i) each of the terms 'damage' and 'computer' has the meaning that term has in section 1030 of title 18, United States Code; and

''(ii) each of the terms 'electronic communications system', 'electronic communication service', 'wire communication', and 'electronic communication' has the meaning that term has in section 2510 of title 18, United States Code.''.

Mr. REID. While I have the floor, we have a lot more amendments filed than I ever dreamed. Everyone should understand there will have to be significant movement on this bill in the next 24 hours in the way of offering amendments. I hope people offer amendments tomorrow. It will be terribly embarrassing to the leaders if Monday we have nothing to vote on. I think that will not be the case, but I think we are to the point where there may have to be something done to move this along more quickly than it has been. That may include filing cloture in the next 24 hours.

Ms. COLLINS. Mr. President, I appreciate the assistance of the assistant Democratic leader. I echo his hope that Members will come to the Chamber tomorrow to offer and debate their amendments. We will delay the votes on those amendments until Monday, but we have an awful lot of work to be done. Senator LIEBERMAN and I will be here tomorrow ready to engage on these amendments. I ask my colleagues to be here as well and help make progress on this very important bill. We are making some progress, but we are not making enough progress and we need to pick up the pace. We need to whittle down that amendment list. We need to have some of those amendments simply go away. I hope that will happen.

Mr. LEAHY. Mr. President. I rise today to address one of the most timely and sensitive recommendations of the 9/11 Commission, the creation of a civil liberties board to provide checks and balances against the ''enormous authority'' granted the government by the people. Critically, the 9/11 Commission concluded: ''We must find ways of reconciling security with liberty, since the success of one helps protect the other.''

There is no doubt that such a board is needed given the heightened civil liberty tensions created by the realities of terrorism and modern warfare. The tools of the information age include precise data-gathering, networked databases, and tracking and sensing technologies impervious to the common eye. As Vice Chairman Hamilton noted, in a recent Judiciary Committee hearing, as he commented about the security steps and the technology that are quickly becoming ubiquitous in our post-9/11 world, these developments are ''an astounding intrusion in the lives of ordinary Americans that (are) routine today in government.'' With such powerful tools come heightened responsibility.

We have an obligation to ensure that there are mechanisms in place that will see to it that this power is subject to appropriate checks and balances and Congressional oversight. An effective civil liberties board can provide those checks and contribute to preserving both liberty and security.

We need a civil liberties board that can think critically and independently about the policies we implement as a nation and about how they affect our fundamental rights. The board must be able to participate in the policymaking

process, review technology choices and options, peer into various agencies and assess actions, review classified materials and investigate concerns. This board must have the versatility to work closely with government officials, but at the same time it must be sufficiently independent to assess those government policies without fear, favor or compromise. Given these significant responsibilities, it is equally important that the board be accountable to Congress and the American people.

The civil liberties board outlined in the Collins-Lieberman bill makes great strides in meeting these goals. It represents a true bipartisan effort from conception to introduction. I was pleased to work with these Senators along with Senator DURBIN to make this civil liberties board the kind of board that would honor the 9/11 Commission's intent.

It establishes a bipartisan board that would have access to the documents and information needed to assess our counterterrorism policies that affect the vital civil liberties of the American people. It provides a mechanism for them to work closely with administration officials, including working with a network of newly created department-level privacy and civil liberty officers, whose proximity to decision makers will ensure that these concerns are considered from the earliest stages of policy formation. It requires the board to report to Congress on a regular basis, and without compromising classified information, inform the public about policies that impact their vital liberties.

Unfortunately, Senator KYL's amendment No. 3801 attempts to gut the carefully crafted, bipartisan civil liberty and privacy provisions that are the hallmark of the Collins-Lieberman bill. It is inconsistent with the recommendations of the 9/11 Commission and would undermine the civil liberties that we cherish.

First, Senator KYL's amendment attempts to cut off the information flow that would ensure that the board could accurately, reliably and effectively advise on the impact of policies on privacy and civil liberties. It would also eliminate the board's ability to subpoena people outside of the government who may have important information, such as private sector data collectors working on behalf of the government. It would also eliminate the privacy officers, as well as public hearings and reports to the public.

It is clear that the commission intended for the board to have access to the information that it needed in order to effectively assess policy. In a recent House Judiciary Committee hearing, Vice Chairman Hamilton said, ''The key requirement is that government agencies must be required to respond to the board.'' He went on to note that the commission itself had subpoena power, and ''if we had not had it, our job would have been much, much more difficult.'' I would note that the Collins-Lieberman bill does not go as far as to mandate subpoena power over government officials, but rather only over relevant non-government persons.

Given the secrecy and civil liberty concerns that have been pervasive in this administration, we should be enhancing information flow and dialogue, not eliminating it. It is ironic that at the same time that the administration has been making it more difficult for the public to learn what government agencies are up to, the government and its private sector partners have been quietly building more and more databases to learn and store more information about the American people.

Second, Senator KYL's amendment would eliminate a provision that gives the board important guidance on how to review requests by the government for new and enhanced powers. This is a critical omission. In order to balance liberty and security, we need to ensure that the board will be looking at policies through a prism that would allow for heightened security protection, while also ensuring that intrusions are not disproportionate to benefits, or that they would unduly undermine privacy and civil liberties.

Contrary to assertions that this would be a ''citizen board'' gone wild that would ''haul any agent in anywhere in the world and grill him,'' this board would consist of highly accomplished members who have the appropriate clearance to access classified information, who have extensive professional expertise on civil liberty and privacy issues, and who have the knowledge of how to view these concerns in the context of important anti-terrorism objectives.

It simply cannot be that the government can create and implement policies that impinge on our liberties without having to account to anyone. While that may make things convenient or easy, it certainly does not preserve the ideals of the country we are fighting to protect.

Senator KYL's amendment is just the latest of recent attempts to undermine the 9/11 Commission's clear recommendations for an effective board. The administration recently issued an executive order that attempted to foist upon us an anemic civil liberties board. I and several of my colleagues noted in a letter to the President that the board was not a bipartisan or independent entity. It had no authority to access information and no accountability. It was housed in the Department of Justice, and comprised solely of administration officials from the law enforcement and intelligence communities, precisely the communities that the board would have an obligation to oversee. It was the proverbial case of the fox guarding the henhouse. This would not have resulted in a vigorous consideration of policy that the Commission intended.

As the Commission noted, the ''burden of proof for retaining a particular governmental power should be on the Executive, to explain (a) that the power actually materially enhances security and (b) that there is adequate supervision of the Executive's use of the powers to ensure protection of civil liberties. If the power is granted, there must be adequate guidelines and oversight to properly confine its use.''

We should be looking for ways to ensure that this burden of proof will be met, rather than weakening oversight and accountability.

As the 9/11 Commission noted, when it comes to security and civil liberties, ''while protecting our homeland, Americans should be mindful of threats to vital personal and civil liberties. This balancing is no easy task, but we must constantly strive to keep it right.''

Senator KYL's amendment fails to ''keep it right,'' and I urge that the Senate honor the spirit of the recommendations of the 9/11 Commission, and reject it.

Mr. DURBIN. Mr. President, in 1957, when America was caught off guard by the Soviet Union's launch of a satellite named Sputnik, Congress passed a massive education bill, the National Defense Education Act, which poured federal funds into the study of math, science and strategic languages like Russian. Thirty-two years later, the Soviet Union fell. Following the 9/11 attacks and the Commission's report, we need to rise to the challenge once again. We must intensify the study of strategic foreign languages, like Arabic, Pashto and Korean.

According to the Department of Education, only 22 of the 1.8 million American students who graduated from college last year earned degrees in Arabic. This figure has remained about the same over the last decade. And as the 9/11 Commission reported, and the Washington Post and the New York Times reiterated on Tuesday, the lack of qualified personnel has left hundreds of thousands of pages of intercepted terrorist communication untranslated.

On page 77 of the Commission's report, the Commission notes the FBI ''lacked sufficient translators proficient in Arabic and other key languages, resulting in a significant backlog of untranslated intercepts.'' On page 92, the report adds, ''Very few American colleges and universities offered programs in Middle Eastern languages or Islamic studies.'' The 9/11 report also calls for both the CIA and the FBI to strengthen their language programs and for the FBI to improve ability to attract candidates with technological skills.

At a hearing of the Senate Governmental Affairs Oversight of Government Management Subcommittee on September 14, 9/11 Commissioner Fred Fielding described the lack of language skills at intelligence agencies as: ''embarrassing.'' FBI Assistant Director for Administrative Services Mark Bullock testified that while the agency is receiving thousands of applicants, the agency has found it ''difficult hiring agents with language skills, skills in the right languages.''

We can do better.

The bill we are considering today does address education, but not completely. This bill calls for better coordination of joint training among the intelligence agencies and authorizes, but does not direct, the National Intelligence Director to collaborate with the intelligence agencies to establish a scholarship program, in which students agree to work for an agency in exchange for financial assistance with their education. I commend the managers of the bill for including this innovative education subsidy-for-service approach. This is an important mechanism to put in place, although we need to do more to expand instruction in critical foreign language, particularly in the area of science and technology. If no one is teaching the classes we need, we can't improve the pool of qualified applicants from which the intelligence community can recruit.

The amendment my colleagues from Florida and Hawaii and I sponsored will expand targeted educational opportunities to promote integration of intelligence collection and analysis and to prepare intelligence personnel to work with other agencies.

We ask the National Intelligence Director to assess the current needs of the intelligence community with respect to language skills; determine whether the community's needs for critical foreign language skills and understanding science and technology terms in those languages are being met; and report to Congress recommendations for programs to help meet those needs.

In developing its report, the NID is directed to take into account existing education grant programs through the Departments of Education and Defense. The first report is due to Congress within one year of enactment, and then again each year after that.

I thank the Senators from Florida and Hawaii for their willingness to work together in developing language to strengthen the critical language education component of the reorganized intelligence community. And I thank my colleagues from Maine and Connecticut for their leadership in crafting and managing this important piece of legislation, which now includes this additional focus on strengthening necessary language skills in this country.

Mr. MCCAIN. Mr. President, as I noted on the floor yesterday, the Senate is now engaged in perhaps the most important debate of the 108th Congress. Increasing the security of our country against terrorist attack requires new strategies, new ways of thinking, and new ways of organizing our Government. That is what this legislative debate is all about.

Earlier this month, I joined with Senator LIEBERMAN and others in introducing comprehensive legislation to implement all the 9/11 Commission recommendations. Along with Senator LIEBERMAN, I pledged that the Commission's recommendations—including the ones not already addressed in the underlying bill—would be fully debated. Yesterday, we offered an amendment that was designed to address the Commission's transportation security-related recommendations. Now we will offer an amendment that encompasses the Commission's diplomacy, foreign aid, and military-related recommendations.

I send an amendment to the desk on behalf of myself, Senator LIEBERMAN, and Senator BAYH, and ask for its immediate consideration.

This amendment is very similar to Title V of S. 2774, the 9/11 Commission Report Implementation Act of 2004, which we introduced earlier this month. In drafting this amendment, we have worked with the Senate Foreign Relations Committee to develop consensus language concerning areas of their jurisdiction, and with the Senate Armed Services and Banking Committees to develop language for other provisions.

As the Commission report observed, there were many deficiencies that led to the terrorist attacks of September 11. Not the least was the failure of the United States to adapt its foreign policy to address the changed realities of the post-cold war era. In hindsight, it is evident that we did not do enough to prevent the creation of terrorist sanctuaries, encourage the democratization of the Greater Middle East, and engage countries such as Pakistan, Afghanistan and Saudi Arabia in their battles against fundamentalism.

In light of this realization, the Commission found that no single set of strategies is sufficient to prevent future terrorist attacks. The United States must use all of the instruments at our disposal to counter the short- and long-term threats posed by international terrorism. For this reason, it is critical to pay due attention to the role of diplomacy, foreign aid, and the military.

Consistent with the Commission's recommendations, this amendment requires the executive branch to develop a strategy to address and, where possible, eliminate terrorist sanctuaries. It renews the U.S. commitment to Pakistan's future, in light of the critical role that country plays in the war on terror, and authorizes assistance to Afghanistan—aid that many of us believe must be increased. The amendment addresses our relations with Saudi Arabia and suggests establishing an international contact group to develop a multilateral counterterrorism strategy.

Our amendment also calls on the U.S. Government to work with our coalition partners to develop a common approach to the treatment of detainees, and reiterates standards for the humane treatment of enemy detainees—standards that our soldiers and officials should have been following all along. Most of this language was taken directly from the Senate-passed version of the Department of Defense Authorization bill, which is now pending in conference. The Senate has already spoken on this issue once; however, it has yet to be enacted. We must continue pressing to ensure that America treats individuals in its custody humanely, as the Commission rightly advocates. As the 9/11 Commission rightly pointed out, allowing torture of prisoners only makes it more difficult to build the alliances and support we need to defeat terrorism. Portrayals of inhumane treatment of captured terrorists hinder our ability to engage in the wider struggle against them.

Other provisions in this amendment are designed to enhance America's ability to fight the war of ideas by promoting universal values of democracy, tolerance, and openness. It authorizes funding for U.S. broadcasts to Muslim countries, and authorizes an increase in our education and exchange programs. In addition, it establishes an International Youth Opportunity Fund that will provide financial assistance for the improvement of public education in the Middle East. Finally, the amendment notes that the proliferation of weapons of mass destruction is a grave and gathering threat to this country, and requires the executive branch to develop a strategy to expand and strengthen our nonproliferation programs.

This amendment is the next step in fulfilling the mandate of the 9/11 Commission recommendations and ensuring that we orient our diplomacy, foreign aid, and military programs toward combating terrorist threats, in both the short and long terms. The provisions in our amendment are not the only steps that are needed, and there are a number of other important actions that the executive branch should undertake in order to fully implement the Commission's recommendations. But I believe that passing this amendment is a vital and necessary step.

I urge my colleagues to support this amendment.

AMENDMENT NO. 3771

Mr. BINGAMAN. Mr. President, since the Manhattan project, national laboratory scientists have performed an inherently unique governmental function of not only designing and producing nuclear weapons, but analyzing intelligence on foreign nuclear weapons and nuclear technology.

In performing this governmental function, the national laboratory scientists have staffed the Joint Atomic Intelligence Committee, which produces strategic assessments on foreign nuclear weapons programs, helped produce technical assessments of foreign nuclear weapons, and provided critical technical support in disabling improvised nuclear devices, which in today's post-9/11 environment is one of our greatest fears. In many cases these functions are performed through rotational assignments to the intelligence community staff.

The amendment I have offered today, and cosponsored by my colleague Senator DOMENICI, preserves this rotational capability in the intelligence reforms proposed by Senators COLLINS and LIEBERMAN.

Typically, national laboratory personnel can be detailed to the intelligence community, or any Federal agency, through the Intergovernmental Personnel Act. This act permits employees of federally funded research and development centers, FFRDCs, to act for set periods of time, as staff of a Government agency.

This amendment does not alter the authorities under the act. What this amendment does is reinforce the congressional intent, that in addition to the authorities granted to the National Intelligence Authority to staff its centers with personnel from other branches of the Government, that it continue to be able to utilize the unique capabilities of Department of Energy staff and other FFRDCs.

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent there be a period of morning business, with Senators speaking for up to 10 minutes each.

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

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I ask unanimous consent to proceed for 17 minutes.

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

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS KEVIN OTT

Mr. DEWINE. Mr. President, I come to the Senate this evening to pay tribute to a fellow Ohioan, a brave soldier who lost his life while making our own safer. Army PFC Kevin Ott disappeared north of Baghdad, Iraq, on June 25th, 2003. Three days later, on June 28th, everyone's worst fears were realized. The military personnel found Kevin's body following a very exhaustive search. Kevin Ott was only 27 years of age.

When I think about the loss of young soldiers, I am reminded of something that President John F. Kennedy said to the 1st Armored Division in Fort Stewart, GA, as they were prepared to deploy to Cuba. In 1962 this is what President Kennedy said:

> Many years ago, according to a story there was found in a sentry box in Gibraltar, a poem which said:
>
> God and the soldier all men adore
> In time of danger and not before
> When the danger is past and all things righted
> God is forgotten and the soldier slighted.

President Kennedy continued:

> This country does not forget God or the soldier.
> Upon both we depend.

President Kennedy said it so well. We depend on our service men and women. We depended on Kevin Ott. We will not forget him. We will never forget him.

I rise this evening to remember Kevin, to remember him as he was and will forever remain, a devoted son, supportive brother, and patriotic soldier. Kevin Ott grew up in Orient, OH, son of loving parents Alma and Charles Ott. He and his sisters and brothers were close and would remain so throughout their lives. Kevin went to Westfall High School. He was on the basketball team and enjoyed spending time with friends. He graduated in 1993 and then attended Bluffton College where he was a sports lover and played defensive end on the football team.

While Kevin's love of sports certainly ran deep, his passion also was for motorcycles. He certainly loved that bike. His sister Pam remembers how Kevin took her for a ride one afternoon. She said:

> I was afraid because I knew he loved to go really fast. But, to my surprise, he went slowly because he knew I was scared.

Kevin was a good brother, son, and friend. He was deeply devoted to his family, and with their love and guidance he became devoted to his church and his faith. Throughout his entire life Kevin was a strongly spiritual person. He was active in his church from the time he was 4 years old. His parents fondly remember how his faith guided their son's decisions and how it directed his life.

At the Southwest Community Church of the Nazarene, Kevin worked with the youth group, sang in the choir, and went on a mission trip to Mexico where he helped build houses.

These experiences taught him to see the hand of God in all things. It increased his faith, the faith that would see him through the difficult times in his life.

The tragic events of September 11 changed the course of Kevin's life as it changed the course of so many people's lives. It was then that he decided he wanted to join the military. He wanted to prevent such a tragedy ever happening again.

Kevin left his job as a machinist with J.W. Groves and Sons to enlist in the Army in January 2002. He immediately excelled. His comrades remembered him as a capable soldier, someone they could always count on.

Kevin's brother-in-law Jim Pack recalled that Kevin loved the military. He said that he had found his calling in life. Kevin was assigned to Battery B, 3rd Battalion, 18th Field Artillery Regiment, based out of Fort Sill, OK. While in Iraq, Kevin was in charge of guarding an ammunitions depot. He wrote home often, and his parents could tell their son was proud of his service. They saved Kevin's postcards and looked forward to any contact they had with him. They recognized that their son loved Army life and knew that he believed in what he was doing.

Though the news of Kevin's death was, of course, devastating to the Ott family, Charles said his son was at peace with his faith and was not afraid to die. His faith saw him through and took him to his final resting place.

When we lost Kevin Ott, our Nation mourned. Charles and Alma lost their loving son. Pam, Julie, Joyce, Diane, and Doug lost their loyal brother. They miss his joking nature, his love of sports and motorcycles. They miss him coaching his nephew's Little League team. But most of all they just miss spending time with him.

So, as President Kennedy said, over 40 years ago: ''This country does not forget . . . the soldier.'' This country will not forget Kevin Ott.

OHIO FLOODING

Mr. DEWINE. Mr. President, we are all well aware of the horrible devastation that has been caused by the four hurricanes that have hit the United States and have hit other countries so far this season: Charley, Frances, Ivan, and Jeanne. We have seen pictures of the damaged homes. We have seen the victims interviewed on TV. We have seen the floodwaters that have drowned many towns and villages.

My home State of Ohio has also suffered damage from these storms, damage that has warranted the classification of 30 of our counties as Federal disaster areas. These counties include: Athens, Belmont, Carroll, Columbiana, Gallia, Guernsey, Harrison, Jefferson, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Stark, Trumbull, Tuscarawas, Vinton, and Washington.

Last Friday, when I was home, it was my privilege to tour some of the flooded areas in Ohio and to talk to some of the people who are victims. I must say, while I have seen floods before, been along the Ohio Valley before, and seen what floods can do, I was, again, overwhelmed at what I saw. Some areas looked like a war zone.

The power of water never ceases to amaze me, whether it is the Ohio River when it comes up, or in creeks and streams a long way from the Ohio River when flash floods come up and do unbelievable damage and homes are literally ripped apart and trailers are ripped apart. I saw this when I was home.

At its highest, the floodwaters in Marietta, along the Ohio River, covered the first floor of many buildings. From this picture, a photo taken by the Washington County Sheriff's Office in Marietta, you can get some idea of what Marietta looked like when the river came up—absolutely unbelievable. People used boats to get around as they surveyed what they lost and what they could possibly save.

In other areas, trucks were washed away, mobile homes stood on their sides, and debris was everywhere. There was garbage strewn clear up into the trees.

Many businesses were, of course, forced to close, as owners went out to salvage what was left. As you can see from this picture, it did not look like this Wendy's restaurant—after this picture was taken—would be serving Wendy's hamburgers very soon.