intent in this bill and EDA's policy must be the same: polluters are responsible for paying to clean up their own messes.

Mr. INHOFE. Mr. President, I rise to discuss S. 1134, the Economic Development Administration reauthorization bill, that was approved by the Senate today. This is an important piece of legislation for our Nation's economically distressed communities. These areas count on EDA to help create favorable environments for long-term economic growth. Studies have shown that EDA uses Federal dollars efficiently and effectively—creating and retaining long-term jobs at an average cost that is among the lowest in government. The bill emphasizes coordination, flexibility and performance. These tools will allow the Secretary to continue and even improve and increase the good work done by the agency.

In particular, I would like to highlight the performance award program and the reforms to the revolving loan fund, RLF, program included in the bill. The performance award program will allow the Secretary to reward those grant recipients who meet or exceed expectations regarding performance measures such as jobs created and private sector investment.

The reforms to the RLF program are needed to ensure the agency can continue to capitalize new and recapitalize existing RLFs. The current administrative burden of these funds is large. This bill will allow the Secretary to reduce that burden, both for the agency and for the local RLF managers, while providing appropriate oversight.

Enactment of this legislation will be good for my home State of Oklahoma in several ways as well. First, it will ensure that the communities of Elgin and Durant are able to move forward with infrastructure improvements that will support the attraction of private sector investment and the creation of jobs. Enactment will also result in much needed investment in Ottawa County, providing funding for the city of Miami—a city that has suffered economic hardship due to its proximity to a Superfund site.

Additionally, the bill preserves the ability of Economic Development Districts to use planning funds to provide technical assistance and cover administrative costs. This is especially important for the small, rural communities of Oklahoma that do not have the resources to maintain the professional and technical capacity needed to develop and implement comprehensive economic development strategies. Economic Development Districts work to fill this hole and should not be prevented from doing so.

I would like to thank my colleagues here in the Senate, in the House of Representatives and in the administration for working so diligently and cooperatively with me to complete work on this very important legislation. I would also like to thank the staff for their hard work—from my staff: Angie Giancarlo and Frank Fannon; from Senator JEFFORDS' staff: Geoff Brown and Malcolm Woolf; from Senator BOND's staff: Nick Karellas and Ellen Stein; from Senator REID's staff: David Montes; and from EDA: Nat Wienecke, Paul Pisano, Ben Erulkar and Dennis Alvord.

Mr. JEFFORDS. Mr. President, the Economic Development Administration Reauthorization Act of 2004, S. 1134, contains important provisions relating to the redevelopment of brownfields. As the ranking member of the Environment and Public Works Committee, I want to take the opportunity to explain these provisions. Before I begin, let me acknowledge the contributions of Senator CHAFEE, chair of the Superfund and Waste Management subcommittee, in developing these provisions and note that he supports my comments today.

S. 1134 encourages EDA to promote the redevelopment of abandoned industrial facilities and brownfields. The economic and social benefits of brownfields redevelopment are well documented. For example, in June 2003, the U.S. Conference of Mayors estimated that brownfields redevelopment could generate more than 575,000 additional jobs and up to $1.9 billion annually in new tax revenues for cities. In addition, according to EPA, every acre of reused brownfields preserves an estimated 4.5 acres of unused open space. Estimates of the number of brownfields sites nationwide range from 450,000 to as many as a million.

This bill complements the 2002 Environmental Protection Agency brownfields cleanup law by encouraging EDA to make economic redevelopment of brownfields a priority. In other words, EPA's focus is to facilitate the environmental assessment and cleanup of abandoned sites, whereas EDA's role is to encourage the economic reuse of the property.

I agree with EDA Administrator David Sampson, who in response to a question from the EPW Committee, wrote, ''cleanup activities are most appropriately handled by state and federal environmental regulatory agencies with the background and technical expertise to address complex remediation issues.'' As such, I expect that EDA would only fund redevelopment projects at sites that have been certified as ''clean'' by EPA or the State environmental agency. In the rare circumstance that an EDA grant recipient discovers minimal contamination as part of a redevelopment project, this bill would require any remediation activities be conducted in compliance with all Federal, State, and local laws and standards. EDA grantees should obtain the prior written approval of EPA or the State environmental agency to ensure that the remediation is protective of human health the environment.

Of course, EDA also must uphold the ''polluter pays'' principle by ensuring that Federal dollars are never given to the polluter to clean up contamination that they caused in the first place. Likewise, nothing in this bill in any way affects the liability of any party under Superfund, RCRA or any other Federal or State law.

The final brownfields-related aspect of the bill requires a General Auditing Office study of EDA's brownfield grants. This study should provide valuable data on the extent to which EDA brownfield redevelopment grants involve remediation activities, the environmental standards applied and the role of Federal, State and local environmental agencies and public participation in the cleanup process. It is my hope that such information will enable future Congresses to revisit these issues to ensure more explicitly that any remediation performed is truly incidental to the larger economic redevelopment project and that cleanups performed using Federal dollars are protective of human health and the environment.

In closing I would like to praise the bipartisan Member and staff work that went into crafting this important bill and urge swift passage by the other body.

Ms. COLLINS. Madam President, I ask unanimous consent that the substitute amendment that is at the desk be agreed to, the committee-reported amendment, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3976) was agreed to.

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

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (S. 1134), as amended, was read the third time and passed.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL INTELLIGENCE REFORM ACT OF 2004—Continued

Mr. BYRD. Mr. President, the Senate has voted overwhelmingly to invoke cloture on the national intelligence reform bill. I voted against cloture on the bill. The Senate leadership, in supporting cloture on this bill—I speak most respectfully—argued that this debate has gone on long enough. In essence, that is what has been stated.

I will soon begin my 47th year in this body. I never thought I would see the demise of the Senate as a debating institution. I am very sorry about that. I have seen the demise of the Senate as a debating institution. I have been here when debate on a bill went over 100 days.

Today's situation is eerily reminiscent of the autumn of 2002. A few years ago, the hue and cry went up for all Senators to support a massive bureaucratic reshuffling of our homeland security agencies and a war resolution—I will refer to in that way—against Iraq just weeks before election day.

Like a whipped dog fearing his master, the Senate obediently complied with the demands of the White House, to which our leadership said: let us get this matter behind us; let us get it behind us.

I know many of the Members who come to this body in this day and time are from the other body, and I speak most respectfully of the other body. I came from the other body likewise. But I can remember when I was in the other body I often said, Thank God for the Senate of the United States. That is when I was still in the other body. Thank God for the Senate of the United States. They take their time over there to debate. In this day and time, we do not take time to debate.

Hindsight reveals the mistakes that the Senate made 2 years ago. Today, the Department of Homeland Security finds itself bogged down by bureaucratic infighting, unresolved turf wars, and insufficient funding. The central argument for the war resolution against Iraq, the threat of weapons of mass destruction, has disintegrated into a mess of lies and hot air. The calls for Congress to act quickly were revealed to be ill-advised, misguided, misinformed.

The 108th Congress has an opportunity to learn from the mistakes of the 107th Congress. Yet the repeated calls by Senators for immediate action on this bill suggests we have learned very little.

Most of the hundreds of amendments offered to this bill, or certainly scores of amendments, have focused on trying to speed up reforms that we already do not understand. Apparently, few Senators have dared to speak about the need for caution in arranging a massive, secretive bureaucracy. It would be the most secretive around.

The risk that this bill will grow into a hydra-headed monster increases exponentially as election day nears. Many believe the House bill will include a number of provisions unrelated to intelligence reform, all the way from amendments on immigration to reauthorization of the PATRIOT Act. I hear lately the House has no intention of adding that last mentioned measure. In the rush to pass this bill on a political timetable, what type of Faustian bargains will be struck to jam this bill through the Congress? We have had it happen before. We have been jammed on these important bills. We have had our backs against the wall because of some nearing date, perhaps of a recess, and so forth. What kind of deals with the devil will be made in order to get this bill done in time for election day? That is the big rush—get this bill through in time for election day.

Even one Republican Member of the House of Representatives is concerned that a slam-dunk conference would open the door to politically motivated poison pills. Why is there such a clamor to vote on a bill that is increasingly viewed as a way to make political hay in the hours before a Presidential election? Will Senators even get to read the conference report on this bill before we are expected to vote on it? If we pass this bill, who knows what may be lurking in the walls surrounding that conference between the two Houses unless the House should decide to accept the Senate-passed bill, making it all the more important for the Senate to take our time and thoroughly debate the bill.

The mistake of how the Senate is choosing to consider this bill is not the fault of the 9/11 Commission. That panel is a group of experienced and dedicated public servants. Their research went straight to the heart of the question that has burned in the minds of millions of Americans for 3 years: Namely, how did such a powerful Nation fail to defend itself from those attacks?

In chilling detail, the panel's report lays out the facts about how the U.S. Government failed to stop 19 hijackers—not from Iraq—19 hijackers armed with box cutters; 19 hijackers, not from Iraq, not a one. Not even one of those 19 hijackers came from Iraq. Yet some have attempted to tie the hijackers with Iraq.

''The document is an improbable literary triumph,'' declared U.S. Circuit Judge Richard Posner in the New York Times Book Review. ''However, the commission's analysis and recommendations are unimpressive,'' he said, ''not sustained by the report's narrative,'' he said, ''come to very little . . . [and more] of the same.''

That is pretty harsh criticism. And contrary to what some believe about the critics of intelligence reform, Judge Posner is not protecting his turf, and he does not have an ax to grind.

The Senate Appropriations Committee held hearings 2 weeks ago on the September 11 recommendations. A bipartisan array of national security experts pleaded with the Congress as they gave testimony to the Appropriations Committee, pleaded with the Congress not to rush these reforms.

My, what an impressive list of names: The former chairman of the Senate Intelligence Committee, David Boren; former Senator Bill Bradley; former Secretary of Defense Frank Carlucci; former Secretary of Defense William Cohen—we all remember him. He has been an outstanding Secretary of Defense. He was a Republican—former CIA Director Robert Gates; former Deputy Secretary of Defense John Hamre; former Senator Gary Hart; former Secretary of State Henry Kissinger—he indicated we ought to take several months on this bill—former chairman of the Senate Armed Services Committee Sam Nunn—there is a good one for you. I served in the Senate with Sam Nunn. I served on the Armed Services Committee when he was chairman. Here is a man who is a careful, careful legislator—former Senator Warren Rudman, Republican from New Hampshire; former Secretary of State George Shultz, another Republican.

Among them they have decades of knowledge and experience, and the Congress stands ready to dismiss their concerns out of hand.

I pointed out that several of these distinguished persons are Republicans just to emphasize there are several preeminent Republicans who have had great experience in government who say: Wait, take your time. What is the hurry here? Why the big hurry?

This group of 11 experienced public servants who urged the Congress to stop, look, and listen, they have no turf to protect. They have long since left the service of the executive and legislative branches. Why does the Senate not take their advice? Why does the Senate not pause to listen to their sage advice?

Let us remember that 2 years ago Members of Congress fell all over themselves in a mad frenzy to adopt the advice of Senator Hart and Senator Rudman to create a Department of Homeland Security. Anyone who did not agree with the Hart-Rudman report was viewed as being obstructionist or out of touch. But today, the Senate sloughs off the counsel of those same two men to slow down—slow down. That is what the Senate is all about.

The Senate is not a second House of Representatives with a 6-year term. Thank God for that. As I said many years ago when I was a Member of the other body, the body that is closest to the people, I said thank God for the Senate. So I did not come to this body with any idea of changing the rules to make it a second House of Representatives with a 6-year term. I never thought that about it. I have thought that it is meant to be a place where men and women could argue as long as their feet would hold them erect. I have said time and again that as long as we have a forum in which elected representatives of the people can speak out, speak out without fear and speak out as long as they want to speak on a matter they feel very deeply about, thank God, the people's liberties will be secure.

But today, as I say, the Senate sloughs off the counsel of these eminent luminaries to slow down. How quickly we turn on the advice of our friends.

I fear the Senate wants change, in some instances, merely for the sake of

change, and that we do not yet possess an adequate understanding of why we are doing what we are doing. It is not even clear why or how the 9/11 Commissioners arrived at all of their recommendations. The Commission's report does not explain it. What recommendations did the Commission consider and reject, and why did they reject the recommendations? Did the 9/11 panel receive any independent assessments of their ideas before they were published? Will the Commission's proposals prevent intelligence failures in other areas, such as stopping a repeat of the Iraq weapons of mass destruction fiasco? Even as the Senate rushes to pass this intelligence reform bill, with one eye on the public opinion polls, of course, and the other on the adjournment date, we do not know the answer to these questions.

Given the Senate's failure to ask more questions about the creation of a Department of Homeland Security and the need for war in Iraq, I would hope this Chamber would be more circumspect about rushing to restructure our intelligence agencies on the eve of a Presidential election.

These agencies are very secretive—very secretive. And look at the power Congress is about to give the national intelligence director. Look at the power. He is not an elected individual. I would hope that the Senate would pause to consider the powers that may be shifted to the executive branch in this legislation. I also hope that Senators will consider if such a timid Congress could possibly exercise proper oversight over a powerful and secretive bureaucracy.

We are being naive about these intelligence reforms. It may be comforting to embrace the 9/11 report, and I hold in the highest regard the members, as I say, of that Commission and for its work. It may be comforting to embrace the 9/11 report, but its reforms ignore more fundamental intelligence problems.

At the Appropriations Committee hearing on September 21, 2004, I asked Henry Kissinger: If the 9/11 Commission's recommendations had been implemented in 2002, would our intelligence agencies have come to a different conclusion about Iraq's nonexistent weapons of mass destruction? His answer was no, nothing would have been different. There still would have been false claims of huge stockpiles of WMD in Iraq.

Mr. President, we are all too focused just on the failings of 9/11. The Senate has not focused enough attention on the intelligence failures leading to war in Iraq, in which, as of the last reading of the news reports, we have lost 1,061 men and women. For what? For what did they give their lives? I would wonder, if I had a grandchild who had gone and lost his life in this war, for what did he give his life? Was it worth it? Was it worth it to invade a country under the new doctrine of preemption, which flies right into the face of the Constitution of the United States?

I did not hear the Constitution mentioned last night in the debate. I am not sure, maybe I had my back turned at the moment. I have a sick wife and maybe, perhaps, I did not hear it. But I certainly did not hear it in the first debate between Mr. Bush and Mr. KERRY; not one time did I hear the Constitution mentioned. And I did not hear it mentioned last night. Yet it is mentioned every day throughout this country in the courtrooms of this Nation, the Constitution of the United States. Here we have these Presidential debates and nobody—if I find I am mistaken about last night's debate, I will certainly amend my words in this respect, but I do not believe I missed something there.

The Senate has not focused enough attention on the intelligence failures leading to the war in Iraq. We have not focused enough attention on the nuclear threat posed by Iran and North Korea. We have not focused enough attention on China. We have not focused enough attention on the proliferation of deadly germs and gases.

Any of these challenges could be responsible for the next catastrophic attack on our country or our interests, and they are conspicuously ignored by this bill. Congress is showing myopic vision in failing to see the universe of threats to this country. Terrorism may be the most immediate threat to our country, but it is not the only threat.

As a Member of the Senate and as the then-chairman of the Appropriations Committee in the Senate, I and my committee responded quickly to the attack of 9/11. Within 3 days, Congress passed an appropriations bill, appropriating $40 billion—within 3 days, $40 billion. Congress, both Houses, passed an appropriations bill appropriating $40 billion. In other words, $40 for every minute since Jesus Christ was born, $40 for every minute since Jesus Christ was born—$40 billion. So Congress acted quickly.

We all are concerned. There is no monopoly of concern on either side of the aisle here. I support the effort to reform our intelligence agencies. I support the creation of a national intelligence director. But I do not support this hurry in which we are engaged. We need to stop, look, and listen, debate, offer amendments, answer questions, hold more hearings, like TED STEVENS and I holding hearings in the Appropriations Committee.

I have been one of the harshest critics of the status quo. Intelligence agencies are expected to uncover terrorists plots against our country and produce unbiased, accurate intelligence, free from political interference. The CIA and other agencies have fallen tragically short on both marks. However, I am not convinced that the Congress fully understands the implications of the reforms proposed by the 9/11 Commission, and the rush to vote on these issues before the Presidential elections means it will not have that opportunity. Henry Kissinger called attention to that fact.

We are legislating in an atmosphere, just before a Presidential election, that is not conducive to thoughtful reform of these intelligence agencies. But the greatest contribution the Senate can make to the cause of the 9/11 families is to take the time to get those reforms right. Prematurely cutting off debate on this bill only succeeds in further politicizing a process that is more mindful of election day than it is the result of this debate.

Like 2 years ago, the Senate is being stampeded into voting on major, far-reaching legislation. The result of this ill-considered course is easily seen: Any reforms the Congress enacts will be the product of rush and haste rather than thoughtful deliberation. We owe more to the memories of those who lost their lives on September 11.

Mr. President, a little earlier I made the statement to the effect that I heard no one in last night's debate on either side mention the Constitution of the United States. My press has since called me and told me I was wrong. That, indeed, one of the candidates—and he said Senator EDWARDS—did mention the Constitution of the United States. Thank God for that.

Mr. LEVIN. Mr. President, I ask unanimous consent that following the remarks of the Senator from Virginia and I be recognized to offer a Warner-Levin amendment which which has now been worked out and cleared. I think Senator WARNER is somewhere nearby. If there is no objection, I ask unanimous consent to put us next in line with that amendment, which is a modified amendment and has been agreed to.

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

The Senator from Pennsylvania.

HEALTH CARE

Mr. SANTORUM. Mr. President, I rise to talk about an issue that is getting quite a bit of play in the press, other than the security issue having to do with our intelligence community and homeland security. This is a different kind of security issue. It is an issue having to do with health care. I wanted to discuss with Members today the two approaches that the candidates for President have about health care and what the consequences are to the consumer, to the patient, as well as to the taxpayer and to our health care system in general.

This is a very important debate we are having about health care because there is an acute problem. It is a problem that, candidly, this Congress has not dealt with. We saw in the debates last night and other conversations about the importance of a Patients' Bill of Rights, which would have done nothing but add more cost to the health care system. It would have caused more uninsured, and that is the term I want to focus on today, ''the uninsured.''

As I travel around Pennsylvania—and I am sure this is true for my colleagues as they travel in their States—

what we hear repeatedly is the problem of the spiraling cost of health care. A Patients' Bill of Rights would have done nothing but add more cost to that system and add more to the uninsured problem. What we don't hear are answers from Congress on how to deal with the problem of the uninsured.

We have two Presidential candidates who have laid out a plan to deal with this very complex problem. I will say that Senator JUDD GREGG chaired a task force on our side of the aisle that put forth a variety of different proposals to deal with the uninsured because it is a very complicated group of people in the sense that there isn't one reason people are uninsured. Senator GREGG has given eloquent talks about the approach we have offered. But, candidly, we have not moved forward on this on either side of the aisle to try to bring it to fruition.

The Presidential candidates have put forward some ideas. I wanted to talk about both of those plans.

Let me first talk about Senator KERRY's plan. Senator KERRY has proposed a plan which, according to the revenue estimates, runs in the area of about $1.5 trillion over the next 10 years, $1.5 trillion in new spending for tax breaks to provide for the uninsured. What the Senator from Massachusetts has suggested is that this $1.5 trillion will cover roughly 27 million people who are currently uninsured, which would make up a little over half of the uninsured in America. But at a cost of $1.5 trillion over 10 years to get someone insured in America, one person under his proposal is $5,500 per insured per year—not per family, per insured per year, $5,500 in Government subsidies to provide for insurance per year. That is a very high-cost way of trying to provide insurance.

On top of that, not only is it a high-cost way, but as you will see in a moment, it is a very bureaucratic way. It is a very inefficient way, and it is a further Government takeover of the private health care system. It federalizes under Medicaid a dramatic expansion of Medicaid for a lot of the people who currently are either uninsured or in many cases insured by private sector employers.

I want to talk about the fiscal voodoo that is going on as to how this program is going to be paid for, which is one of the many proposals that Senator KERRY has put forth in the election. But this is by far the most expensive, $1.5 trillion. He says he is going to pay for it by repealing the Bush tax cuts.

As you can see from this chart, the Bush tax cuts, scored over the next 10 years, will cost the Treasury $1 trillion. So there is still an unaccounted for half a trillion dollars, if we repeal all of them.

Now, what he has said is he only wants to repeal the ones that are on those who make over $200,000. Well, if we go down here and look at what is the tax cut for those who make $200,000, it is roughly $612 billion over the next 10 years, which is less than half of this $1.5 trillion. There is still almost $900 billion in unaccounted-for new spending or tax incentives in the Kerry plan that are not paid for. He could add an additional $400 billion, roughly, in getting rid of the 10-percent bracket and the marriage penalty, the child credit, and the middle-class rate reductions. We can do that, too. We are still half a trillion dollars short.

The plan doesn't add up. It adds up to a fiscal disaster. As many know, the biggest group of people, as far as percentage, who pay in this bracket for which the Senator from Massachusetts wants to eliminate this tax reduction is small businesses. These are the job creators. He wants to eliminate tax incentives for people in small business who are the job creators. He wants to get rid of, I assume, or add other taxes on to pay for the additional $900 billion it is going to take to pay for this new proposal which spends $5,500 per person to provide insurance for them. I would just suggest that that is a very costly way.

Let me contrast that with the President's approach, which does not, as Senator KERRY's plan does through his program, displace private insurance. What do I mean by that? The reason this costs so much is because he is going to be insuring more people than the 27 million in his new program, but a lot of those people he is insuring are already insured.

He is going to take them from the private sector and move them to the public sector. That is why it costs so much. It is a new publicly borne cost that is now a privately borne cost. The taxpayers are going to pay for this, as opposed to employers and employees.

What the President has done is a much smarter, more targeted approach. He put together a plan that does not cost $1.5 trillion but $129 billion. It spends $1,900 to attract someone who is currently uninsured into the new insurance pool that will be created, and it does so in a way that doesn't take someone who has insurance and displaces them into a public pool, which is what the Kerry plan does. So this is a much more commonsense approach, leaving the private insurance market, which has served our country so well, in place and not replacing it with a public sector plan, but creating incentives through low-income tax credits, small employer tax credits, above-the-line deductions, some private market reforms, like AHPs and other things, to broaden the pool for people to be able to purchase health insurance.

This will add almost 7 million people to the ranks of the insured from the ranks of the uninsured. It does so at a responsible cost, something we can likely afford over the next 10 years, as opposed to blowing a hole through the deficit. I find it remarkable that we hear over and over again from the Senator from Massachusetts about how this President has very high deficits, yet we look at a plan here that, under the current scenario he proposes, is a $600 billion repeal of taxes to pay for a $1.5 trillion program. If you are talking about blowing a hole in the deficit, this will do so, and then some; it will add about $100 billion in new deficits every year as a result of this proposal.

This is only part of the problem. The other part of the problem is how the Kerry plan works. Unlike the Bush plan which, again, doesn't displace people from the private sector to the public sector, does not cost $5,500 per person to get them into the insured category, Senator KERRY's plan is incredibly complicated and promises things he cannot deliver. For example, he talks about how he is going to provide the same health plan that Members of Congress have, by participating in the Federal Employees Health Benefit system. He said that, and then the Federal Employees Union got to him and said, whoa, whoa, whoa, you are not going to do that; you are not going to put everybody into our insurance pools. That is going to drive up the cost of our health care dramatically. You can say you are going to give everybody what Members of Congress have, but we are going to set up a separate pool.

So he sets up a separate insurance pool. It is not what Members of Congress have. It is something completely different. It sets up this insurance pool that people can participate in, but the cost of that pool is going to be based on who enrolls in it. So I don't understand how that will save any money, because all insurance pools are based on who is enrolled in the plan. So there is this idea that somehow or other we are going to give you a congressional health care benefit—which, by the way, is the same as every other Federal employee—for nothing, when in fact they are going to get something like a congressional health care plan. Let me assure you, it won't be for nothing; it will be for a lot of money, in a very complicated way.

This is a chart that tries to describe how the Kerry plan works from the standpoint of the Medicare portion over here, including schools, by the way. Schools are going to be responsible for being a social service agency and signing up people for Medicaid. Now we talk so much about how schools are being asked to do so much more when it comes to education. Senator KERRY has another idea for them. They are going to take the responsibility for enrolling children into Medicaid as part of their responsibilities.

Over here, you have sort of how we interact with the doctors and the hospitals. You have this new agency, the premium rebate pool agency—not a particularly creative acronym. We have this agency that is going to determine what is covered, how much we pay. So you are going to have, in a sense, the Federal Government making these decisions as to what doctors you see, how much they are going to pay these doctors, what is going to be covered by these plans.

Again, it is not just an expansion of Medicaid, which is very costly, and bringing a lot of new people into the Medicaid Program, many of whom already have insurance, not only setting up this other plan to deal with how we are going to handle the ''private market reforms'' Senator KERRY wants to impose to help, in this case, those who are high-cost patients in the health care system. So here is the congressional health plan, and you have all these different organizations, or different functions with new organizations, and some are going to be organizations that will have increased responsibility to offer this new congressional health plan, which isn't a congressional health care plan.

You have a tax credit idea. It is not simple. In fact, Senator KERRY has not been particularly clear about how these tax credits will work. He has several of them, not just one. There are four different tax credits Senator KERRY is going to put in place here. Here they are. This is a very complicated system, and it is an extremely costly system, and one that puts more people into Government, less in the private sector, and when private sector reforms happen, puts more oversight into the Government over the private sector—all at the cost of $1.7 trillion.

This is not the direction we want to take in health care. We don't want more Government oversight of the private sector to drive up costs in the private sector. We don't want more people from the private markets going into the Government pools, and we don't want to create the shell game that Senator KERRY is in the area of the new congressional health plan, which isn't a congressional health plan.

The idea of tax credits has some appeal to me. The President's proposal is to try to provide tax credits. But this is a very complicated plan, and it has not been well spelled out. We worked very hard to try to understand it. It is not a very well thought out, planned out approach. I suggest this is bad policy. This is complicated policy. It is very costly policy. It doesn't deliver to people what has been promised. What it does deliver is a big tax bill, or very big deficits in the future, neither of which is something we should be desirous of here in the Senate.

With that, I think we have done a pretty good comparison of where the President wants to go, which is responsible reform and the encouragement of people who do not have insurance to be insured, without disrupting the private markets, without increasing the size of the Government-run health care plans, and doing so at a responsible cost, as opposed to Senator KERRY, who wants to dramatically increase Government's role in health care, increase the Government's role in overseeing private health care, and play a shell game because it sounds good that you are getting congressional health care for nothing, when in fact you are not, and for a lot. Again, I will give Senator KERRY credit for the tax credit idea, but it is very foggy and not particularly well thought out, in my opinion. So I think it is a failure on all fronts. It is very complicated and will not serve the best interests of the patients in America and will not serve the interests of taxpayers in America.

With that, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I am joined by my colleague, the ranking member of the Armed Services Committee, the Senator from Michigan. This is an amendment which we have jointly worked out together.

AMENDMENT NO. 3875, AS MODIFIED

Mr. WARNER. Mr. President, from a parliamentary standpoint, I now send a modification to amendment No. 3875 to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 3875), as modified, is as follows:

On page 210, strike line 23 and insert the following:

SEC. 336. COMPONENTS OF NATIONAL INTELLIGENCE PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the National Intelligence Program shall consist of all programs, projects, and activities that are part of the National Foreign Intelligence Program as of the effective date of this section.

(b) JOINT REVIEW OF CERTAIN PROGRAMS.—(1) The National Intelligence Director and the Secretary of Defense shall jointly review the programs, projects, and activities as follows:

(A) The programs, projects, and activities within the Joint Military Intelligence Program as of the effective date of this section.

(B) The programs, projects, and activities within the Tactical Intelligence and Related Activities program as of the effective date of this section.

(C) The programs, projects, and activities of the Defense Intelligence Agency as of the effective date of this section that support the intelligence staff of the Chairman of the Joint Chiefs of Staff, the intelligence staffs of the unified combatant commands, and the portions of the sensitive compartmented communications systems that support components of the Department of Defense.

(2) As part of the review under paragraph (1), the Director shall consult with the head of each element of the intelligence community.

(3)(A) The review under paragraph (1) with respect to the programs, projects, and activities referred to in paragraph (1)(C) shall be completed not later than 60 days after the date on which the first individual nominated as National Intelligence Director after the date of the enactment of this Act is confirmed by the Senate.

(B) Upon completion of the review under paragraph (1) of the programs, projects, and activities referred to in paragraph (1)(C), the Director shall submit to the President recommendations regarding the programs, projects, or activities, if any, referred to in paragraph (1)(C) to be included in the National Intelligence Program, together with any comments that the Secretary of Defense considers appropriate.

(C) During the period of the review under paragraph (1) of the programs, projects, and activities referred to in paragraph (1)(C), no action shall be taken that would have the effect of prejudicing the outcome of such review.

(4)(A) The review under paragraph (1) with respect to the programs, projects, and activities referred to in subparagraphs (A) and (B) of paragraph (1) shall be completed not later than one year after the effective date of this section.

(B) Upon completion of the review under paragraph (1) of the programs, projects, and activities referred to in subparagraphs (A) and (B) of paragraph (1), the Director shall submit to the President recommendations regarding the programs, projects, or activities, if any, referred to in such subparagraphs to be included in the National Intelligence Program, together with any comments that the Secretary of Defense considers appropriate.

SEC. 337. GENERAL REFERENCES.

Mr. WARNER. I thank the Presiding Officer. I shall be very brief on this matter.

The distinguished manager and comanager have worked with my staff and Senator LEVIN and myself, and we have come to an agreement on this issue.

Again, it is an amendment by myself, Mr. LEVIN, Mr. STEVENS, Mr. INOUYE, Mr. ALLARD, Mr. SESSIONS, Mr. CORNYN, and Mr. CHAMBLISS.

I start by referring to the 9/11 report. This is a very important report which has been a roadmap for so many of the provisions and it is a roadmap I have used for this provision.

I read from page 412:

> The Defense Department's military intelligence programs—the joint military intelligence program (JMIP) and the tactical intelligence and related activities programs (TIARA)—would remain part of that department's responsibility.

That is the purpose of this amendment. It is to clarify. I think it was the intent of the managers all along. They made statements comparable to what is in the 9/11 report from which I just quoted and, therefore, this amendment would leave in place those programs being performed by what we call the combat agencies, largely under a contractual relationship, and they would remain in place, but with the understanding that upon completion of a review, to be conducted by the national intelligence director and the Secretary of Defense, if they reach, as is specified under the bill, a joint opinion as to the desirability to move them into the national intelligence program, in all likelihood that can be achieved.

I thank the managers. I yield the floor to my distinguished colleague from Michigan. I thank my distinguished colleague, Senator LEVIN, for his work on this very important amendment, an aspect of which is tailored to meet a concern that the Senator from Michigan has.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, my concern about the definition of intelligence programs that the budget execution authority would be transferred to relates to the definition in the bill

that, in turn, relates to the Defense Intelligence Agency.

There are a number of Defense Intelligence Agency programs which, in my judgment, should not have their budget execution authority transferred to the new national intelligence program. Specifically, there are three programs. These are a small set of DIA programs but, nonetheless, there are three in particular to which I refer.

First is the intelligence staff of the Joint Chiefs of Staff. Second is the intelligence staff of the combatant commanders. Third is certain sensitive communications systems which support the Department of Defense command structure.

The principal purpose of those programs is to support joint or tactical military operations, and I think it would be a mistake to transfer the budget execution authority for those three programs to the national intelligence director. They are just simply too deeply embedded in supporting joint or tactical military operations for that to make sense.

However, rather than trying to resolve that debate here and rather than having the bill transfer the budget execution to the national intelligence program, what we have arrived at is a compromise which does the same thing relative to these programs, as Senator WARNER just outlined, relative to a number of other programs; that is, we assign and task the new national intelligence director and the Secretary of Defense to review these DIA programs, then to make a recommendation as to where the budget execution ought to rest, whether it should be in the national intelligence program or in the Department of Defense, and then to make a recommendation to the Office of Management and Budget and then to the President who would make the decision on this issue.

The review would be an expedited review. It would not take more than 60 days. But it would make it possible to have this decision in review based on the facts relating to this program rather than to make an abstract judgment about all programs in the Defense Intelligence Agency in this bill.

During this period of review, we have agreed that nothing would be done to prejudice the outcome of this review. With the adoption of this amendment, assuming it is adopted, then my amendment No. 3810 will be withdrawn because that is the purpose of this amendment.

Again, as I did with another amendment earlier today, I thank the managers of the bill for working with us to make this possible. It is a very rational approach, as well as a good compromise to a very complicated situation. We want to avoid—we want lines to be clear, but we do not want them to be arbitrary in a way which will force budget execution of programs to be where they logically should not be.

I also thank Senator WARNER for his leadership on a very related issue. The way in which we have addressed these two issues is similar but not exactly the same. It just makes a lot of sense.

I thank the managers for their willingness to work with us on this matter.

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

Mr. WARNER. Mr. President, I thank my distinguished colleague and ranking member. Given that the two of us are about to start a hearing in 10 minutes, I guess it is best we go to the adoption of the amendment, but I yield for any comments the distinguished chairman may like to make.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, first, I thank the distinguished chairman and ranking member of the Armed Services Committee for working so closely with Mr. LIEBERMAN and me on this very important issue to set forth a process for determining what intelligence assets belong in the NIP, the national intelligence program, versus the joint military intelligence program and the tactical program.

The Collins-Lieberman bill gives the national intelligence director strong budgetary authority over the national intelligence program. Senator LIEBERMAN and I envision that his program will be composed of the intelligence assets that serve national purposes, meaning those that pertain to the interests of more than one department.

In the long run, I strongly believe the budgets for the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office should be wholly within the national intelligence program.

Currently, these agencies have split budgets, and the heads of these agencies tell us that leads to a great deal of administrative inefficiency. Now, it is possible that some intelligence assets from the Department of Defense's Joint Military Intelligence Program may ultimately be moved to the national intelligence program, but, of course, military intelligence assets that principally serve joint or tactical military needs should stay within the Department of Defense, and I think the language is very clear on this point.

Through this amendment, we have tried to address concerns that both Senators have raised. I think the compromise language does address and alleviate those concerns. The reviews that are underway will help us better define the parts of the intelligence budget that will be completed within 1 year after the effective date, in one case 60 days, in the case that Senator LEVIN is concerned with the three activities in the Defense Intelligence Agency.

The reviews mandated in this compromise amendment will provide a rational process for determining which assets belong in the national intelligence program and which do not. I very much appreciate the cooperation of our colleagues, and I do urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment as modified. In fact, I know that the chairman and ranking member of the Armed Services Committee have to go to a hearing, so that may only shorten the praise that I want to offer to them.

Mr. LEVIN. The Senator can take his time.

Mr. LIEBERMAN. Take my time?

Mr. LEVIN. Yes.

Mr. LIEBERMAN. I truly thank them for their extraordinary service on behalf of our national security generally but also for their work on this amendment. We had some very good discussions about this, and I never had a moment where I felt they were doing this just to protect turf. I know they were pursuing these questions with a genuine interest in what would work best for our national security, both the intelligence and the military sides of it.

This is not an uncomplicated problem. We are setting up a national intelligence director. We want that person to coordinate the intelligence community, and budget authority is a critical part of that. Senator WARNER is quite right, obviously, in the section that he read from the 9/11 Commission Report.

Interestingly, as my colleagues on the Governmental Affairs Committee may remember, when Dr. Zelikow, the chief of staff of the Commission, came before our committee, he said they had changed their mind a bit on putting the Joint Military Intelligence Program into the Department of Defense budget control because of the Commissioners' concern that the national intelligence assets—the National Security Agency, Geospatial Agency, and Reconnaissance—all have a single budgetary accountability, in this case to the national intelligence budget. I believe in the long run that is the way it ought to go.

I must say in my own mind, perhaps simplistically, I always believed that what we wanted to do was to say that the national intelligence director should have control over the national intelligence budget; that the Secretary of Defense should have clear control over TIARA, the tactical intelligence budget; and that the Joint Military Intelligence Program was somewhere in between. We had to find a rational way to decide where authority went.

I think in some sense what we are saying in this legislation is we are not quite ready to make those decisions. So this amendment that we agreed to essentially freezes the status quo with regard to the JMIP and the particular programs that we discussed in the Defense Intelligence Agency, subjects them to review, consideration of all of the factors—effectiveness, budgetary authority, all the rest, military effectiveness—and then has a decision made ultimately by the Office of Management and Budget on recommendation from the national intelligence director.

It is a very strong, balanced, reasonable conclusion which does no damage to the basic purpose of this legislation and provides for, ultimately, a rational allocation of budget authority in the shared interest of our national security, which is, after all, what this is all about.

So this is really what legislating is supposed to be about. I thank my colleagues for all the work they and our staffs have done, and I move adoption of the modified amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the yeas and nays had been ordered. I ask unanimous consent that the order for the yeas and nays on this amendment be vitiated and that we have a voice vote.

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

The question is on agreeing to the amendment.

The amendment (No. 3875), as modified, was agreed to.

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

Mr. LEVIN. 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 Michigan.

Mr. LEVIN. I want to thank our colleagues and managers of the bill and, as always, thank Senator WARNER. The managers have worked so well with us, and I want to thank them for that, and also thank them for the way they worked with each other.

AMENDMENT NO. 3810, WITHDRAWN

Mr. LEVIN. I ask unanimous consent that amendment No. 3810 now be withdrawn since that was covered in the amendment which was just adopted.

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

The Senator from Alaska.

AMENDMENT NO. 3827, AS MODIFIED

Mr. STEVENS. I call up amendment No. 3827, and I send to the desk a modified version of that amendment.

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

Mr. STEVENS. I think it is already before the Senate.

The PRESIDING OFFICER. The amendment has now been modified.

The amendment (No. 3827), as modified, is as follows:

(Purpose: To strike section 206, relating to information sharing)

On page 126, strike lines 23 through 25.

On page 127, line 1, strike ''(2)'' and insert ''(1)''.

On page 127, line 4, strike ''(3)'' and insert ''(2)''.

On page 128, strike lines 1 through 3 and insert the following:

(3) ENVIRONMENT.—The term ''Environment'' means the Information Sharing Environment as described under subsection (c).

On page 130, strike line 10 and insert the following:

(c) INFORMATION SHARING ENVIRONMENT.—

On page 130, line 20, strike ''Network'' and insert ''Environment''.

On page 133, lines 5 and 6, delete ''Director of the Office of Management and Budget'' and insert ''principal officer as designated in subsection 206(g)''.

On page 133, line 10, strike ''Network'' and insert ''Environment''.

On page 134, line 2, strike ''Network'' and insert ''Environment''.

On page 134, line 22, strike ''Network'' and insert ''Environment''.

On page 135, beginning on line 16, strike ''the Director of Management and Budget shall submit to the President and'' and insert ''the President shall submit''.

On page 135 strike lines 19 through 22 and insert ''Environment. The enterprise architecture and implementation plan shall be prepared by the principal officer in consultation with the Executive Council and shall include—''.

On page 135, line 24, strike ''Network'' and insert ''Environment''.

On page 136, line 3, strike ''Network'' and insert ''Environment''.

On page 136, line 5, strike ''Network'' and insert ''Environment''.

On page 136, line 7, strike ''Network'' and insert ''Environment''.

On page 137, beginning on line 4, strike ''Network'' and insert ''Environment''.

On page 137, line 8, strike ''Network'' and insert ''Environment''.

On page 137, line 11, strike ''Network'' and insert ''Environment''.

On page 137, line 14, strike ''Network'' and insert ''Environment''.

On page 137, line 16, strike ''Network;'' and insert ''Environment; and''.

On page 137, line 18, strike ''Network'' and insert ''Environment''.

On page 137, line 21, strike ''that the Director of Management and Budget determines'' and insert ''determined'' and insert a period.

On page 138, strike lines 1 through 3 and insert the following:

(g) RESPONSIBILITIES OF EXECUTIVE COUNCIL FOR INFORMATION SHARING ENVIRONMENT.—

On page 138, beginning on line 4, insert ''(1) Not later than 120 days after the date of enactment, with notification to Congress, the President shall designate an individual as the principal officer responsible for information sharing across the Federal government. That individual shall have and exercise governmentwide authority and have management expertise in enterprise architecture, information sharing, and interoperability.''

On page 138, beginning on line 6, strike ''The Director of Management and Budget'' and insert ''The principal officer designated under this subsection''.

On page 138, beginning on line 9, strike ''Network'' and insert ''Environment''.

On page 138, line 14, strike ''Network'' and insert ''Environment''.

On page 138, line 17, strike ''Network'' and insert ''Environment''.

On page 138, line 21, strike ''to the President and''.

On page 139, line 5, strike ''Network'' and insert ''Environment''.

On page 140, strike lines 5 through 17.

On page 140, strike lines 18 and 19 and insert the following:

(h) ESTABLISHMENT OF EXECUTIVE COUNCIL.—

On page 140, strike line 20 through line 24 and insert ''There is established an Executive Council on information sharing that shall assist the principal officer as designated under subsection 206(g) in the execution of the duties under this Act concerning information sharing.''.

On page 141, line 1, insert ''The Executive Council shall be chaired by the principal officer as designated in subsection 206(g).''

On page 141, beginning on line 4, strike '', who shall serve as the Chairman of the Executive Council''.

On page 142, beginning on line 2, strike ''assist the Director of Management and Budget in—'' and insert ''assist the President in—''.

On page 142, beginning on line 4, strike ''Network'' and insert ''Environment''.

On page 142, line 8, strike ''Network'' and insert ''Environment''.

On page 142, line 11, strike ''Network'' and insert ''Environment''.

On page 142, line 12, strike ''Network'' and insert ''Environment''.

On page 142, beginning on line 15, strike ''Network;'' and insert ''Environment; and''.

On page 142, strike lines 22 through 24, and insert ''(F) considering input provided by persons from outside the federal government with significant experience and expertise in policy, technical, and operational matters, including issues of security, privacy, or civil liberties.

On page 143, beginning on line 7, strike ''the Director of Management and Budget, in the capacity as Chair of the Executive Council,'' and insert ''the principal officer as designated in section 206(g)''.

On page 144, strike line 3 and all that follows through page 145, line 10.

On page 145 line 11, strike ''(j)'' and insert ''(i)''.

On page 145, beginning on line 14, strike ''through the Director of Management and Budget'' and insert ''principal officer as designated in section 206(g)''.

On page 145, line 16, strike ''Network'' and insert ''Environment''.

On page 145, line 21, strike ''Network'' and insert ''Environment''.

On page 145, line 22, strike ''Network'' and insert ''Environment''.

On page 146, line 4, strike ''Network'' and insert ''Environment''.

On page 146, line 7, strike ''Network'' and insert ''Environment''.

On page 146, line 9, strike ''Network'' and insert ''Environment''.

On page 146, line 13, strike ''Network'' and insert ''Environment''.

On page 147, line 2, strike ''Network'' and insert ''Environment''.

On page 147, line 6, strike ''Network'' and insert ''Environment''.

On page 147, line 8, strike ''Network'' and insert ''Environment''.

On page 147, line 11, strike ''Network'' and insert ''Environment''.

On page 147, line 17, strike ''Network'' and insert ''Environment''.

On page 147, line 22, strike ''Network'' and insert ''Environment''.

On page 148, line 6, strike ''Network'' and insert ''Environment''.

On page 148, line 8, strike ''Network'' and insert ''Environment''.

On page 148, line 16, strike ''Network'' and insert ''Environment''.

On page 148, line 17, strike ''(k)'' and insert ''(j)''.

On page 148, line 20, strike ''Network'' and insert ''Environment''.

On page 148, line 24, strike ''Network'' and insert ''Environment''.

On page 149, line 3, strike ''Network'' and insert ''Environment''.

On page 149, line 5, strike ''Network'' and insert ''Environment''.

On page 149, line 10, strike ''(l)'' and insert ''(k)''.

On page 149, line 13, strike ''Network'' and insert ''Environment''.

On page 149, line 14, strike ''Network'' and insert ''Environment''.

On page 149, beginning on line 14, strike ''the Director of Management and Budget'' and insert ''the principal officer as designated in section 206(g)''.

On page 149, line 19, strike ''Network'' and insert ''Environment''.
On page 150, line 2, strike ''Network'' and insert ''Environment''.
On page 150, line 9, strike ''Network'' and insert ''Environment''.
On page 150, line 13, strike ''Network'' and insert ''Environment''.
On page 150, line 16, strike ''Network'' and insert ''Environment''.
On page 150, line 18, strike ''(m)'' and insert ''(l)''.
On page 150, beginning on line 23, strike ''Network'' and insert ''Environment''.
On page 151, line 2, strike ''Network'' and insert ''Environment''.
On page 151, line 3, strike ''Network'' and insert ''Environment''.
On page 152, line 7, strike ''Network'' and insert ''Environment''.
On page 152, line 11, strike ''Network'' and insert ''Environment''.
On page 152, line 19, strike ''(n)'' and insert ''(m)''.
On page 152, beginning on line 21, strike ''to the Director of Management and Budget''.
On page 153, line 1, strike ''Network'' and insert ''Environment''.

Mr. STEVENS. Mr. President, I again thank the managers of the bill, Senator COLLINS and Senator LIEBERMAN and their staffs, for working with us on this amendment. That amendment has now been modified, and I think it meets the objections or the reservations that were set forth by the administration Statement of Position, the so-called SAP, that we received on this bill.

It has been modified to make certain that the President will have the authority to designate an entity. We all agree, we hope, that he will not delegate this matter to the national intelligence director. I think it is a function that is essential to carry out the purposes of this bill. Therefore, I am offering the modified amendment.

I ask unanimous consent that the amendment, as modified, be considered and adopted, and the motion to reconsider be laid upon the table.

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

The amendment (No. 3827), as modified, was agreed to.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3839, WITHDRAWN

Mr. STEVENS. I ask unanimous consent that amendment No. 3839 be withdrawn from consideration. I am still sad about the vote that was against the position I supported with regard to disclosing the aggregated top line of intelligence. I hope before we are through with this bill that we will find some way to accommodate some of the reservations I have about that process, but in any event I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. STEVENS. Mr. President, I say to the two Senators, it is my intention now to support this bill. I congratulate them for listening to us. Sometimes I have raised my voice. One newspaper said I shouted at the distinguished Senator from Maine. That is just my trial lawyer voice, and I apologize for it.

I do thank the Senator for her courtesy and apologize if I have been mistaken in terms of the tone of my voice, but that is my voice. I cannot do much about it.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the senior Senator from Alaska for his cooperation and his many helpful suggestions for improving this bill. I have great affection and respect for the senior Senator. I very much appreciate the fact that he is going to support this bill on final passage. That means a great deal to me and will certainly assist us. I look forward to continuing to consult with him as we move through the conference process, and I will tell the senior Senator from Alaska that I am very relieved today to see that he is not wearing his ''Incredible Hulk'' tie but, rather, a very restrained tie from some national museum, I believe. I know that bodes well for the day ending well. Again, I thank the Senator. I very much enjoy working with him.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am delighted that we have reached a meeting of the minds on the information-sharing part of the bill, which preserves intact the considerable reforms that are called for which will protect our national security, as advanced by Senator DURBIN, but also quite appropriately embrace the concerns that Senator STEVENS and the administration had as to who would be in charge of this transformation.

Second, I grew up in a family where if you were not passionate and didn't raise your voice about things that mattered to you, it was thought that something was wrong. I also want to make clear that when you raised your voice the other day, I did not think you were only shouting at the Senator from Maine, I thought that I was also included as a recipient.

Look, it reminds me of the old Teddy Roosevelt line about being in the arena, not standing on the side reading a newspaper but getting into the arena and fighting with all your heart for what you believe in. I admire the Senator greatly for doing that. I would much rather have him on my side rather than against me, and that is why I am particularly thrilled to hear the announcement of the Senator from Alaska that he will support this measure as amended.

I thank him and I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I have spoken just now with the two managers of the bill. There is not going to be a vote in the immediate future. As the record indicates, this legislation has to be completed by 4:30, so final passage certainly will take place at 4:30. There may be an amendment or two before that time, but there is nothing right now. If people are on their way over, they should turn around and go back. There probably won't be anything, probably within the next hour.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded call the roll.

Ms. COLLINS. 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.

Ms. COLLINS. Mr. President, of all the testimony presented to the Committee on Governmental Affairs during our eight hearings on the recommendations of the 9/11 Commission perhaps none was more powerful than that of Mary Fetchet. Her son, Brad, died in the World Trade Center on September 11. Here are a few of her words.

She said:

> When American lives are at stake, indifference or inertia is unacceptable. When critical reforms are implemented to make our country safer, I will know that neither Brad's life nor the lives of nearly 3,000 others who perished on September 11 were lost in vain.

Throughout this debate it has been the families of the victims of 9/11 who have reminded us of why we are here and why these reforms are so important.

In passing the National Intelligence Reform Act of 2004—as I believe we will later this afternoon—the Senate will reject indifference and inertia. We will endure critical reforms to make our country safer. We will declare that the lives lost to terrorism were not lost in vain. The action we take in their memory will benefit people of good will in this country and throughout the world today and for many years to come.

This legislation will make the most sweeping changes in our intelligence structures in more than 50 years. It is the result of enormous effort. The issues are complex and many. The timetable was tight, but the stakes were so high and the times so dangerous that we simply could not delay this urgent task. Now we are on the threshold of getting the job done and getting it done right.

I am deeply grateful to my good friend Senator LIEBERMAN. This legislation would not have been possible without his tireless effort and his bipartisan spirit. From the moment we were first assigned the task of developing this legislation on July 22nd, our fellow members of the Governmental Affairs Committee dug in with energy and intellect. I am grateful to the Presiding Officer as one of the committee

members for his contributions. It was an August recess we will never forget.

We are very grateful to the leaders of the Senate. Senator FRIST and Senator DASCHLE had the confidence in our committee that they felt they could charge us with this enormous and critical undertaking.

Our whips, Senator REID and Senator MCCONNELL, have also been very helpful. Senator REID has been a constant presence in the Chamber throughout this debate.

We could not have accomplished all that we did without our dedicated staff, led by Michael Bopp and Joyce Rechtschaffen. We have worked so closely with them. We have worked arm in arm. They have literally worked day and night to produce this bill. I am so proud of their extraordinary efforts.

Our staffs were supplemented by hard-working detailees from the CIA, the DIA, and other agencies, as well as by members of the Commission staff who, rather than going back to their previous jobs and lives, worked with us on the committee to help give the benefit of their expertise. Without the efforts of all these staff members we never could have gotten the job done. I am very grateful to all of them.

This legislation, however, is not merely the result of months of extraordinary effort by our committee or of the expert and insightful testimony we heard from more than two dozen witnesses at eight hearings. Rather, it builds upon a rock-solid foundation laid by the 9/11 Commission and the investigation that it conducted over 20 months, including 19 days of hearings with 160 witnesses. I thank all Commission members for all of their extraordinary effort.

The need for reform in our intelligence system was not, however, suddenly revealed in hearings spurred by one catastrophic failure 3 years ago. The failures that led to that day are numerous and reach back many years. They were overlooked in terrorist attack after terrorist attack for more than a decade. The call for reform was made in studies, commission reports, and legislation going back half a century. It is a call we can no longer ignore.

Our committee was guided by clear principles. An intelligence community designed for the Cold War must be transformed into one designed to win the war against global terrorism and future national security threats. The new structure must build upon the strengths of the old and recognize the considerable improvements made since September 11.

The unique experience, expertise, and viewpoints of the 15 agencies that comprise our intelligence community are assets that must be preserved. The barriers to information sharing, cooperation, and coordination within the community, what the 9/11 Commission calls stovepipes, must be demolished. In their place must come a structure with the agility the times and the threats demand—not another layer of bureaucracy.

We were determined, in crafting this new structure, that we not infringe upon the freedoms that define us as Americans. The legislation that came out of our committee by a unanimous vote adhered to these important principles and it has been strengthened by the vigorous debate we have had in the Senate during the past week. The debate has not merely been vigorous but also highly informed. Throughout these proceedings, it has been clear the commitment that drove our committee to act is shared by the full Senate. From the authorities of the national intelligence director to the structure of our transformed intelligence community to the protection of civil liberties, many critical issues have been raised, debated, and resolved. I particularly thank the members of the Committee on Armed Services, the Select Committee on Intelligence, and the Appropriations Committee, particularly their chairs and ranking members. Their knowledge and their input have been invaluable.

Many important issues have been raised and will be resolved as this transformation continues. One of the most remarkable aspects of this debate has been the widespread recognition that intelligence reform is not a single act but an ongoing process.

The fundamental obligation of government is to protect its citizens and those protections must evolve to meet new threats. This legislation brings about much-needed reforms and it creates an environment in which this ongoing process can continue.

I began these remarks with a quote from a mother who has suffered the worst loss any parent can endure. She turned her loss into positive advocacy. It is Senator BYRD, however, who inspires me to end these remarks with a quote from the Constitution.

To form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our Posterity . . .

The opening lines of our Constitution provide, in some ways, a job description of America's Government that is a miracle of clarity as well as an awesome challenge. Rarely does one piece of legislation encompass all of its elements or do we have the opportunity to do so in a way that clearly demonstrates the spirit that animates it. This is one of those rare times. Let us do what the times demand. Let us act to approve this legislation this afternoon and by doing so make our country safer.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Has the Senator from Maine completed her statement?

Ms. COLLINS. Yes.

AMENDMENT NO. 3915, AS MODIFIED

Mr. LEAHY. Mr. President, after 9/11, there was broad agreement that the absence of an accurate, reliable, and comprehensive terrorist watch list was a serious deficiency. Unfortunately, 3 years later, we still have not accomplished this important task.

My amendment, which has been modified to reach an agreement with Senators COLLINS and LIEBERMAN, addresses this deficiency. It requires a report to Congress on the watch list, specifically on the standards in place to ensure we have a list that is reliable and accurate, and that we have procedures for determining threat levels and the consequences to listed individuals. It also mandates a process for individuals erroneously listed on the ''Automatic Selectee'' and ''No-Fly'' lists to have their names removed. Finally, it would require an assessment of the privacy and civil liberty implications of using these lists. It is critical that we have a complete, accurate and consolidated watch list, but we also need to be mindful of our liberties in the process.

We know that one of the most senior and respected Members of this Senate who for decades has taken the same flight was told he could not board because he was, apparently, on some kind of terrorist list. They said: Of course, it is an obvious error, and we will get it cleared up. But repeatedly when he tried to get on the same plane, he was continually stopped.

Now, as a Member of the Senate, after six or seven times of this happening, and after calls from the White House, the head of Homeland Security and others, the problem was finally corrected. Can you imagine what it is like if you are Jane Smith or John Jones from a small town somewhere in this country, but you have to travel on business and your name is there, and you lose important clients, you lose important business, or you are unable to get home to visit a friend or a family member, and you probably cannot pick up the phone and call the White House and say, ''Look, this is the sixth or seventh time I have been mistakenly barred from traveling. Please fix it''?

Now, there are other concerns I would like to have addressed, but this modified version reflects the agreement with Senators COLLINS and LIEBERMAN.

Mr. President, I believe the modified amendment is at the desk, and I ask unanimous consent it be in order to call up my amendment No. 3915 and that it be so modified.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, (No. 3915) as modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. TERRORIST WATCH LISTS

(a) CRITERIA FOR WATCH LIST.—The National Intelligence Director of the United States, in consultation with the Secretary of Homeland Security, the Secretary of State, and the Attorney General, shall report to Congress on the criteria for placing individuals on the Terrorist Screening Center consolidated screening watch list, including

minimum standards for reliability and accuracy of identifying information, the degree of information certainty and the range of threat levels that the individual poses, and the range of applicable consequences that apply to the person if located. To the greatest extent consistent with the protection of law enforcement sensitive information, classified information, and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(b) SAFEGUARDS AGAINST ERRONEOUS LISTINGS.—The Secretary of Homeland Security shall establish a process for individuals to challenge ''Automatic Selectee'' or ''No Fly'' designations on the applicable lists as maintained by the Transportation Security Administration and have their names removed from such lists, if erroneously present.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Department of Homeland Security Privacy Officer shall submit a report assessing the impact of the ''No Fly'' and ''Automatic Selectee'' lists on privacy and civil liberties to the Committee on the Judiciary, the Committee on Governmental Affairs, and the Committee on Commerce, Science and Transportation of the Senate, and the Committee on the Judiciary, the Committee on Government Reform, the Committee on Transportation and Infrastructure, and the Select Committee on Homeland Security of the House of Representatives. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effects of such lists on privacy, discrimination, due process and other civil liberties, as well as the implications of applying those lists to other modes of transportation. In its analysis, the report shall also consider the effect these recommendations would have on the ability of such lists to protect the United States against terrorist attacks. To the greatest extent consistent with the protection of law enforcement sensitive information, classified information, and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall become effective on the date of enactment of this Act.

Mr. LEAHY. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank Senator LEAHY for working with Senator LIEBERMAN and me on his amendment. It requires two reports related to watch lists: one on the criteria for listing a name on the Terrorist Screening Center's consolidated watch list, and another on the effect of the ''automatic selectee'' and ''no-fly'' lists on privacy and civil liberties.

We worked with him to incorporate some modifications that make the amendment acceptable to the two managers and incorporate some recommendations from the administration.

I am well aware of some of the problems with the watch list. A constituent of mine from Camden, ME, a retired physician, has the misfortune to have a name that is identical to a name that is on the watch list. Every time he flies, he encounters great difficulties. I believe the Senator's amendment will help to address that.

It is important to ensure we are safe and that those who want to do us harm do not have access to aircraft. But at the same time we want to make sure that law-abiding travelers are not impeded from conducting their travels simply because they have the misfortune to share a name with someone on the watch list.

The process required by the Senator, I think, will be helpful. I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment, as modified.

The amendment (No. 3915), as modified, was agreed to.

Mr. LEAHY. 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.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, first, I thank the distinguished chair of the committee for her cooperation and help, and also commend her and her distinguished ranking member for moving this far along.

AMENDMENT NO. 3916, AS MODIFIED

Mr. President, a major weakness uncovered after 9/11 was the failure of Government agencies to share information with one another. The 9/11 Commission recommended a government-wide information system to ensure that we connect the dots. The Commission also recommended that the ''[p]rotection of privacy rights should be one key element'' of implementing the system. Given the sweeping powers that Congress is about to grant for building an information sharing system, we have to protect the privacy and civil liberties of the American people.

After all, we fought a Revolution to guarantee our privacy. The distinguished Presiding Officer and the distinguished chair know, because they come from New England, that the Revolution was fought on our soil.

We all agree we must maximize this information, but we must also maximize the protection of personal information. And we need assurances that private information will be protected before we build the system, not after. We certainly do not want to repeat what happened with CAPPS II, when $100 million of taxpayer money was spent on deploying a system that then subsequently collapsed because we failed to adequately account for civil liberties and privacy concerns.

My amendment, which has been modified to reach an agreement with Senators COLLINS and LIEBERMAN, would require that we take advantage of available privacy-enhancing technology that would prevent unauthorized dissemination of information. It also requires the Administration to fulfill its obligations to report to Congress on plans for the network before spending funds to build it. This oversight is critical to ensuring the network maximizes security while balancing civil liberties and privacy.

Senators COLLINS and LIEBERMAN have agreed to accept this important amendment.

Mr. President, I ask unanimous consent that it be in order to call up amendment No. 3916, and that it be modified.

The PRESIDING OFFICER. The amendment is pending.

Without objection, the amendment is so modified.

The amendment, No. 3916, as modified, is as follows:

On page 132, line 23, strike ''and''.

On page 133, line 3, strike the period and insert ''; and''.

On page 133, between lines 3 and 4, insert the following:

(L) utilizing privacy-enhancing technologies that minimize the inappropriate dissemination and disclosure of personally identifiable information.

On page 153, between lines 2 and 3, insert the following:

(o) LIMITATION ON FUNDS.—Notwithstanding any other provision of this section, none of the funds provided pursuant to subsection (n) may be obligated for deployment or implementation of the Network unless the guidelines and requirements under subsection (e) are submitted to Congress.

Mr. LEAHY. Mr. President, I understand there is no objection to this amendment from the managers of the bill.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, again, I thank Senator LEAHY for modifying his amendment to address concerns that the manager raised. I have no objection to the modified amendment, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 3916), as modified, was agreed to.

Mr. LEAHY. 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.

AMENDMENT NO. 3913 WITHDRAWN

Mr. LEAHY. Mr. President, I have an amendment No. 3913, which I will soon withdraw. It is on the subpoena powers of the civil liberties board created in this bill.

We have worked hard to strengthen the powers of the board both at the committee level and then here on the floor, and I believe we have made great progress. We added teeth to this oversight body and fought against efforts to weaken it.

I think the goal of this amendment, which is to give the board enforcement power for its subpoena authority, is an important one. However, in order to expedite the passage of this bill, I will withdraw the amendment now. I look forward to working with my colleagues on this important issue next year. But I also understand the need to expedite

the passage of this bill. There may be another time to bring this up. I will withdraw the amendment now, though I look forward to working with my colleagues on the issue next year.

I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. LEAHY. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Vermont for his cooperation on that last issue. As I have explained to my colleagues, the bill strikes a very delicate balance on the civil liberties board's power, and there were amendments to strengthen it as well as amendments to weaken it. I appreciate my colleagues' cooperation on both sides of the aisle. I am sure there will be more discussion of this issue as we go along.

I thank the Senator from Vermont and 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. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CONSOLIDATION OF AMENDMENTS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that it be in order for previously agreed upon amendments, which I will list, to be consolidated into one title under the heading: ''9/11 Commission Report Implementation Act,'' with a short title section (a), short title: This act may be cited as the ''9/11 Commission Report Implementation Act of 2004.''

The amendments should be included in this order: No. 3942, No. 3807, No. 3702, No. 3774, No. 3705, No. 3766, No. 3806.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The legislative clerk proceeded to call the roll.

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

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

Ms. STABENOW. Mr. President, I ask unanimous consent that I be permitted to speak for up to 30 minutes and have that time allotted against my 1 hour postcloture.

The PRESIDING OFFICER. Is there objection? The Senator from Maine.

Ms. COLLINS. Mr. President, reserving the right to object, will the Senator from Michigan inform me whether her statement is going to be germane to the bill as is required in the postcloture situation?

Ms. STABENOW. Mr. President, I will ask to speak as in morning business using this time.

The PRESIDING OFFICER. Is there objection?

Ms. COLLINS. Mr. President, I will not object because I am aware that the Senator could speak for up to an hour under the cloture rules, although I remind the Senator that she could not speak on the subject about which she appears to be ready to speak. But in the interest of moving forward, and since there have been others today who have also spoken as in morning business, I will not object. I do think it is unfortunate, however.

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

Mr. REID. 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. LIEBERMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. AKAKA. Mr. President, I rise today to commend my colleagues on the adoption of amendment No. 3765 to S. 2845, the National Intelligence Reform Act of 2004, which will create an Office of Geospatial Management within the Department of Homeland Security, DHS.

This amendment originated as a stand alone bill, S. 1230, which was introduced by Senator ALLARD and amended by Senators COLLINS, LIEBERMAN, and myself in a Governmental Affairs Committee business meeting. I thank Senator ALLARD, who shares my interest in geospatial information sharing, for offering this amendment, as well as Senators COLLINS and LIEBERMAN for their continued support on this issue.

Much of the discussion that has grown from the 9/11 Commission report has centered around the institutional stovepipes that impede information sharing within the Government, which is why this amendment is so important. While the term ''geospatial'' is foreign to many, the tools it describes are relied upon by all. The 9/11 Commission recommended that the President ''lead a government-wide effort to bring major national security institutions into the information revolution.'' Geospatial coordination is a critical component of that effort.

Geospatial technologies, such as satellite imagery and aerial photography, provide data that create the maps and charts that can help prevent a disaster from occurring or lessen the impact of an unforeseeable event by equipping first responders with up-to-date information. In the event of a terrorist chemical attack, knowing which way a contaminated plume will travel can save lives. Similarly, the damage of a natural disaster, such as a wildfire, can be lessened by maps that help predict which areas will be in the path of the blaze.

All levels of government are more effective and efficient when employing geospatial technology, especially in the area of homeland security. According to DHS, geospatial information is used for intelligence, law enforcement, first response, disaster recovery, and agency management—virtually every function of the Department.

When the Department was created in 2003, it brought together components from 22 separate agencies, each of which managed its geospatial needs independently. In the past year, the Department has encountered significant difficulties integrating personnel, financial systems, and computer systems from the legacy agencies. Geospatial information has been no different.

A September 2004 Government Accountability Office, GAO, report entitled ''Maritime Security: Better Planning Needed to Help Ensure Effective Port Security Assessment Program,'' found that the development of a geographic information system, GIS—GIS is often used as a synonym for geospatial to map the Nation's most strategic ports would greatly benefit the Coast Guard as it implements the Port Security Assessment Program. A GIS would integrate all security information pertaining to one port into a single database so that it is easily accessible and can be frequently updated. In addition, it would give the Coast Guard the ability to visually map a port so that it can quickly identify the location and surrounding environment of an at-risk container before deploying a response team, for example.

However, GAO also found that:

> The Coast Guard lacks a strategy that clearly defines how the (GIS) program will be managed, how much it will cost, or what activities will continue over the long term.

The legacy agencies that make up DHS had traditionally managed their own geospatial procurement. But many of the homeland and non-homeland security missions of DHS complement each other. Sharing maps and data reduces redundancy, provides savings, and ensures better information for disaster response.

Currently, the DHS Chief Information Officer, CIO, is working to break down this geospatial stovepiping within the Department by naming a Geospatial Information Officer. However, there is no single office in DHS officially responsible for geospatial management and, therefore, no corresponding budget. In the present structure, the Geospatial Information Officer does not have the authority to compel the five DHS directorates to cooperate with his efforts. The entire agency should make geospatial coordination a priority.

A geospatial management office needs to be created and codified within DHS. A congressionally mandated office would give the Geospatial Information Officer more authority with which to do this job.

The Office of Geospatial Management has the potential to significantly increase the quality of the resources homeland security officials rely on by reducing redundancy and improving the quality of geospatial procurement. But in order to do this it needs authority and funding.

This office would also serve as a mechanism for coordinating with State and local authorities. Much of the geospatial information available today is created at the State and local levels. Centralizing this information will make it more widely available to first responders and other homeland security officials.

In order to facilitate this process, it is also important that local governments initiate their own coordination efforts. In June 2003, the city of Honolulu conducted a pilot program to foster geospatial coordination and collaboration among public and private stakeholders in critical infrastructure protection. Representatives from local and State government, utility companies, and other private organizations came together to identify potential impediments to geospatial information sharing in Honolulu and to develop a plan to circumvent those impediments. I commend the government of the City and County of Honolulu for hosting such an exemplary event. This sort of commitment at a local level is crucial to breaking down the geospatial stovepipes that exist at all levels of government. I hope other cities will follow suit.

This amendment will help DHS to better coordinate its activities, and will ultimately make our Nation safer and prevent duplicative spending. I appreciate my colleagues' endorsement of this important issue, and urge that this language be maintained in the final version of the intelligence reorganization bill that is sent to the President.

Mrs. MURRAY. Mr. President, I strongly support the intelligence reform bill now before the Senate, and I will vote for it.

The 9–11 Commission worked incredibly hard in a bipartisan manner to identify how to better protect our country from terrorism. They have given us a roadmap to protect our people, and we should move forward with it promptly.

In their report, the commissioners said we need clear direction for our country's intelligence community. They stressed better coordination as a key area where we can make the greatest difference. The bill on the floor does that, it has bipartisan support, and we should move it forward.

As a member of both the Homeland Security Appropriations Subcommittee and the Senate's 9/11 Working Group, I have looked closely at these challenges. And over the past few years, I have worked closely with the Department of Homeland Security, including the Coast Guard, FBI, TSA, Border Patrol, as well as the National Guard and local law enforcement throughout Washington State. Through our work together, I have learned first hand the difficulties they face every day in defending our country.

I especially want to commend the September 11 families who bravely stood up and spoke out. They forced our government to fully examine the terrorist attacks and to find ways to make our people safer. Their brave advocacy has made a difference.

Mr. President, this is an important step toward achieving a truly integrated national effort in the global war on terror. I am proud to support it.

Mr. KOHL. Mr. President, I rise today in support of S.2845, the National Intelligence Reform Act of 2004. The bill before us today is the result of tireless work by the Government Affairs Committee and its able chair and ranking member. It also reflects intensive consideration by other committees with jurisdiction over issues addressed in the bill, including the Judiciary and Appropriations Committees of which I am a member. The bill makes some important changes in the way our intelligence community is managed. It is a bipartisan bill which strikes a balance between ensuring that we have a strong national intelligence director, on the one hand, and that we meet the intelligence needs of the agencies which house our intelligence collection systems, on the other.

The 9/11 Commission threw down the gauntlet when it released its final report, calling on Congress and the President to enact meaningful reforms that will help prevent future catastrophic terrorist acts. In painstaking detail, the commission made clear how the attacks of September 11, 2001, took place and how our government struggled to respond. They then made 41 distinct recommendations across a wide range of policy areas creating a framework for our efforts. We have a responsibility to enact as many of these recommendations as feasible. With the threat of terrorism still high, we must have the best intelligence at our fingertips, a robust law enforcement effort, and an effective homeland defense if we are to foil future catastrophic terror attacks.

S. 2845 is an important first step. I believe the reforms in this bill fully implement the commission's recommendations on the need for a more unified intelligence effort. They address the lack of intelligence sharing among the 15 agencies which make up our intelligence community. Recognizing the limitations of the Director of Central Intelligence, who technically has the authority to manage all our intelligence resources, the bill centralizes the management and coordination of intelligence agencies by creating a national intelligence director or NID who has strong budgetary and personnel powers. The NID will also have the authority to create uniform classification standards and to set collection priorities. Yet the bill leaves the intelligence resources of each agency within their existing organizations so those agencies can effectively and efficiently meet their intelligence collection needs, so military operations and readiness are not compromised, and so we can maintain the diversity of views critical to sound intelligence analysis.

Beyond a more unified approach to intelligence collection and analysis, the Commission called for a more integrated response to our enemies. As the Commission noted, our bulky national security institutions are still structured to respond to the Cold War. In retrospect, it is no surprise that they were unable to respond to a non-state terrorist network. By unifying the intelligence resources dispersed across the government, we are striving to create a more nimble intelligence apparatus that can lead our response to these non-traditional threats. To that end, this bill enacts the Commission's recommendation to establish a civilian-led joint command for counterterrorism—a National counterterrorism Center—to act on joint intelligence by integrating civilian and military counterterrorism efforts across the government and to serve as the President's principal advisor on joint operations. The NCTC will help address many of the operational shortcomings identified in the 9/11 Commission report.

Intelligence reform is an important bulwark in the war on terror but it is not our only line of defense. Even if the intelligence reforms in this bill were in place before 9/11, they would not guarantee that the events of that fateful day could have been averted. That is why I supported the McCain transportation security and the Hutchison cargo security amendments. These amendments direct TSA to produce a national transportation strategy, to implement a system for comparing names of air passengers against the consolidated terrorist watch lists, to screen all air passengers and their carry-on bags for explosives, and to set up a system to screen air cargo. And I am pleased that we have accepted amendments that address the role of diplomacy, foreign aid, and the military in the war on terrorism. The 9/11 Commission recommendations in these areas have not received nearly as much attention as the recommendations relating to intelligence reform. I hope that we address these recommendations more fully in the next Congress. We must act broadly and on many fronts to put an end to the threat posed by al-Qaida and those who subscribe to its ideology.

As we work to bolster our national preparedness in areas of border security and emergency preparedness, we must balance the privacy and civil liberties of individuals against our national security requirements. While some have suggested otherwise, these principles are not mutually exclusive, and I strongly believe that we can preserve both. S.2485 recognizes the importance of individual rights by creating a

Privacy and Civil Liberties Oversight Board. By providing the Civil Liberties Board with appropriate authority, the legislation ensures that its members will have access to the information they need to provide informed advice to the Executive Branch, Congress, and the American public as to how we can best protect privacy without compromising security.

As we complete action on this bill, we are reminded of the deep sense of urgency that pervades our work. I appreciate that there are some in this body who wish we had taken a slower approach. Last month, the Senate Appropriations Committee held hearings on the 9/11 Commission recommendations with a particular focus on intelligence reform. Witnesses, including Dr. Henry Kissinger, raised concerns, some of which have been addressed in amendments. The general sentiment of those hearings, however, was that we should approach intelligence reform much more gingerly. Unfortunately, we do not have the luxury of time. Many of the reforms we enact today are based on recommendations that were made by previous commissions. These are not new ideas that require more study. The 9/11 Commission did us a tremendous service by creating a framework for action and by galvanizing the political will to enact these needed reforms.

Finally, Mr. President, I want to hail the bipartisan spirit in which this bill was crafted. For too long, Congress has ignored the views of the minority at its peril. We have budget resolutions that represent the priorities of just one party and conference committees that do the same. It is impossible to address the problems of the day unless we put our differences aside to work on real solutions that have broad support. This intelligence reform bill is an important reminder of how much more we could accomplish if we would just work together. I want to urge my colleagues who will serve on the conference committee to maintain the bipartisan spirit in which this bill has been considered in the Senate. When the final version of this bill comes before the Senate, it should not go beyond the recommendations of the 9/11 Commission in its scope, and it should not include partisan provisions that jeopardize passing meaningful reform in this Congress.

Mr. KYL. Mr. President, I rise today to discuss this body's efforts to reform the U.S. intelligence community.

My distinguished colleagues from Maine and Connecticut have worked hard to develop legislation to address some of the executive branch structural reforms recommended by the 9/11 Commission. To be sure, there is a need to change, the way we do business if we are to effectively battle terrorist organizations, like al-Qaida, and protect the American people from another devastating terrorist attack. But I believe that many provisions of the bill before us are tackling the problem from the wrong angle.

I think it is important that we move forward with deliberate speed. Past efforts, like the Goldwater-Nichols Act of 1986, should set an example. That overhaul of the Defense Department took several years from start to finish. It was a huge undertaking, as is our current effort to reform the intelligence community. The 9/11 Commission did a good job of cataloguing and critiquing the failures of 9/11—I believe it spent some 18 months on that effort. But it spent far less time developing the recommendations to solve the problems. We are now acting on those recommendations over a period of less than 2 weeks on the Senate floor. It is important to ask whether, in the middle of a war, it is wise to attempt such a fundamental reorganization with a deadline of October 8 for Senate consideration, a conference and then adoption of a conference report.

Nevertheless, I will support moving this legislation forward, as the President has strongly urged us to do, so that we may try to resolve outstanding issues in the Senate-House conference committee. As Congress prepares its final intelligence reform bill to be sent to the President, we must be especially careful to do no harm. I will continue to press the issues about which I am concerned during the conference.

Today I plan to discuss: No. 1, how the 9/11 Commission recommendations fail to thoroughly address the problems it identified; No. 2, deficiencies in the Governmental Affairs Committee proposal; and No. 3, what I think we should be doing instead—focusing on intelligence community reform, instead of just reorganization. I will also touch very briefly on two additional areas in which I had proposed amendments: visa reform, and tools and resources for fighting terror.

Former Secretary of Defense James Schlesinger identified one of the key problems with the 9/11 Commission recommendations:

> [The Commission] has . . . proposed a substantial reorganization of the intelligence community—changes that do not logically flow from the problems that the Commission identified in its narrative.

The Commission identified four categories of failures by the U.S. Government that ultimately led to the attacks of September 11, 2001: imagination, policy, capabilities, and management. After reviewing the 9/11 Commission's narrative of these failures and studying its 41 recommendations to prevent future such failures, I am hard pressed to see what most of the recommendations have to do with the problems identified.

I will briefly touch on each of these broad problems identified by the Commission and assess how they will be addressed by both the Commission and later the Senate's legislation.

First, lack of imagination. I agree that this problem was a significant contributor not only to the failure of intelligence community to predict the 9/11 attacks, but also the vast majority of the intelligence failures that have plagued our intelligence community over the past 20 years. A lack of imagination is simply an extension of the much broader and more pervasive cultural problems such as risk aversion, group think and a lack of competitive analysis that continue to hamper our intelligence and law enforcement agencies. I will deal with these problems in more detail later; but it is clear that none of the Commission's recommendations or this bill's provisions begin to address this culture problem; and, in fact, one recommendation could substantially increase risk aversion, a problem exacerbated by the bill's redundant provisions piling on layers of civil liberties and privacy review.

The Commission itself notes that ''Imagination is not a gift usually associated with bureaucracies,'' and so it is ironic that Commission proposes to create an even more bureaucratic intelligence structure. Chairman Kean and Vice Chairman Hamilton contend that an empowered NID will foster competitive analysis and quash group think because that individual will draw on the perspectives of all the intelligence agencies, rather than just the CIA, as the DCI is now more likely to do.

But a convincing case can be made that the creation of national intelligence director with budgetary authority over most of the intelligence community could actually exacerbate the community's lack of imagination. Under such a centralized system, it is far more likely that agencies, like DHS's Information Analysis office, will be inclined to provide a commonly accepted view because the NID will control their budgets. As such, they will lack the protection that their previous patron—the Department of Homeland Security, in this case—provided them. Risk aversion and group think are, therefore, likely to become even more widespread problems.

The second failure identified by the Commission is one of policy. Here the report faults not the intelligence community, but political leaders, including Members of Congress, for failing to act even when there was a clear threat. Terrorists had demonstrated time and time again that they were at war with us: in 1993 at the World Trade Center; in 1995 at a U.S. military barracks in Saudi Arabia; in 1998 at the U.S. Embassies in Kenya and Tanzania; and in 2000 with the bombing of the *USS Cole*. Almost a decade of attacks resulted in little more than a single cruise missile strike that destroyed a pharmaceutical plant.

This failure of decisionmaking really calls for a fix that can't be legislated—good leadership.

The Commission makes a number of related recommendations on how to fight the war on terror, with the goal of making another attack less likely. These range from the obvious, ''make a long-term commitment to Afghanistan,'' to the irrelevant and unwise, declassifying the overall intelligence

budget. On the whole, however, most of recommendations are already being implemented in some fashion, and have been underway since shortly after the attacks. I commend to my colleagues a fact sheet prepared by the White House detailing its implementation of the majority of the 9/11 Commission's recommendation.

On a more specific level, one area where not enough work has been done is that of terrorists' travel. The Commission correctly identifies the importance of the problem arguing, ''[f]or terrorists, travel documents are as important as weapons,'' and I am, therefore, surprised that the Commission and the committee have decided to put that issue on the backburner. I will return to this issue in more detail shortly, but it is one area where Congress can make an important contribution to U.S. security and we should not abdicate that responsibility.

The third failure is one of capabilities. It is here that the 9/11 Commission highlights numerous glaring weaknesses in how the intelligence community shared information, prepared for potential attacks and planned for U.S. responses. The Commission recommends improvements in information sharing and the parts of this legislation that seek to implement these are important.

Regardless of how we ultimately decide to organize the intelligence community, it is important that we improve and streamline information sharing. Congress has already taken some important steps toward that objective. For example, the PATRIOT Act, enacted shortly after the September 11 attacks, improved information sharing by breaking down legal barriers between intelligence and law enforcement, but it is clear we will not be able to make the PATRIOT Act provisions permanent in this bill.

Unfortunately, the 9/11 Commission overlooks the fact that solving the capabilities problem requires far more than just improving the sharing of information. The problem extends beyond what intelligence is available to an analyst at any given time. The 9/11 Commission, the Joint House-Senate Inquiry into the 9/11 attacks, and the recently completed Senate Select Committee on Intelligence investigation into pre-war intelligence on Iraq all point to far deeper deficiencies. They identify core cultural problems. Indeed, too often the right information is not collected due to, among other things, excessive risk aversion, and analysis of the information is not adequately questioned to ensure that group think has not replaced sound judgment.

The Commission focused on only one recommendation for fixing a laundry list of problems with the CIA's collection and analysis, and only one recommendation on improvements to the FBI's intelligence capabilities. On the other hand, the Commission devoted three recommendations to protecting civil liberties, though none is designed to prevent a future attack.

The last failure identified by the Commission is one of management. It is this failure that leads the Commission to recommend the creation of the National Intelligence Director. The report highlights the inability of then-DCI George Tenet to mobilize the entire intelligence community after he issued a memo stating, ''We are at war'' with terrorists. However, the 9/11 Commission's report states that the DCI's memo had ''little overall effect on mobilizing the CIA.'' If even the CIA, where the Director has complete budgetary and line control, did not respond to the DCI's memo, we should not be confident that simply putting someone at the top of a new organizational chart is the panacea that some claim.

It warrants noting that the 9/11 Commission details an example, from before 9/11 and the changes that followed, where the intelligence and law enforcement communities were able to mobilize, break down stovepipes and information was shared ''widely and abundantly.'' This example—termed the ''Millennium Exception'' by the Commission—focuses on the last weeks of December 1999, when the government ''acted in concert to deal with terrorism.'' The Government's approach to this threat, demonstrate the power of strong leadership and commitment, despite what some call a disjointed intelligence organization.

Too often problems of management have less to do with organizational structure, and more to do with the managers themselves. I fear that we are rushing to implement sweeping organizational changes because it is the easy thing to do, not because it is necessarily the right thing to do. In the meantime, the hard work of changing the culture of the community seems to have been pushed to the side.

The Senate is currently considering a reorganization package that contains a number of the 9/11 Commission's 41 recommendations. Among the most significant, the bill establishes a Senate-confirmed national intelligence director with strong budget, personnel, security, and other authorities; creates a national counterterrorism center, NCTC, to integrate intelligence capabilities and develop joint counterterrorism plans; redefines the National Foreign Intelligence Program as the National Intelligence Program—which includes the national collection agencies within the Defense Department, NSA, NGA, and NRO; and contains provisions that require the establishment of an information sharing network.

The bill is called the National Intelligence Reform Act of 2004. But it does not reform the intelligence community; it reorganizes it. It does not get at the fundamental problems in the intelligence community identified by the 9/11 Commission and the other intelligence investigations and inquiries over the last several years. And, unfortunately, in at least one glaring respect, it violates the first rule of medicine and legislating in that it does do harm. Moreover, even if the reshuffling of bureaucracy can ultimately be made to work, doing so now, while our country is at war, makes it very hard to supply our strategists, planners, and warfighters the information they need, when they need it.

I have taken under careful advisement the cautious tone of many former and current officials. For example, in his testimony to the Senate Armed Services Committee on August 17, 2004, Secretary of Defense Donald Rumsfeld stated:

> In pursuit of strengthening our nation's intelligence capabilities, I would offer a cautionary note. It is important that we move with all deliberate speed; however, moving too quickly risks enormous error . . . And we are considering these important matters while waging a war.

The Center for Strategic and International Studies, CSIS, recently released a statement, signed by an experienced group of former officials, urging similar caution. The statement was endorsed by: former Senators David Boren, Bill Bradley, Gary Hart, Sam Nunn, and Warren Rudman; former Secretaries of Defense Frank Carlucci and William Cohen; former Deputy Secretary of Defense John Hamre; former Director of Central Intelligence Robert Gates; former Secretary of State and National Security Advisor Henry Kissinger; and former Secretary of State George Shultz. It said:

> Rushing in with solutions before we understand all of the problems is a recipe for failure.

In his testimony, Secretary Rumsfeld discussed in detail his concerns about how intelligence community reorganization could potentially adversely affect the Defense Department. He expressed his strong reservations about the national collection agencies—the NSA, NGA, and NRO—being removed from the Defense Department, where they are now located, and aligned under the direct leadership of the national intelligence director. He stated:

> ''We wouldn't want to place new barriers or filters between the military Combatant Commanders and those agencies when they perform as combat support agencies. It would be a major step to separate these key agencies from the military Combatant Commanders, which are the major users of such capabilities.

The Defense Department worked tirelessly in the decade after the first gulf war to ensure that the speed and scope of intelligence support to military operations would be improved for future conflicts. It was General Schwartz kopf's view that the national intelligence support during Desert Storm was not adequate. Now, as we have seen from the success of our military operations in Afghanistan, Iraq, and the broader War on Terror, ''gaps and seams,'' as Secretary Rumsfeld refers to them, have been drastically reduced.

General Myers, Chairman of the Joint Chiefs of Staff, also expressed his

concerns on the subject during his testimony to the Senate Armed Services Committee, stating:

. . . for the warfighter, from the combatant commander down to the private on patrol, timely, accurate intelligence is literally a life and death matter every day. . . . As we move forward, we cannot create any institutional barriers between intelligence agencies—and of course that would include the National Security Agency, the National Geospacial-Intelligence Agency, and the National Reconnaissance office and the rest of the warfighting team.

I am concerned that the reorganization package before the Senate places this effective system in jeopardy.

In S. 2485, the NSA, NGA, and NRO remain within DOD; but this is somewhat deceiving. These national collection agencies will also be within the newly defined National Intelligence Program. The Committee-reported bill would essentially remove the Secretary of Defense from any meaningful management role over these agencies.

First, the national intelligence director would have the authority to appoint the heads of these agencies, albeit with the concurrence of the Secretary of Defense. What makes this unusual and potentially problematic? Well, consider the fact that the Director of the National Security Agency, a general officer, is dual-hatted as the Deputy Commander for Network Attack, Planning, and Integration at Strategic Command, or that the Director of the National Reconnaissance Office also serves as an Under Secretary of the Air Force. These positions truly support the mission of the Defense Department

Second, the national intelligence director would have the authority to execute the budgets of these agencies. It is one thing to say that the NID should manage the entire budget for the National Intelligence Program, and, therefore, to help develop agencies' budgets and even receive their appropriation. It is quite another to altogether remove the Secretary of Defense from the loop by requiring that the NID suballocate funding directly back to the agencies. This effectively removes the Secretary from the management loop.

I have studied the Defense Secretary's testimony to the Senate Armed Services Committee, as well as the testimony of other experts. I am also aware that there were some good amendments in the committee markup to help preserve the Defense Department's equities. But I am still not convinced that we are doing no harm. As General Myers commented during the course of the Senate Armed Services Committee's discussion on the subject, ''[T]he devil's in the details.''

I recognize that during the course of the Senate's debate on this bill, several of my colleagues have offered amendments to ensure that the equities of the Defense Department are protected, and I applaud them for their efforts.

So, while I am not convinced we are doing no harm—particularly with respect to ensuring our warfighters have the intelligence support they need—I am also not convinced that we are necessarily doing much good. Again, the solutions of the 9/11 Commission, and, in turn, the Senate bill, don't seem to match the problems.

I would like to discuss an example of what I believe we could do to help minimize our chances of another catastrophic terrorist attack—by addressing cultural problems in the intelligence community, including risk aversion, group think, and a failure of leadership.

I was a member of the Senate Intelligence Committee for 8 years and participated in the first of the post-9/11 evaluations—the joint Senate-House inquiry, formally named the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001. Along with the current Intelligence Committee chairman, I offered additional views to that report which, had I been part of the 9/11 Commission, I would similarly have submitted. Those additional views describe the core cultural problems in the intelligence community that can't simply be solved by reorganizing agencies. On this, the Commission report and the bill before us missed the mark in many respects.

First, let's consider risk aversion, which plays out not only in the intelligence community, but also in foreign policy decisionmaking, economics, business investments, and so on. There are many potential reasons for risk aversion—a particular action might have adverse, unintended consequences, might get one into trouble with one's superiors, or might simply draw unwanted attention, just to name a few. When an individual or a government acts, there is always a calculation of risk; but some governments and some individuals are more willing to take chances than others. This is a product of both leadership and environment.

An aversion to taking risks—even when they should be taken—plagues our intelligence community. Indeed, in the course of our congressional inquiry on the 9/11 attacks no intelligence or law-enforcement agency escaped being described by its own officials as hampered by an aversion to thinking critically, exposing their views to others, and being willing to boldly take risks. Time and time again, this has contributed to intelligence failures—most recently, of course, 9/11 and the intelligence communities' claims about Saddam's stockpiles of weapons of mass destruction.

The 9/11 Commission also addressed the issue of risk aversion within the CIA, noting the net result for that agency pre-9/11:

. . . an organization capable of attracting extraordinarily motivated people but institutionally averse to risk, with its capacity for covert action atrophied, predisposed to restrict the distribution of information, having difficulty assimilating new types of personnel, and accustomed to presenting descriptive reportage of the latest intelligence.

One of the most well known examples of the problem of risk aversion in the context of the 9/11 attacks was the FBI's failure to respond to the ''Phoenix Memorandum,'' written by a Phoenix special agent who wanted to alert his superiors about suspicious individuals seeking pilot training. The now-famous electronic communication to FBI headquarters recommended that the FBI consider seeking authority to obtain visa information from the State Department on individuals who obtained visas to attend flight school.

The intelligence operations specialists at headquarters who reviewed the memo told the staff of the congressional joint inquiry that they had decided among themselves that seeking that authority raised profiling concerns. These concerns stemmed at least in part from previous public allegations of racial profiling against FBI agents who had questioned two Middle Eastern men acting suspiciously on a flight from Phoenix to Washington, DC, in 1999.

On a broader—not case-specific—level, the intelligence community's clandestine service has been seriously hampered by an aversion to taking risks. 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.

It is likely that this ''trouble'' was at least in part a result of congressional actions, for example the 1976 Church Committee investigation, which was set up in the wake of revelations about assassination plots organized by the CIA. The investigation resulted in some 183 recommendations, and subsequent legislative proposals and debate that consumed considerable attention over a number of years. In part, that debate focused on specific, clearly defined limitations and prohibitions on intelligence activities.

Obviously, as we move forward with reforming congressional oversight of the intelligence community, there will be a need to balance strong and effective oversight with not hamstringing the community and creating an even more risk averse environment.

The culture of risk aversion in the clandestine service was also accentuated by executive branch actions during the Clinton administration. For example, risk aversion in the clandestine service was compounded by the 1995 Deutch Guidelines, CIA guidelines promulgated by then-Director of the CIA, John Deutch, 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. Incidentally, during his tenure, Mr. Deutch also conducted a CIA-wide ''asset scrub,'' which applied an inflexible reporting standard to all CIA spies

that, if not met, resulted in their automatic firing. How can you effectively penetrate an organization or adversarial regime without dealing with unsavory characters? Thankfully, the Deutch Guidelines were finally repealed by the DCI in July 2002; but, their repercussions had a lasting effect on the culture of the Directorate of Operations.

So, here we have a clandestine service unwilling to take the risks that are, by nature, part of the job. Compound that with the fact that the DO had few resources. Between 1992 and 1998, the Central Intelligence Agency closed one-third of its overseas field stations, lost one-quarter of its clandestine service case officers, lost 40 percent of its recruited spies, and CIA intelligence reports declined by nearly one-half.

The result of this deterioration of a key part of our intelligence community was that, before 9/11, we had not one human source inside al-Qaida's command structure. What did the 9/11 Commission recommend to transform the clandestine service into a unit more effectively able to penetrate al-Qaida.

> The CIA Director should emphasize . . . ''(b) transforming the clandestine service by building its human intelligence capabilities; (c) developing a stronger language program, with high standards and sufficient financial incentives; (d) renewing emphasis on recruiting diversity among operations officers so they can blend more easily in foreign cities; (e) ensuring a seamless relationship between human source collection and signals collection at the operational level; and (f) stressing a better balance between unilateral and liaison operations.

As Reuel Gerecht, American Enterprise Institute scholar, commented in a recent article in the Weekly Standard, ''That's it. In a 447-page report on the intelligence failings of 9/11, the clandestine service gets nine lines. The important bit—'transforming the clandestine service . . .' is a 10-word platitude.'' The intelligence reform bill we are considering this week similarly fails to delve into this central problem. Even if we put the resources back in, we have not figured out how to deal with the mentality now ingrained in our covert officers.

Finally, as I previously noted, I believe the bill currently before the Senate will exacerbate the risk aversion problem in at least one respect: its creation of an excessive, redundant bureaucracy to oversee the protection of privacy and civil liberties. Should there be protections and oversight? Yes. But should there be so many layers of such oversight that intelligence officers are more worried about getting into trouble than about adequately performing their missions? Certainly not.

The provisions in this bill dealing with privacy and civil liberties are quite extensive. In summary, the bill establishes: two officers within the National Intelligence Authority, one responsible for privacy, the other for civil rights and civil liberties; an Inspector General within the National Intelligence Authority, who, in part, monitors and informs the National Intelligence Director of any violations of civil liberties and privacy; an Ombudsman within the National Intelligence Authority to protect against so-called politicization of intelligence; an independent Privacy and Civil Liberties Oversight Board with extensive investigative authorities; and privacy and civil liberties officers within the Departments of Justice, Defense, State, Treasury, Health and Human Services, and Homeland Security, the National Intelligence Authority, the Central Intelligence Agency, and any other department, agency, or element of the Executive Branch designated by the Privacy and Civil Liberties Oversight Board to be appropriate for coverage.

These provisions reach far beyond what the 9/11 Commission recommended—an executive branch board to oversee the protection privacy and civil liberties. The President already created such a board through executive order on August 27.

Under the construct offered in the Governmental Affairs Committee bill there will simply be too many people performing the same task. It will be inefficient; it will be counterproductive; and it will add yet another legal hurdle for our intelligence officers to overcome. Our goal should be to make it easier for them to do their jobs—to detect and prevent future catastrophic terrorist attacks—not more difficult. Let's not forget why we are reforming the intelligence community. It is to prevent another 9/11. The problem is not that we invaded suspects' privacy, but that we didn't know enough about them to prevent the attack.

I offered an amendment to S. 2845, which I discussed several times on the floor of the Senate, to eliminate some of this redundant oversight. I withdrew that amendment reluctantly, but with the understanding that the issue would be resolved in conference. I plan to continue to press my case on this matter because I believe it is central to ensuring that we do not make worse the already existing problem of risk aversion within the intelligence community.

Second, group think. This problem is not unrelated to the problem of risk aversion. The result of analysts' fears of taking risks is often that they are unable to think outside the box, to break free of the generally-accepted assumptions held by their agency or by the rest of the intelligence community.

In his August 16 testimony to the Senate Armed Services Committee, former Secretary of Defense James Schlesinger discussed the problem at length, stating:

> Different organizations will drift gravitate towards different ways of organizing reality—based upon their range of responsibilities and, also, their interests in a narrower sense. Most individuals make themselves comfortable in their own organizations by not challenging a prevailing consensus.Q

Another cause of group think is simply a lack of imagination. In a recent op-ed in the Washington Post, Henry Kissinger raises some important questions about the reforms currently being pursued. He states that the basic premise of the ''current emphasis on centralization'' through the creation of a director of national intelligence ''seems to be that the cause of most intelligence failures is inadequate collection and coordination.'' Kissinger believes, however, that ''the breakdown usually occurs in the assessment stage.'' He attributes that breakdown to a failure of imagination to connect the dots of available knowledge. His op-ed describes in detail how a lack of imagination led to the major intelligence failures of the last 4 decades: the 1973 Middle East War, the Indian nuclear test of 1998, the September 11 attacks, and the failure to find WMD stockpiles in Iraq.

How do we solve this problem? Well, let's take the issue of Iraq's weapons. The Senate concluded in its bipartisan report on the intelligence community's assessment:

> The presumption that Iraq had active WMD programs was so strong that formalized IC mechanisms to challenge assumptions and ''group think,'' such as ''red teams,'' ''devil advocacy,'' and other types of alternative, or competitive analysis, were not utilized.

Former Defense Secretary James Schlesinger recommends precisely what the bipartisan report said was lacking. In his testimony, SASC, August 16, he stated:

> The only solution within an organization is to establish a Devil's Advocacy organization to challenge the prevailing beliefs.

This is an imperfect solution, as Secretary Schlesinger further notes, but, still, if we had had such mechanisms, we would have had a far greater chance of reaching the truth. Yet, neither the Commission nor the Committee recommends such a ''red team'' or ''devil's advocacy'' entity or process. We will have to do it by amendment.

This is one place where we can learn from our past successes and failures. Historically speaking, ''red teams,'' have been helpful inside and outside of the intelligence community. In the 1970s, for example, the intelligence community persisted in underestimating the size and scale of the Soviet arms build-up. In response, Congress created a ''red team'' called Team B to review the IC's analysis. Team B's report, which documented how far off the intelligence community was, laid the foundation for President Reagan to rebuild the U.S. military in the 1980s.

More recently, the Rumsfeld Commission on the ballistic missile threat was created to play devil's advocate with the findings of the intelligence community. Not surprisingly, the Commission found the estimates far off, dramatically underestimating the time it would take for a country to procure or produce a ballistic missile.

The chairmen of the 9/11 Commission, Thomas Kean and Lee Hamilton, recognize the group think problem in their

September 8 Washington Post op-ed, and offer that their proposed reforms ''institutionalize information-sharing, thus guaranteeing a competitive airing of views.'' They further state:

We don't want dissent quashed by groupthink; we want competing analyses to be shared broadly . . .

But as key experts, like Henry Kissinger and Jim Schlesinger, point out, it is valid to question whether centralized intelligence—which we are now pursuing—encourages conformity, making the problem of group think worse. At best, that structural change will do nothing to affect the problem.

Last, but certainly not least, leadership is a problem that simply cannot be solved legislatively. Conversely, good leadership can potentially solve the other cultural issues I have identified.

Al-Qaida's attack on Washington and New York occurred after a long period of poor leadership at the highest levels of the U.S. Government regarding terrorism. Despite repeated assaults on the United States and its interests, the U.S. Government was still unwilling to treat terrorism as a true national security issue until after 9/11.

This was, of course, partly a failure of political leadership. But the intelligence community is not absolved, either. The problem of inadequate allocation of resources in the intelligence community, for example, was at least partly a result of confused leadership in the community. In spite of a 1998 declaration of war on al-Qaida by the Director of Central Intelligence, two key organizations—namely, the Defense Intelligence Agency and the Federal Aviation Administration—were not allowed, though they offered, to throw their support behind the antiterror effort.

Counterterrorism analytic centers were fragmented across the administration at the Pentagon, the CIA, and various FBI locations. Only after 9/11 did various intelligence and law enforcement entities begin to put aside their parochialism and work together in a more productive manner. And certainly reorganization was a partial fix for the problem—in particular, the new Terrorist Threat Integration Center, TTIC, which merges and analyzes all threat information in a single location under the direction of the DCI, has been beneficial. But, with better leadership of the intelligence community, the condition would not have been so prevalent in the first place. It would not have taken a monumental disaster for these entities to cooperate more effectively with one another.

I would now like to briefly discuss visa reform. I am pleased that the Collins-Lieberman bill, with the addition of Kyl amendment No. 3926, will at least tighten up immigration law to require, in statute, that most temporary visa applicants be personally interviewed by State Department consular officers during the application process, and that all such applicants be required to actually complete their visa applications to get a visa. Past misuse of immigration law allowed 15 of the 19 September 11 hijackers to enter the United States without completing their applications or being interviewed.

Some might question why such State Department regulations need to be included as statutory language in the Immigration and Nationality Act. Section 214(b) of the INA governs the admission of nonimmigrants to the United States. It presumes that an alien who applies for a temporary visa actually intends to stay in the United States permanently ''until he establishes to the satisfaction of the consular office'' that he intends to stay temporarily. This means that the burden of proof is on the alien to show that he is eligible to receive a visa and that he will not overstay or otherwise violate the terms of the visa. Had the State Department required its consular affairs officers to implement section 214(b) correctly, and thus to conduct in-person interviews and require that visa applications be completely and accurately filled out, to meet the burden of proof requirement, the tragedy of 9/11 could have been prevented.

The intent of Section 214(b) was not carried out by the State Department consular affairs officers who issued visas to the 9/11 hijackers. Fifteen of the 19 men who flew hijacked airplanes into the World Trade Center, the Pentagon, and the Pennsylvania countryside were Saudi nationals who should have been denied admission to the United States under section 214(b) because their visa applications contained inaccuracies or omissions. These were not trivial mistakes in spelling or punctuation. The applications omitted such fundamental information as: means of financial support, home address, and destination or address while in the United States. According to an October 28, 2002 National Review article by Joel Mowbray under the title and subtitle ''Visas for Terrorists: They were ill-prepared. They were laughable. They were approved,'' only one of the 15 applicants listed an actual destination address for inside the United States. The rest listed locations such as ''California,'' ''New York,'' or simply ''Hotel.''

Section 214(b) should also have been used to require face-to-face interviews of those applying for nonimmigrant visas. Only two of the 15 Saudi hijackers were interviewed by State Department officials. Such laxity by consular officers, however, occurred under guidelines and practices put in place by senior State Department officials. According to cables and other written notices sent over time by Mary Ryan, who was Assistant Secretary for Consular Affairs on September 11, 2001, shortening the visa application process wherever possible was a ''very worthy goal.''

Such top-down guidelines were explored in an October 2002 GAO report, ''Border Security: Visa Process Should Be Strengthened as Antiterrorism Tool.'' The report says the State Department's written guidelines and resulting practices for visa issuance allowed for ''widespread discretionary adherence among consular officers in adhering to the burden of proof requirements included in section 214(b).'' The GAO report also says the State Department's ''Consular Best Practices Handbook'' gave consular managers and staff the discretion to ''waive personal appearance and interviews for certain nonimmigrant visa applicants.''

The 9/11 Commission was provided detailed information about the State Department's use of section 214(b) and its contribution, in my opinion, to the tragedy of 9/11. In a letter to the 9/11 Commission on April 23, 2004, I said how important it was that the 9/11 Commission focus on the State Department's contribution to the dysfunction of the visa-issuance system prior to September 11. In a followup letter on May 13, 2004 to the Commission, I stated that correct use of the statutory law governing nonimmigrant visa issuance could have kept several, if not all, of the 9/11 hijackers from entering the country.

The amendment that the bill managers have accepted is based on the regulations promulgated by the State Department in the Foreign Affairs Manual it issued after September 11. It requires that all aliens who apply for a nonimmigrant visa submit to an in-person interview with a consular affairs officer. Although the primary purpose of the in-person interview is to determine whether an applicant will overstay his or her visa, it is also a prime opportunity for a consular affairs officer to gauge the intent of the applicant to try to make sure that the applicant does not intend to harm the United States. I recognize that not every person may have to be interviewed, so my amendment allows applicants under the age of 12, individuals over the age of 65, diplomats, and certain other individuals to be exempt from the in-person interview requirement if the consular affairs officer deems it appropriate.

My amendment also requires that, even if the nonimmigrant visa applicant falls into a category for which an interview is not necessarily required, one will be required if he is not a national of the country in which he is applying for a visa; if he was previously refused a visa; or if he is listed in the Consular Lookout and Support System. CLASS is the State Department's database that lists all applicants about whom the Department has security concerns. Finally, my amendment requires that all applicants for nonimmigrant visas provide complete and accurate information in response to every question on the nonimmigrant visa application. This is to ensure that the application is completely filled out and that the applicant has provided enough information to meet the burden of proof required by section 214(b) of the INA.

The codification of these few provisions will help ensure that terrorists are not able to enter the country using legally issued visas. Provisions to that effect ought to be in any piece of legislation aimed at preventing additional terrorist attacks on this country. I appreciate the willingness of Senators COLLINS and LIEBERMAN to work with me to modify the amendment to make it acceptable.

Before I close, I want to note that I have separately discussed another related area in serious need of attention: making sure we have the legal authorities and resources we need to effectively fight terror. I had prepared several amendments on this topic, which I intended to introduce to this bill, but because some Members erroneously believed that these amendments were highly controversial, I chose not to pursue them.

These amendments, one of which was my Tools for Terrorism, TFTA, bill in its entirety, others of which were parts of that bill, should not have been considered controversial. TFTA is not new—it is composed of bills that have been pending, have been approved by the Justice Department, and have been the subject of nine separate hearings. TFTA consists of all or part of 11 bills currently pending in the House and Senate. Every provision of the bill previously has either been introduced as a bill in the House or Senate or had a committee hearing. Every provision of the bill has the full support of the Justice Department. Collectively, the provisions of this bill have been the subject of nine separate hearings before House and Senate committees and have been the subject of four separate committee reports. Furthermore, collectively, the bills included in TFTA have been pending before Congress for 13 years.

That said, in the interest of allowing the Senate to move forward quickly, and noting that some of the provisions of my TFTA bill are included in the House version of the Intelligence Reform bill, I have decided to continue to try to press my case during the House-Senate conference.

My intention today was not to create a sense of futility in this body's efforts, but rather to express reservations about the proposed solutions and highlight those areas I know need to be resolved if we are to effectively wage the war on terror. A careful reading of the congressional joint inquiry report, the Senate's Iraq intelligence investigation, and the 9/11 Commission's narrative of the failures that led to 9/11 all point to far deeper deficiencies than can be solved by bureaucratic reorganization.

I plan to vote for this bill, but I do so recognizing that it is imperfect, and also with the clear intention of continuing to press my case for various modifications in conference.

Finally, while it is true that, if we do reform right, we will be able to improve our intelligence, it will never be the case that our intelligence is perfect. It is next to impossible to imagine every possibly means by which we might be attacked. As Judge Richard Posner points out in his New York Times Book review:

> The [9/11 Commission] narrative points to something different, banal and deeply disturbing; that it is almost impossible to take effective action to prevent something that hasn't occurred previously.

This does not mean we should not try; it does mean that we have to be realistic about the limitations of intelligence.

Those limitations make solid political leadership all the more important. Intelligence, diplomacy, military, law enforcement—these are all tools in our arsenal to fight the war on terror and whatever other threats may come our way. Decisionmakers must be willing to use them effectively. That is what will offer our greatest protection against another devastating attack.

Mr. DASCHLE. Mr. President, Congress has no more solemn obligation than to ensure our Government can effectively defend the American people. We must put America's security first.

The attacks of September 11 exposed serious weaknesses at every level of our Government's response to terrorism.

Since that awful day, many of us in Congress have resolved to do everything possible to understand how a handful of terrorists could defeat the entire U.S. Government's defenses and then adapt those defenses in order to prevent future attacks and make America safer.

The bill we are about vote on reflects the lessons of our inquiries.

It is thorough, thoughtful, bipartisan, and most important, rooted firmly in the facts behind the greatest failure of American intelligence in our lifetime.

When enacted, this legislation will improve our Government's ability to disrupt and prevent the kind of devastating attacks we witnessed that fateful day 3 years ago. In short, it will make America and Americans more secure.

I can think of no more important action this Senate can take in the remaining days of this session than to pass this legislation and move it to a conference with the House.

Immediately following the attack of the World Trade Center and Pentagon, Congress began a thorough investigation to uncover precisely what went wrong in the days leading up to September 11.

The House and Senate Intelligence Committees conducted a bipartisan inquiry.

They received thousands of pages of documents, conducted hundreds of hours of hearings, and heard from scores of Government and nongovernment witnesses who offered meaningful insights into what happened and how.

The unanimous, bipartisan recommendations of that report were available in December 2002.

Independent of this effort, President Bush had asked GEN Brent Scowcroft, National Security Advisor to former President Bush, to examine our intelligence community and suggest reforms that could make it function more effectively.

According to press accounts, the recommendations of that investigation were available in March 2002.

In addition, despite opposition from the White House, a strong bipartisan coalition was forged in the Congress to establish an independent, blue ribbon commission to investigate the circumstances surrounding the 9/11 attacks and provide us with a roadmap for how to improve our defenses, specifically those of our intelligence community.

The White House eventually gave the Commission its support and its cooperation. The unanimous, bipartisan recommendations of that commission were released in July 2004.

That is three separate investigations in less than 3 years—three separate investigations that originated in either the Congress or the Bush administration. Each investigation represented different points of view and perspectives. Yet each investigation reached the same conclusion: If our intelligence community is to respond quickly and effectively to terrorism, there must be a single person in charge with the authority to allocate resources and direct personnel. There must be a single person responsible for setting the direction of our intelligence operations.

And there must be a single person accountable for the success or failure of those operations.

The legislation before us reflects the lessons learned from these investigations and it is particularly faithful to the 9/11 Commission's recommendations.

Not only does this legislation establish a national intelligence director with real power, it goes on to make a series of fundamental changes in the intelligence community and related Government agencies.

Just as important as what it does, is what it does not do. It does not stray from the 9/11 Commission's recommendations. It avoids extraneous issues that would have only brought divisiveness and delay to this debate. Time is of the essence.

As Governor Kean said when releasing his commission's report:

> Every day that passes is a day of increased risk if we do not make changes.

America could not wait and the Senate wisely focused on the most urgent challenges at hand.

I am especially grateful to Senators COLLINS and LIEBERMAN, the managers of this important legislation.

Shortly after the 9/11 Commission issued its report, Senator FRIST and I assigned them the difficult task of taking the Commission's recommendations on the executive branch and producing a bill that converts these proposals into legislative language.

They have not only done that, they have managed to grasp the details of this complicated bill and produce strong bipartisan support for their bill.

As I noted above, Senate passage will get this bill to a conference with the House and their version of this legislation. Unfortunately, it appears that some in the other body do not share this goal of swiftly enacting the 9/11 Commission's recommendations. They do not believe we should limit our work to the 9/11 Commission's work. Nor do they believe our top goal should be to defeat terrorists rather than push partisan political agendas.

Many of the people who are apparently willing to pursue this course have fought real reform efforts from the start. They opposed forming the 9/11 Commission. They opposed cooperating with the 9/11 Commission. They opposed giving the Commission the time and funding it needed to do its job. It is not surprising to learn now that they are now opposed to giving the Commission's recommendations a fair hearing.

We can't afford to keep kicking this can down the road. It may seem obvious, but there are some who seem not to understand that American lives are at stake.

This is the best—and perhaps last—opportunity to enact meaningful comprehensive reform legislation to make Americans more secure.

With today's strong bipartisan vote, the Senate can make a clear statement that we are ready to seize this opportunity to protect America and more effectively fight terrorism.

I hope our colleagues in the House who have opposed the Commission's work to this point will be able at long last to set aside their partisan agenda and follow the bipartisan example of the Senate.

The families of the victims of 9/11 and, indeed, all Americans should expect no less from their elected representatives.

Mr. FEINGOLD. Mr. President, I want to voice my strong support for S. 2845, the National Intelligence Reform Act of 2004, and to commend my colleagues on the Governmental Affairs Committee for their careful work in drafting this important legislation. In producing this bill, Senators COLLINS and LIEBERMAN have managed to combine urgent action with careful deliberation. I hope that this difficult balance can be maintained in conference.

While the authors of this bill deserve our thanks, the fact is that we would not be debating desperately needed intelligence reforms today had it not been for the work of the National Commission on Terrorist Attacks upon the United States—and for the work of the many concerned Americans, including families of 9/11 victims, who fought to establish the Commission and to protect its independence and authority. The 9/11 Commission worked hard to produce a thorough account of the facts concerning what the various elements of the U.S. Government knew, what action was taken to address the terrorist threat, and where communication and coordination broke down. All Americans deserve answers to these questions. And we have a duty to act on the Commission's recommendations and to put this country on a firmer, smarter footing to fight the terrorist forces that have attacked this country and wish to attack us again.

At the same time, we know that reorganization for its own sake is simply disruptive and distracting—a smokescreen of busy work and changing flow charts that can obscure serious flaws rather than remedy them. And needlessly trampling on the civil liberties, protected by our Constitution and guarded by generations of Americans, in the name of reform would be a horrible mistake. Hundreds of thousands of brave men and women have died defending our freedoms throughout our history. We cannot fail to guard those precious freedoms now.

The Senate bill creates a civil liberties board to evaluate new policies and ensure that civil liberties concerns are considered as the President and executive agencies propose and implement policies to protect the Nation against terrorism. The Commission specifically recommended the creation of such a board within the executive branch that would have as its primary mission the protection of our citizens' civil liberties. I am pleased that Senator KYL agreed to withdraw an amendment that would have undermined this provision. The supporters of this amendment suggested that efforts to protect our privacy and civil liberties will undermine the work of the intelligence and law enforcement community. I respectfully disagree. Americans reasonably expect their Federal Government to protect them from terrorism while respecting their privacy and civil liberties. We can, and must, do both.

The Collins-Lieberman bill is the right approach. It is important that the privacy and civil liberties oversight provisions in this bill be included in the final legislation that goes to the President's desk.

Similarly, it would be a grave mistake for the conference to add extraneous provisions increasing the power of the Government, such as those contained in another amendment offered by Senator KYL that derive from the so-called PATRIOT II proposal. We have not had the kind of full and informed debate on these proposals that the 9/11 Commission called for. For this bill to remain true to the Commission's recommendations, it cannot be used as a way to bypass the very deliberation that the Commission said is essential.

Even after we finish work on this bill, our work will be far from complete. The Commission's intelligence reform proposals have been the focus of most of the media attention surrounding the 9/11 report, and they are at the heart of the legislative efforts in which we are currently engaged. But the Commission's call for more focused, effective ways to attack the terrorists and their organizations, and, critically, to prevent the continued growth of terrorism, deserve equally intense examination and action.

We need to make a long-term commitment to denying terrorists sanctuaries, and to cultivating new generations of partners, not enemies, overseas. As the ranking member of the Subcommittee on African Affairs, I know that we do not have the intelligence resources or the diplomatic resources that we should around the world. We do not really have any policy at all to deal with Somalia, a failed state in which terrorists have operated and found sanctuary. And there is a great deal of work to be done to help countries in which we know terrorists have operated to improve the basic capacities of border patrols who could stop wanted individuals, and customs agents who could help stop weapons proliferation and auditors who could freeze terrorist assets. And we can do more to help root out the corruption that undermines these safeguards at every turn.

I am pleased that the Senate accepted an amendment that I offered to this bill, which arises from my experience with African affairs. I know many Africanists are concerned about terrorist activity in the Sahel, and the U.S. Government is working with partners in that region to address this issue. Some of these same terrorists are based in north Africa, above the Sahel, which various parts of the U.S. Government and our own congressional committees consider to be a different region of the world, one usually lumped together with the Middle East rather than sub-Saharan Africa. In other words, getting counter-terrorism right in Mali really requires understanding a number of things about Algeria, and getting it right in the Horn of Africa requires an understanding of Yemen as well as Kenya. But the policymakers who specialize in these places don't necessarily work together.

These geographic stovepipes hamper good policy, and cap fragment the picture that our intelligence community is able to piece together. And it is not just Africa, and it is not just terrorism. Where National Intelligence Centers are established with a specific regional focus, the National Intelligence Director needs to ensure that regular contact and cooperation among linked centers is institutionalized, not ad hoc. My amendment strengthens information sharing, and signals Congress's intent to ensure that the centers that are eventually established are as effective as possible.

There is also much more to getting our policies right when it comes to homeland security and emergency preparedness, and that work will continue long after we complete work on this bill. We still lack a comprehensive homeland security plan with clear priorities, deadlines, and accountability.

Without such plans, it is not possible to properly target our homeland security dollars to meet our most pressing needs. We are getting on the right track, however. The Commission recommended that future transportation security budgets be based on a thorough assessment of threats and vulnerabilities, and I am pleased that the Senate adopted my amendment to the fiscal year 2005 Department of Homeland Security bill to require just that. Senator MCCAIN also included a provision to require a national transportation security strategy, and I was pleased to support it. These steps will help, but there is more we must do.

I was also pleased to support the amendment offered by Senator COLLINS to coordinate and simplify the homeland security grant process, which is based on a bill I cosponsored. This important amendment will make it much easier for local first responders to get funding by reducing the many, and often redundant, grant application steps. The amendment also gives local officials far more flexibility in spending homeland security dollars, including paying for overtime costs associated with homeland security tasks and training. Successful programs, such as FIRE Act grants, the COPS program, and the Emergency Management Performance Grant program, are protected in this legislation. The amendment allocates funding based on threat, as recommended by the Commission, but also maintains baseline funding so that States and local officials can have a predictable stream of funding to meet the homeland security needs faced by all jurisdictions. This amendment will help simplify and rationalize the current homeland security grant system. However, I agree with Senator LIEBERMAN that more resources must be allocated to meet our homeland security needs.

I hope that the conference is able to quickly agree upon a final version of this bill that follows the Senate's approach and does not contain extraneous and controversial provisions. And I look forward to continuing to work with my colleagues on both sides of the aisle to ensure that what we have learned from the 9/11 Commission becomes a part of how we do business every day. This intelligence reform bill is a very good start, not the end, of the efforts we must make to bring about real changes that will enhance our security and the security of our children.

Mr. CHAMBLISS. Mr. President, first, let me again thank my colleagues from Maine and Connecticut for their hard work preparing and bringing an intelligence reform bill to the Senate floor. Reforming the intelligence community is serious business, and I appreciate the professional and thoughtful approach taken by the Government Affairs Committee, especially the chairman and ranking member.

I rise today to express some of my concerns on S. 2845, the National Intelligence Reform Act of 2004.

First, it is important to fully understand exactly why we are debating the reformation of our intelligence community in the first place. Our enemy has attacked us in new ways that no one ever thought about or occurred before in the entire history of mankind. The attacks on 9/11 were made on predominately civilian targets, using commercial civilian airlines, loaded with totally innocent, ordinary citizens. No one really planned for an attack of this nature because as a God-fearing nation, it was hard to imagine that some human beings could be so evil, so warped in their interpretation of their own religion that they believe the slaughter of innocent people by the thousands is somehow condoned or even approved by their God. Well, we now know the nature of our enemy, and it is dangerous beyond anything we have known in the past. And we are reminded of our enemy's evil nature every time we see a video of an innocent person pleading for their life or being beheaded in Iraq. These Islamic terrorists have in effect ''hijacked'' the Muslim faith, distorted it to meet their own twisted philosophy of life, and we must stop them.

Let me be absolutely clear on this point: the Islamic terrorists want to frighten us, they want to disrupt our economy and our way of life, and they want to kill us; they will stop at nothing, including suicide attacks to achieve their evil goals. I have said in this chamber many times that effective intelligence is our first line of defense against this enemy and only good intelligence will prevent them from ever again attacking us on our own homeland.

That is why we are here today to put more ''teeth'' into our intelligence community. We are here to debate and vote on legislation that should provide more security for our citizens.

The Collins-Lieberman legislation that we are considering is a good bill in many ways, but it only marks the beginning of a process to rebuild our intelligence capabilities, not the end.

The bill establishes a National Intelligence Director; a position that I view as the ''foundation'' upon which all other intelligence reform measures will be built. However, there are some other measures relative to intelligence reform that will require our attention as soon as possible.

This bill leaves the intelligence community at fifteen members, eight of which are in the Department of Defense. As you know, I had a bipartisan amendment that was co-sponsored by my colleague from Nebraska, Senator BEN NELSON, that would create a unified command for military intelligence giving the new National Intelligence Director a single point of contact for military-related intelligence requirements and collection capabilities instead of eight. This is a major issue that must be addressed soon; otherwise the National Intelligence Director will have an unrealistically large span of control.

Collectively, the eight members of the intelligence community that this bill leaves in the Department of Defense are huge, with tens of thousands of people and multi-billion dollar budgets. How someone outside of the Department of Defense, like the national intelligence director, could adequately and efficiently manage these vast intelligence capabilities by dealing with eight separate military members is beyond me. Senator NELSON and I are committed to fix this shortcoming by introducing a bill to create a unified combatant command for military intelligence this coming January.

The Central Intelligence Agency is left intact in this bill, which is the right decision. But the bill does not adequately address the importance of human intelligence, HUMINT, or emphasize rebuilding this critical capability. HUMINT is a dirty and dangerous occupation, and it, more than any other intelligence discipline, will be the key to eliminating al-Qaida and all other terrorist organizations. We really owe our HUMINT case officers in the Central Intelligence Agency, the Defense Intelligence Agency, and other agencies all our thanks, support, and the resources necessary to get the job done.

The portion of this bill that creates a civil liberties board with broad subpoena power is particularly troubling to me. We need to take more risks in HUMINT and we need to rebuild the morale of our HUMINT collectors. What kind of message are we sending to our intelligence agents in the field who are risking their lives to protect us by creating a board designed to look over their shoulders and, which is redundant to the President's Board on Safeguarding Americans' Civil Liberties? We could create a morale problem throughout our intelligence community that might take years to repair and, I hasten to add, at a time when we need HUMINT more than ever to protect our citizens.

I am voting for S. 2845, the National Intelligence Reform Act of 2004, because it does establish the national intelligence director and gives statutory authority for the newly created National Counterterrorism Center. However, I will continually seek ways to address my concerns with this bill, some of which I have mentioned above. I want to reiterate again, that this bill marks only the beginning of the process to reform our intelligence community, not the end.

I yield the floor.

Mr. ENSIGN. Mr. President, I rise to discuss the recommendations of the 9/11 Commission Report that deal with the integrity of our borders and visitor access to America.

In the decade before 9/11, al-Qaida studied how to exploit gaps and weaknesses in the passport, visa, and entry systems of the United States and other countries. Al-Qaida actually set up its own passport office in Kandahar and developed working relationships with

travel facilitators—travel agents, document forgers, and corrupt government officials.

Since 9/11, some important steps have been taken to strengthen our homeland security. While these efforts have made us safer, we are not safe enough. A real world example was reported this past Saturday by the Washington Post. Peru and the U.S. intercepted a criminal network with possible al-Qaida links that smuggled Arabs into America after receiving false papers in Lima. Keeping Americans secure means being diligent on all fronts, at home and abroad.

The amendment that I am offering ties directly to two important recommendations of the Commission Report prohibiting terrorist travel to our country.

The first is the Commission recommendation that ''Targeting travel is at least as powerful a weapon against terrorists as targeting their money. . . Better technology and training to detect terrorist travel documents are the most important immediate steps to reduce America's vulnerability to clandestine entry.''

Americans need to know that every reasonable step is being taken to ensure that those who would harm our country and our citizens do not travel freely and easily into the United States. This is a task that deserves our full attention when the vast number of travel documents handled in our embassies, consulates, and border stations is considered. Specialists must be developed and deployed in consulates and at the border to detect terrorists through their travel practices, including their documents.

Last year there were about seven hundred consular officers stationed overseas in 211 posts. In addition to processing six million non-immigrant visa applications and nearly 600,000 immigrant visa applications, they provided a full range of services to American citizens. Chronic understaffing has led to an over-reliance on foreign workers to screen and review visa applications, jobs that normally would be handled by American officers. This process leaves too many gray areas; one mistake or intentional oversight in a foreign nationals review of an application could mean the lives of thousands of innocents. My amendment goes a long way to bolster the visa application process by mandating that American consular officials review and approve each and every immigrant and non-immigrant visa application.

Over the last 2 years the State Department has hired an average of 65 new consular officials. That number has not proven enough. My amendment provides the State Department the authority to increase the number of consular officials by 150 each year for 4 years, ensuring that trusted American resources are responsible for reviewing all visa applications.

Currently, consular officers only receive an overview in fraudulent document training. My amendment mandates that these consular officers are suitably trained in detecting fraudulent documents and document forensics, prior to beginning their service.

Our due diligence cannot stop here.

The second Commission recommendation that relates to my amendment states that we should ''. . . raise U.S. and border security standards for travel and border crossing over the medium and long term . . .'' The Commission goes on to say that ''It is elemental to border security to know who is coming into the country. Today more than 9 million people are in the United States outside the legal immigration system.''

Pre-9/11 the INS had only about 2,000 agents for interior enforcement and only 9,800 border patrol agents. With the priorities of the agency concentrated on immigration and narcotics, our northern border was often neglected and no major counterterrorism effort was underway. These gaps in our security created a weakness that allowed the loss of over 3,000 innocent citizens. More robust enforcement of routine immigration laws could have made a difference.

We must have the resources to be able to detect and, if need be, detain terrorists who seek entry through our borders. My amendment makes providing the necessary personnel for border security and immigration enforcement a top priority. It provides authority to increase the number of border patrol agents by 1,000 each year for a 5-year period. It also increases the number Immigration and Customs Enforcement investigators by 800 per year for a period of 5 years.

The Commission found that many of the 19 9/11 hijackers, including known operatives, could have been watchlisted and were vulnerable to detection by border authorities; however, without adequate staff and coordinated efforts, the evildoers were allowed unhampered entry.

The world has changed dramatically since 9/11 when the evil doers used our open and trusting society against us. We can not allow a repeat of that tragedy. This amendment will allow those who guard our frontiers the tools they need to ensure the safety of the citizens of the United States of America.

Ms. SNOWE. Mr President, I rise to address a very specific but invaluable component of the intelligence reform package before us today.

As many may know, before the release of the 9/11 Commission report earlier this year, I introduced stand-alone legislation—cosponsored by Senator MIKULSKI—creating an Inspector General for Intelligence. The ''Intelligence Community Accountability Act of 2004'' proposed an independent inspector general for the entire intelligence community—all fifteen agencies and department members. I introduced this legislation largely as a result of my experience as a member of the Senate Intelligence Committee which undertook a year-long investigation on the pre-war intelligence of Iraq.

I commend the efforts and tremendous work of the authors of the underlying bill—they have embraced the concept and spirit of my earlier bill and have included language in their legislation creating an Inspector General for the National Intelligence Director. I would also like to thank Senators ROBERTS, MIKULSKI and FEINSTEIN for their support in being original cosponsors of an amendment I was prepared to offer on this subject. I will not offer that amendment but I want to make clear my intentions to continue working for better and more comprehensive accountability in our intelligence community.

In that vein, I want to express my strong opposition to any amendment or proposal that would weaken the language on the authorities and powers of the NID's inspector general. Any such amendment, if accepted or approved, would be a grave step backward in an area that is in critical need of a step forward. . . . I am of course talking about accountability in the intelligence community.

Any amendment to scale back the IG provisions of the bill would fly in the face of the 521-page report that followed the committee's investigation on Iraq pre-war intelligence and would ignore vital problems of information sharing that have been found throughout the community.

Any inspector general who is to serve the National Intelligence Director must have the power and authority to access employees and information in the agencies that lie in the national intelligence program. How can an IG be effective if his hands are tied because of turf battles and arguments over jurisdiction?

My preference would be to enhance some of the authorities of the NID's inspector general as proposed by the underlying bill, but I would rather work to preserve the bill's language as it exists now than to gut it through the passage of any proposal that rescinds the abilities of the IG to delve into the coordination and communication between and among the various entities of the intelligence community.

Issues of accountability have often been central to the work we as Senators do in seeking to bring better government to our constituents—particularly when matters of national security are at stake.

I saw firsthand the consequences of serious inadequacies in accountability during my 12 years as a member of the House Foreign Affairs International Operations Subcommittee and as Chair of the International Operations Subcommittee of the Senate Foreign Relations Committee. During the 99th Congress, I worked to bring the State Department Accountability Review Board into fruition as part of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986.

Among other issues, it was a lack of accountability that permitted the radical Egyptian Sheik Rahman, the mastermind of the first World Trade Center bombing in 1993, to enter and exit the U.S. five times totally unimpeded even after he was put on the State Department's Lookout List in 1987, and allowed him to get permanent residence status by the INS even after the State Department issued a certification of visa revocation. In 1995 and again after the terrorist attacks of 9/11, I introduced legislation establishing Terrorist Lookout Committees in our embassies and consulates abroad—all in an effort to create more accountability in the protection of our homeland.

In this same vein, my membership on the Senate Select Committee on Intelligence has allowed me to realize that the need for greater levels of accountability in our intelligence community is and must be a priority. It is all too evident that in addressing the key concerns and problems seen in the management of our intelligence agencies, accountability is an area unquestionably in need of dramatic improvement.

I am pleased that as intelligence community reform has gained momentum, the concept of an inspector general has been very much a part of the debate. Indeed, an inspector general is included in the broad and comprehensive intelligence reform legislation authored by Senator FEINSTEIN—legislation that I was proud to co-sponsor earlier this year.

An inspector general for the whole intelligence community was also included in reform legislation offered by Senator GRAHAM, the former chairman of the Senate intelligence community. Language creating a community-wide inspector general was contained in the proposal by current Intelligence Committee Chairman ROBERTS as well as the recent bill offered by Senators MCCAIN and LIEBERMAN.

And as I indicated, an inspector general is included in the underlying bill crafted by the Senate Governmental Affairs Committee. I commend and, once again, thank all of my colleagues for including this key component in their proposals. This bill takes a step forward in addressing the key issue of intelligence community accountability and it should not be weakened by any additional amendments or modifications.

The belief that any new Director of National Intelligence should have an independent inspector general is one that few seriously dispute. In testimony before the intelligence committee in July, former Deputy Secretary of Defense John Hamre stated that an inspector general ''will help far more in driving and shaping the quality of outputs from this community.'' And Secretary of State Colin Powell called an inspector general a ''good idea'' while speaking before the Governmental Affairs Committee.

When I first drafted and then introduced my stand-alone legislation in early June, I had certainly envisioned that the inspector general the bill would establish would reside within a newly re-organized intelligence community. When I introduced my bill, I stated then that it was intended to be part of a larger initiative to overhaul the entire intelligence community's organizational structure. We have reached that point, and I am here today to continue my efforts to ensure that the final product the Senate approves contains the best possible mechanisms to bring accountability to the community.

As I indicated earlier, I have participated in this national debate on bettering our diplomatic, intelligence and national security services on many fronts and for many years. But it was as a member of the Senate Intelligence Committee, which spent a year reviewing the pre-war intelligence on Iraq's weapons of mass destruction programs, the regime's ties to terrorism, Saddam Hussein's human rights abuses and his regime's impact on regional stability that I realized the real and dire need for intelligence community change.

In looking at the intelligence community, we must remember that it is an amorphous entity made of up fifteen agencies, parts of departments, and independent bodies all spread out within our Federal Government. They each have their own mission, chain of command, procedures, history and institutional paradigms. The necessity for a stronger, independent head of the intelligence community became obvious to me and that measures must be legislated and instituted to hold the community and its amalgamation of agencies more accountable for the failures and shortcomings we had discovered.

The committee's report on the prewar intelligence on Iraq revealed systemic flaws in the intelligence community, perhaps, most notably in many instances, a stunning lack of accountability and sound, ''hands-on'' management practices. These poor management practices contributed to the mischaracterization of intelligence reporting on Iraq's WMD programs.

I recognize that intelligence analysis is an imprecise art, with rarely—if ever—any absolutes; however, our report revealed that many judgements regarding Iraq's weapons of mass destruction programs and capabilities were based on old assumptions allowed to be carried over year after year, virtually unchecked and unchallenged, without any critical re-examination of the issue.

In short, there was a lack of analytic rigor performed on one of the most critical and defining issues spanning more than a decade—that of the preponderance of weapons of mass destruction within Iraq and the looming threat they posed to Iraq's neighbors and to the U.S.

Intelligence community managers, collectors and analysts believed that Iraq had WMDs, a notion that dates back to Iraq's pre-1991 efforts to retain, build and hide those programs. In many cases, the committee's report showed that the intelligence community made intelligence information fit into its preconceived notions about Iraq's WMD programs.

From our review, we know the intelligence community relied on sources that supported its predetermined ideas, and we also know that there was no alternative analysis or ''red teaming'' performed on such a critical issue, allowing assessments to go unchallenged. This loss of objectivity or unbiased approach to intelligence collection and analysis led to erroneous assumptions about Iraq's WMD program.

For example, the committee's review showed that analysts minimized reporting from a biological weapons source because the source reported information that did not fit with their beliefs about the existence of mobile biological weapons facilities.

We also know that the key judgment in the National Intelligence Estimate that Iraq was developing an unmanned aerial vehicle ''probably intended to deliver biological warfare agents'' overstated what was in the intelligence reporting. This review revealed that some intelligence community UAV analysts failed to objectively assess significant evidence that clearly indicated that non-biological weapons delivery missions were more likely.

In addition, the committee's report revealed that, despite overwhelming evidence suggesting that the aluminum tubes Iraq was trying to procure were for artillery rockets, some intelligence community analysts rejected information and analysis from experts, including the International Atomic Energy Agency and the Department of Energy, who refuted the claim that the tubes were being procured for use in Iraq's nuclear weapons program. This information was rejected because it did not fit into some analysts' notion that Iraq was procuring these tubes as part of its nuclear reconstitution effort.

Clearly stated, the intelligence community failed to ''think outside the box,'' a phrase often used by the community's analytic cadre to describe more innovative approaches to examining a problem set.

Critical thinking and objectivity are crucial elements in both the collection and analytic trade crafts and ought to be ingrained, by appropriate training and effective oversight by management, in every collector and analyst entering the ranks of the intelligence community. Management has the responsibility to ensure analysts are trained to produce—and actually produce—the best, most objective, unvarnished assessments, and both management and the analysts and collectors have the responsibility to ensure that their trade-craft is practiced properly.

Along this same line of accountability, our report revealed how poor leadership and management resulted in the intelligence community's failure to convey the uncertainties in many of

the assessments in the National Intelligence Estimate on Iraq's Continuing Programs for Weapons of Mass Destruction.

For example, the intelligence community assessed that Iraq had mobile transportable facilities for producing biological warfare agents but failed to alert intelligence consumers that this assessment was based primarily on reporting from a single human intelligence source to whom the intelligence community never had direct access and with whom there were credibility problems.

In the analysis on Iraq's chemical weapons activities, the intelligence community failed to explain that several assessments were based on layers of analysis of a single stream of intelligence reporting regarding the presence of a tanker truck that was assessed to be involved in the possible transshipment of chemical munitions.

Finally, during coordination sessions with Secretary Powell in preparation for his speech before the United Nations in February 2003, the intelligence community was instructed to include in the presentation only corroborated, solid intelligence.

In fact, from our review we learned that the DCI told a national intelligence officer who was also working on the speech to ''back up the material and make sure we had good stuff to support everything.'' When Secretary Powell spoke before the UN, he said that every statement he was about to make would be ''backed up by sources, solid sources . . . based on solid intelligence.''

Incredibly, from our review, we know that much of the intelligence provided or cleared by the CIA for inclusion in Secretary Powell's speech was incorrect and uncorroborated. For example, the IC never alerted Secretary Powell that most of the intelligence regarding Iraq's mobile biological warfare program came from one source with questionable credibility nor did anyone alert Secretary Powell to the fact one of the sources cited in his speech was deemed to be a fabricator—something known by IC analysts since the May 2002 issuance of a ''fabrication notice.''

An independent, over-arching community-level inspector general who can delve into the communication between and among agencies, or the lack thereof, can assist in bridging the disconnects that lead to such failures. This IG should be properly empowered to reach into and across the bureaucratic and organization lines that separate each community agency so that next time, if the Department of Energy's assessments about the intended use of aluminum tubes by a dangerous regime are ignored or cast aside, someone can be held accountable.

There is no question that the intelligence community requires systemic changes. We are here today to do just that. Americans have a right to know that their intelligence services are doing the best job possible in protecting their security. I say this even while I must recognize the dedication and professionalism of the thousands of Americans who make up our intelligence community.

Each day across this country and around the world, they labor, mostly without recognition, to keep this country safe from harm. Our intelligence employees work under very demanding conditions and in environments that are extremely dangerous and can often shift without notice.

It is their vigilance upon which we rely to give us the forewarning necessary to counter the many dangers present in our world. Although it is impossible to directly express our deep appreciation for their efforts, we have an obligation to express our eternal gratitude to those who serve America so well.

Yet, however appreciative we are of the service done by those who work in the fifteen agencies that make up our nation's intelligence community, we as a Congress have a responsibility to continue to work to find ways to help them do an even better job, and more importantly, to ensure that any failures are not repeated and that we learn from past mistakes. At the same time, we have an obligation to the people of this country to ensure that both pride and comfort in our intelligence services exist. The people of this Nation, and those of us elected to represent them, have a right to know that when mistakes are made, corrections soon follow. That is what brings us here today.

I ask unanimous consent that a chart entitled ''Decades of Terrorism'' be printed in the RECORD.

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

DECADES OF TERRORISM

Oct. 23, 1983—Beirut Barracks bombing; Dec. 12, 1983—US Embassy bombing, Kuwait; Sept. 20, 1984—East Beirut bombing; Dec. 3, 1984—Kuwait Airways hijacking; April 12, 1985—Madrid restaurant bombing.

June 14, 1985—TWA flight 847 hijacking; Oct. 7, 1985—Achille Lauro attack; Dec. 18, 1985—Rome and Vienna bombings; April 2, 1986—TWA flight 840 bombing; April 5, 1986—Germany disco bombing.

Dec. 21, 1988—Pan-Am Flight 103 bombing; Feb. 26, 1993—World Trade Center bombing; Nov. 13, 1995—US Military HQ attack, Saudi Arabia; June 5, 1996—Khobar Towers bombing; Aug. 7, 1998—US Embassy bombings in Africa.

Oct. 12, 2000—USS Cole attack; Sept. 11, 2001—9/11; May 12, 2003—Housing compound bombing in Saudi Arabia; May 29–31, 2004—Saudi oil company attacks; June 11–19, 2004—Paul Johnson kidnaping/execution.

9/11 COMMISSION REPORT

''The massive departments and agencies that prevailed in the great struggles of the twentieth century must work together in new ways, so that all the instruments of national power can be combined.''

Ms. SNOWE. This chart beside me illustrates in the starkest of terms, what we are dealing with. . . ..and what this legislation is all about. I call the contents of this chart to the attention of my colleagues to serve as a reminder of ''the big picture.'' The goal of this reform movement is and has always been to make sure our intelligence agencies are better equipped, organized and managed so that we are in a greater position to detect threats and stop attacks. We want an intelligence community that is better prepared to ensure we don't keep adding to this list.

I also refer my colleagues to a quote from the preface of the 9/11 Commission Report: ''The massive departments and agencies that prevailed in the greatest struggles of the twentieth century mush work together in new ways, so that all the instruments of national power can be combined.'' This bill we are debating today speaks directly to this charge. And it is my view that a strong Inspector general is a vital component of that effort.

An inspector general will help to enhance the authorities of the National Intelligence Director that we will shortly create, assisting this person in instituting better management accountability, and helping him/her to resolve problems within the intelligence community systematically.

Ideally, the inspector general for intelligence should have the ability to investigate current issues within the intelligence community, not just conduct ''lessons learned'' studies. The IG should have the abilities to seek to identify problem areas and identify the most efficient and effective business practices required to ensure that critical deficiencies can be addressed before it is too late, before we have another intelligence failure, before lives are lost.

In short, an inspector general for intelligence that can look across the entire intelligence community will help improve management, coordination, cooperation and information sharing among the intelligence agencies. A strong, effective IG will help break down the barriers that have perpetuated the parochial, stove-pipe approaches to intelligence community management and operations.

As I stated earlier, I was prepared to offer an amendment that would have expanded on the language already included in the underlying bill—but let me be clear, there are many positive aspects of the inspector general as contained in this bill.

I am pleased, for example, that the bill ensures independence of the IG by including a separate budget account for his office. I also welcome the language pertaining to staffing, reports, subpoena powers and complaint procedures.

I have no doubt that the authors of the underlying bill and I share the same goal—an independent IG with proper authorities to assist in preventing some of the failures I've detailed here today.

As the Chairman of the intelligence committee stated last week on the Senate floor, members of the committee received a frightening briefing

last week in closed session where we were told that despite the current terrorist threat we face, and the high state of alert we live under, information sharing between the intelligence agencies is still not taking place and no one is holding anyone accountable for their failure to do so.

Too many incidents of failure to prevent attacks, failure to properly collect the needed intelligence, failure to adequately analyze that intelligence and failure to share information within the community beg for better accountability in the entirety of the community. Who better to do this than a single IG, who can reach across the community, work with the existing individual agency IG's, and confront any problem with a macro, overarching view? It is my hope that the new inspector general for the NID, as authorized in this bill, will take great strides to guarantee that information sharing and accountability are woven into the fabric of the intelligence community. Mr. President, this is the whole reason we are here today.

Mr. LIEBERMAN. Mr. President, I thought I would take this moment of quiet on the floor—we are just about a half hour away from voting final passage of this bill—to thank my staff and the staff of Senator COLLINS, which is led by Michael Bopp. My staff is led by Joyce Rechtschaffen and Kevin Landy, who has been a team leader on this effort. It has been a mighty team. They worked very hard to help Senator COLLINS and me put the hearings together on the 9/11 Commission Report; to work, many of them, over August in addition to working on the hearings, to draft the legislation I introduced with Senator MCCAIN to adopt the nonintelligence parts of the Commission report, and then to work in the week and a half—this being the eighth day of consideration on the floor—to see this bill at the point it is now.

I am very proud that the committee, in the first instance, and now the Senate itself, has responded to the challenge of the 9/11 Commission Report. But, more to the point, it has responded to the deficiencies in our current systems of intelligence and homeland security generally and brought forth a bill that I am convinced, if we can hold it through conference, which we certainly intend to do, will make the American people a lot safer in an age of terrorism.

I want to list the names of all the members of my staff who have worked so hard to bring this legislation to the edge of adoption: Mike Alexander, David Barten, Rajesh De, Chistine Healey, Larry Novey, Holly Idelson, Beth Grossman, Mary Beth Shultz, Andrew Weinschenk, Fred Downey, Kathy Sedden, Donny Williams, Jason Yanussi, Dave Berick, Adam Sedgewick, Megan Finlayson, Rachel Sotsky, Tim Profeta, William Bonvillian, Laurie Rubenstein, Leslie Phillips, Chuck Ludlam, and Janet Burrell.

Mr. REID. Mr. President, while the distinguished comanager of the bill is on the floor—I am sorry Senator COLLINS is not on the floor—on behalf of the whole Senate, we need to extend to you our congratulations. We all applaud and commend the great work done. This has been a very difficult job. While those of us who were home in August, doing the things we do—having townhall meetings and doing campaign events—you and SUSAN were here doing work to get us in a position so when we came back here there would be an instrument that you could recommend to the other members of your committee who worked with you during this downtime in August—most of it down. This vehicle is now about to be completed. It is a sea change. It is the first part of what the 9/11 Commission recommended, and it is good work. The Senator from Connecticut and Senator COLLINS should feel very good about their accomplishment. I think it is not only a significant improvement from what we had, it is a sea change in what we had before. The American people are going to be safer as a result of this. Congress is going to be more responsible as a result.

Mr. LIEBERMAN. Mr. President, I thank my friend from Nevada for his kind words. I thank him for his characteristic presence and support on the floor.

This has been an extraordinary chapter in my own legislative career here and one that I am very grateful to have had. It has been a real honor to work with Senator COLLINS. I think from the beginning she and I went into this process having had a good relationship working on the committee as Chair and ranking member. This was a moment where we should be working together without any regard to party liabilities or party caucuses; this was an urgent matter of national security.

America was attacked on 9/11, 2001. The 9/11 Commission report was an indictment of various parts of our intelligence and security systems—border security, for instance—and an appeal for urgent action to close those gaps, to strengthen where we are vulnerable; again, an enemy to cause us harm and death, the likes of which we have never faced before; as someone else wrote, ''an enemy who hates us more than they love their own lives.''

Senator COLLINS and I from the beginning went forward on not only a bipartisan basis but on a nonpartisan basis—which turned out to be the case in our committee as well—and with the strong support of the bipartisan leadership of Senator FRIST and Senator DASCHLE. That has been the case on the floor of the Senate.

I am proud to say that I believe the proposal came from the Governmental Affairs Committee as a strong proposal. I feel that within a half hour of moving to final passage it has grown stronger as a result of action taken by the full Senate on the floor.

There is work yet to be done. Obviously, passing the Senate doesn't make it law; we have to go to conference and present something to the President which he can sign. But I think everyone here has caught the moment of urgency and responded to it in the national interest. This is a great way for us to end this session. I am speaking now apart from the national security implications—just what service in the Senate is all about and what message we send to the American people.

The message here is not just in the content of this law proposal but in the way we have done it, which is we are capable still in an increasingly political or partisan time, particularly prior to a national election, to put all that aside and do what is best for the American people.

I note the presence on the floor of my friend and colleague from Arizona. He and I have worked very hard together.

We thank our colleagues on both sides. In addition to the core parts of the Governmental Affairs Committee bill which adopted the critical intelligence recommendations of the 9/11 Commission establishing a national intelligence director, a national counterterrorism center, Senator MCCAIN and I offered amendments which accomplish and respond to all of the other major recommendations of the 9/11 Commission with regard to border security, for instance, and foreign policy; outreach to the Muslim world so that this bill, as we are ready to vote on it, really meets the challenges of the 9/11 Commission and responds to the pleas of the families who lost loved ones on 9/11 to do whatever we humanly could to make sure nothing like 9/11 ever happens again in the United States of America. I believe the product we are about to vote on does exactly that.

I thank the Chair and note the presence of other colleagues on the floor. I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise at this time as we head toward a vote on final passage to voice my strong support for this legislation. But equally important, I wish to pay tribute to the work of Senator LIEBERMAN and Senator COLLINS in fashioning this legislation in a bipartisan way. I am pleased to serve on the Governmental Affairs Committee with both of them.

This has been put together in a way that reflects the core recommendations of the September 11 Commission. It takes our intelligence-gathering system and creates a strong intelligence director but gives that director the kind of budget and personnel responsibility that will enable him to be effective as we continue to fight a long war on terrorism—a global fight the length of which we can't determine right now but whose priority and importance is undisputed. It takes all of the assets of our intelligence-gathering network—the assets that serve our national intelligence operation but puts them

under the national intelligence director—and gives that director the authority and the flexibility that is going to be necessary to be effective.

It deals with important issues such as border security and transportation today under the responsibility of the Commerce Committee. It creates a counterterrorism center—something that has already been done. But it is important that we authorize the counterterrorism center which is going to be responsible for putting together all of our efforts in dealing with terrorist threats, collecting and distributing that to law enforcement officials, and making sure that our objective of identifying threats to this country, whether it is through financing or the movement of personnel and materials, is done effectively.

While this legislation responds to the September 11 Commission recommendations, I think it is also important to recognize that the September 11 Commission report dealt with the weaknesses that led to the attacks in New York City and Washington and the downing of the plane in Pennsylvania. In order for this legislation to be effective, we need to continue to make sure all of our intelligence assets are focused on the future. There are going to be new threats and new challenges in what will be an evolving fight. The counterterrorism center is going to have to evolve over time to deal with new threats from different parts of the world.

We are going to have to improve our techniques for information sharing. We are going to have to develop new technologies for information gathering around the world. We will have to continue to improve our human intelligence system—something that was, unfortunately, lacking in the years which led up to September 11. This is going to be a continuing process of change.

I think it is most important that this legislation creates the infrastructure and a culture and a leadership structure that can respond to these changes which can evolve with the times and that can deal with the unexpected.

If there is one thing we can be sure of, it is that the fighting of terrorism around the world will include many unexpected, unpredictable events. But if we are to succeed, we want to make sure our intelligence-gathering operation has all the tools and the support that is necessary.

This is a very strong piece of legislation. It was put together in a bipartisan way, but it is not strong because it is bipartisan. I think it is receiving the bipartisan support because it is a strong, thoughtful piece of legislation.

We have a lot of work left to do. We are going to go to a conference with the House, and that in and of itself will be a long process to overcome any differences in the legislation. But I hope in the end and I believe in the end this will be a bill that makes our intelligence-gathering capability and our ability to fight terrorism around the world stronger and which will meet with the core and the thrust of the September 11 Commission report.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, later this afternoon the Senate is expected to adopt an amendment by the majority leader that establishes a national counterproliferation center. Establishing such a center now is premature and prejudges the ongoing work of the WMD Commission on which I have the honor of serving.

I am one who said we have to get this done, and have done everything under my power to be of some small assistance to the managers of the bill to complete our work on the 9/11 Commission's recommendations. So I find myself in kind of an interesting position saying that we ought to slow down on this one, but I am saying it because this issue was not addressed by the 9/11 Commission.

The President asked the WMD Commission to examine whether the U.S. Government should establish a national counterproliferation center and to offer our recommendation. If I may quote from the President's remarks on the day that he announced the establishment of the WMD Commission:

> Given the growing threat of weapons and missile proliferation in our world, it may also be necessary to create a similar center in our government to bring together our intelligence analysis planning and operations to track and prevent the spread of weapons of mass destruction. I asked the committee commission headed by Judge Laurence Silberman and Senator Chuck Robb to determine the merits of creating such a center.

In other words, the WMD Commission has been chartered to determine the creation of such a center. I have to tell my colleagues, as a member of that Commission, we have not yet reached a point where we could either recommend or not recommend. The Commission and its staff have held a number of discussions on the desirability of establishing a counterproliferation center, and we will soon examine the structure and responsibilities that such a center might entail, if it should be established at all. In response to the President's specific request, we will issue a formal recommendation in our final report in March.

This amendment could seriously undermine the work of the WMD Commission. The amendment would establish a national counterproliferation center before the Commission has even had a chance to fully study the issue. Rather than waiting for an in-depth review of the pros and cons of moving ahead with such a center—a review that will be fully completed in March—this amendment goes ahead and does it anyway. The proponents of this amendment, and I understand that, have argued that the center would not be established for a year after enactment of the underlying bill and the structures and responsibilities could be changed later. But if we are planning to delay establishing the center for a year and if we are open to changes which would presumably require changes in law, then why are we passing this amendment? Why interrupt the work of the WMD Commission when we could have the benefit of their assessment in a few months?

If the WMD Commission concludes no center is needed, or something different is more appropriate, then it would be very hard to find an opportunity to take this recommendation into account, short of passing legislation that will rescind this amendment if it is enacted.

I don't believe we should interfere with the WMD Commission's work. What we should do is allow all of the facts to be considered and debated, and then we can take the appropriate actions at that time.

Let's make no mistake, establishing this center would be a very significant action by the Congress. It cuts to the heart of the security issues that we all agree are critical to our Nation. We need to make sure that if we are going to do this, we do it right. We should await the WMD Commission's report, hear a variety of opinions, and structure the center, if it is needed, in a way that makes the most sense of the task at hand. We should not take the shortcuts on an issue of such importance, but I am afraid we are on the verge of doing just that.

We owe it to the American people to fully assess the implications of building a national counterproliferation center. This will be far reaching. I don't believe any Members have had a chance to examine this in any detail. The amendment puts the cart before the horse and I strongly oppose it.

I repeat again, the 9/11 Commission did not address the issue of counterproliferation. They addressed a broad variety of issues but counterproliferation was not one of them. And weapons of mass destruction, in the sense of the charter of the WMD Commission, was not part of their deliberations.

I have strongly supported the 9/11 Commission recommendations. I am proud of the work Senator COLLINS and Senator LIEBERMAN have done in addressing every single one of the 9/11 Commission recommendations with the exception of two that have to do with the congressional reorganization.

Having said that, this amendment is out of the purview of the September 11 Commission and, frankly, out of the purview of this pending legislation.

The majority leader has assured me there will be language, certain caveats about how it could be changed, et cetera, and I appreciate that. We have had a significant dialog on the issue. But the difference I have with the amendment and the majority leader is basically that we have said we are going to establish this national counterproliferation center, period.

This is not an issue of national emergency. I think it does a disservice to the WMD Commission on which I serve, which would report out in March their recommendations and conclusions, and we would be acting, then, on far firmer ground.

Maybe we can talk about it more after this bill is passed. I know the White House has severe reservations about this amendment. Maybe we could continue a dialog on it and at least make this amendment significantly more palatable so that the Weapons of Mass Destruction Commission recommendations that come out in March can be fully and completely considered.

I thank the majority leader for his commitment to maintaining a dialog on this issue. I may not be able to speak again in the Senate, but I again express my profound and deep appreciation to Senator COLLINS and Senator LIEBERMAN who have displayed adequately for all Americans as well as Members of this body that if there is a cause great enough and people good enough that we will act in a bipartisan fashion for the good of this Nation.

I have been in this body for only 18 years, but this is one of my prouder moments because of the way this entire body has acted in the national interest.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 3895, AS FURTHER MODIFIED

Mr. FRIST. Mr. President, I rise to comment on the amendment we will be voting on in a bit. It does center on the establishment of a counterproliferation center.

I appreciate the comments of my distinguished colleague from Arizona. We have had the opportunity to talk over the course of today about this amendment and we have a modification. I have talked to the White House and, based on that conversation, made further modifications.

The reason we should vote on this amendment and it should be a part of this package that we can all be very proud of passing here in 10, 15, or 20 minutes is that the greatest threat facing our country is not a terrorist. We all know it is not just the terrorists. The greatest threat is a terrorist armed with some sort of weapon of mass destruction.

In debate the other night before 60 million people, President Bush and Senator KERRY cited the nexus between proliferation and terrorism being their single greatest concern and the most significant challenge our country faces. This whole concept of counterproliferation—talk about a counterproliferation center is not a new idea, but it is a new component of U.S. policy and has been looking at the safety and security of the American people and an overhaul of our intelligence gathering and intelligence system. The counterproliferation is an important component to be addressed.

Counterproliferation is a broad topic and it includes everything the United States and its allies do to halt, to deter, to stop, to roll back the trafficking of weapons of mass destruction, their delivery systems and related materials.

It means interdicting these dangerous materials before they get into the hands of the world's most dangerous terrorists. It means stopping these items before terrorist groups can assemble them into weapons and deliver them to our homeland.

Again, we are talking about counterproliferation, not just counterterrorism. But counterproliferation also means unraveling those proliferation networks that supply, sustain, finance, and enable proliferation suppliers and customers. They are the linkages and supply chains between countries that proliferate, firms that proliferate, middlemen, and their customers around the globe.

The most famous network unraveled by the U.S. and its partners was the AQ Khan network. It was this network that supplied Libya, Iran, and possibly others, with nuclear equipment, materials, and know-how. Counterproliferation works, but it takes close cooperation, it takes close coordination, and it takes teamwork within the United States, and with our friends and allies around the world.

The most famous interdiction of recent times was the stopping of the BBC China, a ship that was delivering nuclear parts and components to Libya before being interdicted at a friendly port by some of our European allies. This interdiction had a major effect on prompting Colonel Qadhafi to come clean and to give up his programs.

With more and more countries possibly pursuing weapons of mass destruction programs, and with those same proliferators skirting international laws, treaties, and export control regimes, counterproliferation can help fill the gap and slow or stop this dangerous trade.

The President's Proliferation Security Initiative was a positive step in this direction, but there is more that we can do and we should do. This amendment directs what we can and should do.

The President's Proliferation Security Initiative is supported by over 60 countries, and nearly two dozen are active participants. As we expand globally, however, we, at the same time, need to develop internally. Indeed, the 9/11 Commission called for strengthening the Proliferation Security Initiative in its report and its recommendations.

Establishing a National Counterterrorism Center is necessary. We are doing that. But the National Counterterrorism Center will be focusing on terrorists and terrorist groups. The Nation needs a similar center that, working closely with the National counterterrorism Center, will focus, clarify, and coordinate our country's counterproliferation efforts.

In other words, as the counterterrorism center focuses on the customers, the end users of these dangerous weapons—the terrorists—the national counterproliferation center will be focusing on the suppliers and brokers and distributors of these weapons. This separate center will endeavor to stop these activities before they ever reach the terrorists, before they ever reach the bad guys.

That is what my amendment does. Establishing a national counterproliferation center not only promotes this critical function called counterproliferation that is so necessary to defend our country, it also breaks down the stovepipes that currently exist within the executive branch.

This amendment tracks very closely to the structure, authorities, and roles established for the National Counterterrorism Center. Further, we have made changes to this amendment as amendments to the National Counterterrorism Center have been offered on the floor.

This amendment has also been modified to make clear that counterproliferation does not include programs such as the Cooperative Threat Reduction Program and other threat reduction programs; that our traditional nonproliferation efforts as they pertain to treaties and regimes are not included; and that it does not apply to programs that provide protective gear, clothing, and other items that protect our troops on the battlefield from weapons of mass destruction attacks.

Finally, as my distinguished colleague from Arizona said, I am well aware—we all are—that the President has a Commission studying this issue. That is why this amendment sets the parameters for a national counterproliferation center without getting into the explicit detail. It also does not call for any existing agencies or efforts to be disestablished.

The amendment is also consistent with the framework and authorities for the NID that have been established in the underlying bill.

I have also modified the implementation date so that this center does not have to be established until late next year.

All of this gives the President the flexibility to fine-tune the center based on the findings of his Commission. It also gives him time to establish the center, particularly since the administration will be busy in the coming months setting up the counterterrorism center.

The bottom line is this: Just as we take the offensive in the global war on terrorism, we must similarly take the offensive in stopping the proliferation of weapons of mass destruction. Our nonproliferation efforts are a good defense, but they are not sufficient. We need a good offense, and counterproliferation is just the answer.

The role of the national counterproliferation center, therefore, is to coordinate, plan, and manage

those efforts. It is to break down the stovepipes that exist in this nascent effort. It is to deny the terrorists and others access to weapons of mass destruction and their materials while the National Counterterrorism Center works to dismantle terrorist groups and bring terrorists to justice.

Mr. President, establishing a national counterproliferation center is not only the smart thing to do, it is something we must do. I encourage my colleagues to give this amendment their full support. Doing so will make the country and the American people much safer.

Let me also add, in response to the Senator from Arizona, we have received input from the White House on how to improve this amendment. We have incorporated their ideas. The White House, at this point, does not oppose this amendment.

I am confident this amendment does strike the proper balance between establishing the national counterproliferation center and, at the same time, leaving the President more than sufficient time—a year—and flexibility to modify it as he sees fit or as the Commission recommends.

This amendment is crafted in a manner so as to leave the whole range of details for the President and the Commission to flush out as they see fit.

Finally, the modified amendment also includes a provision we worked on with a number of Senators, including Senator MCCAIN's staff, that makes clear that the intent of this amendment is not to undermine or override the Commission.

Mr. President, I yield the floor and do appreciate the consideration of my colleagues in supporting this amendment.

The PRESIDING OFFICER. The Democratic whip.

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.

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

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

Ms. COLLINS. Mr. President, I know of no further debate on the leader's amendment. The modification has been sent to the desk. Mr. President, this is the Frist amendment No. 3895, as further modified.

The PRESIDING OFFICER. The amendment is further modified.

The amendment, as further modified, is as follows:

On page 94, strike line 5 and insert the following:

SEC. 144. NATIONAL COUNTERPROLIFERATION CENTER.

(a) NATIONAL COUNTERPROLIFERATION CENTER.—(1) Within one year of enactment of this Act there shall be established within the National Intelligence Authority a National Counterproliferation Center.

(2) The purpose of the Center is to develop, direct, and coordinate the efforts and activities of the United States Government to interdict the trafficking of weapons of mass destruction, related materials and technologies, and their delivery systems to terrorists, terrorist organizations, other nonstate actors of concern, and state actors of concern.

(b) DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—(1) There is a Director of the National Counterproliferation Center, who shall be the head of the National Counterproliferation Center, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as the Director of the National Counterproliferation Center shall have significant expertise in matters relating to the national security of the United States and matters relating to the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies that threaten the national security of the United States, its interests, and allies.

(3) The individual serving as the Director of the National Counterproliferation Center may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as Director of the National Counterproliferation Center is doing so in an acting capacity.

(c) SUPERVISION.—(1) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the budget, personnel, activities, and programs of the National Counterproliferation Center.

(2) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the activities of the Directorate of Intelligence of the National Counterproliferation Center under subsection (g).

(3) The Director of the National Counterproliferation Center shall report to the President and the National Intelligence Director on the planning and progress of Counterproliferation operations.

(d) PRIMARY MISSIONS.—The primary missions of the National Counterproliferation Center shall be as follows:

(1) To develop and unify strategy for the Counterproliferation efforts of the United States Government.

(2) To make recommendations to the National Intelligence Director with regard to the collection and analysis requirements and priorities of the National Counterproliferation Center.

(3) To integrate Counterproliferation intelligence activities of the United States Government, both inside and outside the United States, and with other governments.

(4) To conduct stgrategic planning and develop recommended courses of action for multilateral and United States Government Counterproliferation activities, which—

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

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agency operational activities, recommendations for operational activities, and assignment of national, departmental, or agency responsibilities.

(5) To ensure that the collection, analysis, and utilization of Counterproliferation intelligence, and the conduct of Counterproliferation operations, by the United States Government are informed by the analysis of all-source intelligence.

(e) DUTIES AND RESPONSIBILITIES OF DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—Notwithstanding any other provision of law, at the direction of the President and the National Intelligence Director, the Director of the National Counterproliferation Center shall—

(1) serve as a principal adviser to the President and the National Intelligence Director on operations relating to interagency Counterproliferation planning and activities;

(2) provide unified strategic direction for the Counterproliferation efforts of the United States Government and for the effective integration and deconfliction of counterproliferation intelligence and operations across agency boundaries, both inside and outside the United States, and with foreign governments;

(3) advise the President and the National Intelligence Director on the extent to which the Counterproliferation program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the policies and priorities established by the President and the National Security Council;

(4) advise the President on, the selections of personnel to head the nonmilitary operating entities of the United States Government with principal missions relating to Counterproliferation;

(5) advise the President and the National Intelligence Director on the science and technology research and development requirements and priorities of the Counterproliferation programs and activities of the United States Government; and

(6) perform such other duties as the National Intelligence Director may prescribe or are prescribed by law;

(f) DIRECTORATE OF INTELLIGENCE.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Intelligence.

(2) The Directorate shall have primary responsibility within the United States Government for the analysis of information regarding proliferators (including individuals, entities, organizations, companies, and states) and their networks, from all sources of intelligence, whether collected inside or outside the United States.

(3) The Directorate shall—

(A) be the principal repository within the United States Government for all-source information on suspected proliferators, their networks, their activities, and their capabilities;

(B) propose intelligence collection and analysis requirements and priorities for action by elements of the intelligence community inside and outside the United States;

(C) have primary responsibility within the United States Government for net assessments and warnings about weapons of mass destruction proliferation threats, which assessments and warnings shall be based on a comparison of the intentions and capabilities of proliferators with assessed national vulnerabilities and countermeasures;

(D) conduct through a separate office independent analyses (commonly referred to as ''red teaming'') of intelligence collected and analyzed with respect to proliferation; and

(E) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(g) DIRECTORATE OF PLANNING.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Planning.

(2) The Directorate shall have primary responsibility for conducting strategic planning and developing courses of action for Counterproliferation activities, as described in subsection (d)(4).

(3) The Directorate shall—

(A) provide guidance, and develop strategy and interagency plans, to counter proliferation activities based on policy objectives and priorities established by the National Security Council;

(B) develop plans under subparagraph (A) utilizing input from personnel in other departments, agencies, and elements of the United States Government who have expertise in the priorities, functions, assets, programs, capabilities, and operations of such departments, agencies, and elements with respect to Counterproliferation;

(C) assign responsibilities and propose courses of action for Counterproliferation operations to the departments and agencies of the United States Government (including the Department of Defense, the Department of State, the Central Intelligence Agency, the Federal Bureau of Investigation, the Department of Homeland Security, and other departments and agencies of the United States Government), consistent with the authorities of such departments and agencies;

(D) monitor the implementation of operations assigned under subparagraph (C) and update interagency plans for such operations as necessary;

(E) report to the President and the National Intelligence Director on the performance of the departments, agencies, and elements of the United States with regard to the plans developed under subparagraph (A); and

(F) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(4) The Directorate may not direct the execution of operations assigned under paragraph (3).

(h) STAFF.—(1) The National Intelligence Director may appoint deputy directors of the National Counterproliferation Center to oversee such portions of the operations of the Center as the National Intelligence Director considers appropriate.

(2) To assist the Director of the National Counterproliferation Center in fulfilling the duties and responsibilities of the Director of the National Counterproliferation Center under this section, the National Intelligence Director shall employ in the National Counterproliferation Center a professional staff having an expertise in matters relating to such duties and responsibilities.

(3) In providing for a professional staff for the National Counterproliferation Center under paragraph (2), the National Intelligence Director may establish as positions in the excepted service such positions in the Center as the National Intelligence Director considers appropriate.

(4) The National Intelligence Director shall ensure that the analytical staff of the National Counterproliferation Center is comprised primarily of experts from elements in the intelligence community and from such other personnel in the United States Government as the National Intelligence Director considers appropriate.

(5)(A) In order to meet the requirements in paragraph (4), the National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of personnel funded within the National Intelligence Program to the National Counterproliferation Center from any element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of personnel from a department, agency, or element of the United States Government and not funded within the National Intelligence Program, request the transfer, assignment, or detail of such personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effect any transfer, assignment, or detail of personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(6) Personnel employed in or assigned or detailed to the National Counterproliferation Center under this subsection shall be under the authority, direction, and control of the Director of the National Counterproliferation Center on all matters for which the Center has been assigned responsibility and for all matters related to the accomplishment of the missions of the Center.

(7) Performance evaluations of personnel assigned or detailed to the National Counterproliferation Center under this subsection shall be undertaken by the supervisors of such personnel at the Center.

(8) The supervisors of the staff of the National Counterproliferation Center may, with the approval of the National Intelligence Director, reward the staff of the Center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(9) The National Intelligence Director may delegate to the Director of the National Counterproliferation Center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (8).

(10) The National Intelligence Director shall ensure that the staff of the National Counterproliferation Center has access to all databases and information maintained by the elements of the intelligence community that are relevant to the duties of the Center.

(i) SUPPORT AND COOPERATION OF OTHER AGENCIES.—(1) The elements of the intelligence community and the other departments, agencies, and elements of the United States Government shall support, assist, and cooperate with the National Counterproliferation Center in carrying out its missions under this section.

(2) The support, assistance, and cooperation of a department, agency, or element of the United States Government under this subsection shall include, but not be limited to—

(A) the implementation of interagency plans for operations, whether foreign or domestic, that are developed by the National Counterproliferation Center in a manner consistent with the laws and regulations of the United States and consistent with the limitation in subsection (h)(4);

(B) cooperative work with the Director of the National Counterproliferation Center to ensure that ongoing operations of such department, agency, or element do not conflict with operations planned by the Center;

(C) reports, upon request, to the Director of the National Counterproliferation Center on the performance of such department, agency, or element in implementing responsibilities assigned to such department, agency, or element through joint operations plans; and

(D) the provision to the analysts of the National Counterproliferation Center electronic access in real time to information and intelligence collected by such department, agency, or element that is relevant to the missions of the Center.

(3) In the event of a disagreement between the National Intelligence Director and the head of a department, agency, or element of the United States Government on a plan developed or responsibility assigned by the National Counterproliferation Center under this subsection, the National Intelligence Director may either accede to the head of the department, agency, or element concerned or notify the President of the necessity of resolving the disagreement.

(j) DEFINITIONS.—In this section:

(1) The term ''Counterproliferation'' means—

(A) activities, programs and measures for interdicting (including deterring, preventing, halting, and rolling back) the transfer or transport (whether by air, land or sea) of weapons of mass destruction, their delivery systems, and related materials and technologies to and from states and non-state actors (especially terrorists and terrorist organizations) of proliferation concern;

(B) enhanced law enforcement activities and cooperation to deter, prevent, halt, and rollback proliferation-related networks, activities, organizations, and individuals, and bring those involved to justice; and

(C) activities, programs, and measures for identifying, collecting, and analyzing information and intelligence related to the transfer or transport of weapons, systems, materials, and technologies as described in subparagraph (A).

(2) ''Counterproliferation'' does not include—

(A) the Cooperative Threat Reduction and other threat reduction programs run or administered by the Department of Defense, Department of Energy and Department of State;

(B) the nonproliferation efforts and activities of the United States Government as they apply to the implementation and management of nonproliferation treaties, conventions, and regimes; or,

(C) programs designated to protect members of the Armed Forces from the employment of weapons of mass destruction by developing and fielding protective equipment, gear and clothing, and other means to enhance the survivability of Armed Forces personnel on the battlefield.

(3) The term ''states and non-state actors of proliferation concern'' refers to countries or entities (including individuals, entities, organizations, companies, and networks) that should be subject to counterproliferation activities because of their actions or intent to engage in proliferation through—

(A) efforts to develop or acquire chemical, biological, or nuclear weapons and associated delivery systems; or

(B) transfers (either selling, receiving, or facilitating) of weapons of mass destruction, their delivery systems, or related materials.

(k) REPORTS ON EESTABLISHMENT.—(1)(A) The President shall submit to Congress a report on the plans of the President to establish the National Counterproliferation Center as required by this section.

(B) The report shall be submitted not later than six months after the date of the enactment of this Act, and not later than 30 days before the date of the establishment of the National Counterproliferation Center.

(2) The President shall submit to Congress from time to time such updates of the plans under paragraph (1)(a) as the President considers appropriate. Each update shall include such recommendations for legislative or administrative action as the President considers appropriate to improve the effectiveness of the National Counterproliferation Center consistent with its mission.

(m) CONSTRUCTION WITH CERTAIN CONDITIONS.—Nothing in this section shall override recommendations contained in the forthcoming final report of the President's Commission on Weapons of Mass Destruction, established by Executive Order in February 2004, that will improve the effectiveness of the National Counterproliferation Center:

Provided further, That in the case of a conflict between the WMD Commission's final report and the National Counterproliferation Center as established in this section, the Congress and the President shall consider the Commission's recommendations and act as soon as practicable thereafter to make such modifications to statute as deemed necessary.

SEC. 145. NATIONAL INTELLIGENCE CENTERS.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as further modified.

The amendment (No. 3895), as further modified, was agreed to.

Ms. COLLINS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Ms. COLLINS. Mr. President, I have a series of cleared amendments at the desk. Some of them are modifications of previously submitted amendments. Therefore, I ask unanimous consent that the amendments be considered en bloc, modified as necessary, agreed to en bloc, with the motions to reconsider laid upon the table.

Mr. REID. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

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.

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

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

AMENDMENT NO. 3896

Ms. COLLINS. Mr. President, I ask unanimous consent that the Frist amendment No. 3896 be considered at this point.

The PRESIDING OFFICER. Without objection, the amendment is now pending.

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. 3896) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. 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. 3876, WITHDRAWN

Mr. WARNER. Mr. President, I have worked with the distinguished managers. Like so many things in the course of our legislative process, we have worked out a very large number of items, and they have been accepted. One remains and, in my judgment, the various good-faith proposals simply do not meet the criteria that I feel has to be established. So I have two courses of action. One, which I intend to follow, is to withdraw the amendment. The second, of course, would be to press this on with a vote. Frankly, given the structure of the vote—I don't say this as criticism—it does not allow the time in which to get sufficient information and viewpoints to my colleagues to prevail on such a vote. So I think the better course of action for this Senator is to continue to press my concerns in the course of the conference.

At this time, I call up amendment No. 3876.

The PRESIDING OFFICER. The amendment is pending.

Mr. WARNER. Mr. President, I ask that the amendment be withdrawn.

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

Mr. WARNER. For a little expression of the explanation of the amendment, I go back to two very important documents. The first is a letter dated September 28, 2004, Statement of Administration Policy. I ask unanimous consent that the following paragraph be printed in the RECORD.

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

The Administration notes that the Committee bill did not include Section 6 (''Preservation of Authority and Accountability'') of the Administration's proposal; the Administration supports inclusion of this provision in the Senate bill. The legislation should also recognize that its provisions would be executed to the extent consistent with the constitutional authority of the President: to conduct the foreign affairs of the United States; to withhold information the disclosure of which could impair the foreign relations, the national security, deliberative processes of the Executive, or the performanceof the Executive's constitutional duties; to recommend for congressional consideration such measures as the President may judge necessary or expedient; and to supervise the unitary executive.

Mr. WARNER. That paragraph states that:

The Administration opposes the Committee's attempt to define in statute programs that should be included in the National Intelligence Program.

I believe we have to work this out in a clearer fashion. It is also more clear than what is in the amendment structure today, so I will put that aside and then go to the subject of this amendment.

The last paragraph of the September 28 letter reads:

The Administration notes that the Committee did not include Section 6, (''Preservation of Authority and Accountability'') of the Administration's proposal; the Administration supports the inclusion of this provision in the Senate bill.

That was the basic intent of my amendment; therefore, I will take the opportunity to work on that during the course of conference in the hopes of achieving that goal.

I thank the managers for their effort to work on it, and we will hopefully work on it further to achieve this administration goal.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I very much appreciate the cooperation of the chairman of the Armed Services Committee. We have incorporated many of his suggestions into the bill. I appreciate his advice.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MODIFICATION TO NO. 3807

Ms. COLLINS. Mr. President, I ask unanimous consent to modify amendment No. 3807, with the changes at the desk, notwithstanding its prior adoption.

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

The modification is as follows:

hold driver's licenses and personal identification cards.

(4) NEGOTIATED RULEMAKING.—

(A) IN GENERAL.—Before publishing the proposed regulations required by paragraph (2) to carry out this title, the Secretary of Transportation shall establish a negotiated rulemaking process pursuant to subchapter IV of chapter 5 of title 5, United States Code (5 U.S.C. 561 et seq.).

(B) REPRESENTATION ON NEGOTIATED RULEMAKING COMMITTEE.—Any negotiated rulemaking committee established by the Secretary of Transportation pursuant to subparagraph (A) shall include representatives from—

(i) among State offices that issue driver's licenses or personal identification cards;

(ii) among State elected officials;

(iii) the Department of Homeland Security; and

(iv) among interested parties, including organizations with technological and operational expertise in document security and organizations that represent the interests of applicants for such licenses or identification cards.

(C) TIME REQUIREMENT.—The process described in subparagraph (A) shall be conducted in a timely manner to ensure that—

(i) any recommendation for a proposed rule or report is provided to the Secretary of Transportation not later than 9 months after the date of enactment of this Act; and

(ii) a final rule is promulgated not later than 18 months after the date of enactment of this Act.

(c) GRANTS TO STATES.—

(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary of Transportation shall award grants to States to assist them in conforming to the minimum standards for driver's licenses and personal identification cards set forth in the regulation.

(2) ALLOCATION OF GRANTS.—The Secretary of Transportation shall award grants to States under this subsection based on the proportion that the estimated average annual number of driver's licenses and personal identification cards issued by a State applying for a grant bears to the average annual number of such documents issued by all States.

(3) MINIMUM ALLOCATION.—Notwithstanding paragraph (2), each State shall receive not less than 0.5 percent of the grant funds made available under this subsection.

(d) EXTENSION OF EFFECTIVE DATE.—The Secretary of Transportation may extend the date specified under subsection (b)(1)(A) for up to 2 years for driver's licenses issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under such subsection but was unable to do so.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

SEC. ___08. SOCIAL SECURITY CARDS.

(a) SECURITY ENHANCEMENTS.—The Commissioner of Social Security shall—

(1) not later than 180 days after the date of enactment of this section, issue regulations to restrict the issuance of multiple replacement social security cards to any individual to minimize fraud;

(2) within 1 year after the date of enactment of this section, require verification of records provided by an applicant for an original social security card, other than for purposes of enumeration at birth; and

(3) within 18 months after the date of enactment of this section, add death, fraud, and work authorization indicators to the social security number verification system.

(b) INTERAGENCY SECURITY TASK FORCE.—The Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall form an interagency task force for the purpose of further improving the security of social security cards and numbers. Not later than 1 year after the date of enactment of this section, the task force shall establish security requirements, including—

(1) standards for safeguarding social security cards from counterfeiting, tampering, alteration, and theft;

(2) requirements for verifying documents submitted for the issuance of replacement cards; and

(3) actions to increase enforcement against the fraudulent use or issuance of social security numbers and cards.

AMENDMENTS NOS. 3733, AS MODIFIED, 3760, 3837, AS MODIFIED, 3861, AS MODIFIED, 3880, AS MODIFIED, 3924, AS MODIFIED, 3977, 3978, 3979, AND 3980

Ms. COLLINS. Mr. President, Senator LIEBERMAN and I have a series of cleared amendments at the desk. Some of these are modifications of previously submitted amendments. Therefore, I ask unanimous consent that the amendments be considered en bloc, modified as necessary, agreed to en bloc, with the motions to reconsider laid upon the table.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 3733, AS MODIFIED

At the appropriate place, insert the following:

SEC. ___. REPORT ON USE OF DATABASES.

(a) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term ''data-mining'' means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government or a non-Federal entity acting on behalf of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist, criminal, or other law enforcement related activity.

(2) DATABASE.—The term ''database'' does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

(b) REPORTS ON DATA-MINING ACTIVITIES.—

(1) REQUIREMENT FOR REPORT.—Beginning one year after the effective date of this section the National Intelligence Director shall submit a report, public to the extent possible with a classified annex, to Congress on all activities of the intelligence community to use or develop data-mining technology.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology, the plans for the use of such technology, the data that will be used, and the target dates for the deployment of the data-mining technology.

(B) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(C) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected and used.

(D) Any necessary classified information in an annex that shall be available to the Committee on Governmental Affairs, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence and Committee on the Judiciary of the House of Representatives.

(3) TIME FOR REPORT.—The report required under paragraph (1) shall be submitted not later than September 30th of each year.

(4) EXPIRATION.—The requirements of this subsection shall expire 4 years after the date of enactment of this Act.

AMENDMENT NO. 3760

(Purpose: To provide that the Privacy and Civil Liberties Oversight Board include in certain reports, any proposal that the Board advised against, but actions were taken to implement)

On page 158, line 5, strike ''and''.

On page 158, line 9, strike the period and insert ''; and''.

On page 158, insert between lines 9 and 10, the following:

(C) each proposal reviewed by the Board under subsection (d)(1) that—

(i) the Board advised against implementation; and

(ii) notwithstanding such advice, actions were taken to implement.

AMENDMENT NO. 3837, AS MODIFIED

At the end, add the following:

TITLE IV—ADVANCED TECHNOLOGY NORTHERN BORDER SECURITY PILOT PROGRAM

SEC. 401. ESTABLISHMENT.

The Secretary of Homeland Security may carry out a pilot program to test various advanced technologies that will improve border security between ports of entry along the northern border of the United States.

SEC. 402. PROGRAM REQUIREMENTS.

(a) REQUIRED FEATURES.—The Secretary of Homeland Security shall design the pilot program under this title to have the following features:

(1) Use of advanced technological systems, including sensors, video, and unmanned aerial vehicles, for border surveillance.

(2) Use of advanced computing and decision integration software for—

(A) evaluation of data indicating border incursions;

(B) assessment of threat potential; and

(C) rapid real-time communication, monitoring, intelligence gathering, deployment, and response.

(3) Testing of advanced technology systems and software to determine best and most cost-effective uses of advanced technology to improve border security.

(4) Operation of the program in remote stretches of border lands with long distances between 24-hour ports of entry with a relatively small presence of United States border patrol officers.

(5) Capability to expand the program upon a determination by the Secretary that expansion would be an appropriate and cost-effective means of improving border security.

(b) COORDINATION WITH OTHER AGENCIES.—The Secretary of Homeland Security shall ensure that the operation of the pilot program under this title—

(1) is coordinated among United States, State and local, and Canadian law enforcement and border security agencies; and

(2) includes ongoing communication among such agencies.

SEC. 403. ADMINISTRATIVE PROVISIONS.

(a) PROCUREMENT OF ADVANCED TECHNOLOGY.—The Secretary of Homeland Security may enter into contracts for the procurement or use of such advanced technologies as the Secretary determines appropriate for the pilot program under this title.

(b) PROGRAM PARTNERSHIPS.—In carrying out the pilot program, the Secretary of Homeland Security may provide for the establishment of cooperative arrangements for participation in the pilot program by such participants as law enforcement and border security agencies referred to in section 402(b), institutions of higher education, and private sector entities.

SEC. 404. REPORT.

(a) REQUIREMENT FOR REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the pilot program under this title.

(b) CONTENT.—The report under subsection (a) shall include the following matters:

(1) A discussion of the implementation of the pilot program, including the experience under the pilot program.

(2) A recommendation regarding whether to expand the pilot program along the entire northern border of the United States and a timeline for the implementation of the expansion.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the pilot program under this title.

AMENDMENT NO. 3861, AS MODIFIED

At the appropriate place, insert the following:

SEC. ___. BORDER SURVEILLANCE.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the President and the appropriate committees of Congress a comprehensive plan for the systematic surveillance of the

Southwest border of the United States by remotely piloted aircraft.

(b) CONTENTS.—The plan submitted under subsection (a) shall include—

(1) recommendations for establishing command and control centers, operations sites, infrastructure, maintenance, and procurement;

(2) cost estimates for the implementation of the plan and ongoing operations;

(3) recommendations for the appropriate agent within the Department of Homeland Security to be the executive agency for remotely piloted aircraft operations;

(4) the number of remotely piloted aircraft required for the plan;

(5) the types of missions the plan would undertake, including—

(A) protecting the lives of people seeking illegal entry into the United States;

(B) interdicting illegal movement of people, weapons, and other contraband across the border;

(C) providing investigative support to assist in the dismantling of smuggling and criminal networks along the border;

(D) using remotely piloted aircraft to serve as platforms for the collection of intelligence against smugglers and criminal networks along the border; and

(E) further validating and testing of remotely piloted aircraft for airspace security missions; and

(6) the equipment necessary to carry out the plan.

(7) A recommendation regarding whether to expand the pilot program along the entire southwestern border.

(c) IMPLEMENTATION.—The Secretary of Homeland Security shall implement the plan submitted under subsection (a) as a pilot program as soon as sufficient funds are appropriated and available for this purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

AMENDMENT NO. 3880, AS MODIFIED

On page 19, between lines 14 and 15, insert the following:

(c) CONSISTENCY OF PERSONNEL POLICIES AND PROGRAMS WITH CERTAIN OTHER PERSONNEL POLICIES AND STANDARDS.—(1) The personnel policies and programs developed and implemented under subsection (a)(8) with respect to members of the uniformed services shall be consistent with any other personnel policies and standards applicable to the members of the uniformed services.

(2) It is the sense of the Senate that the NID shall seek input from the Secretary of Defense, the secretaries of the military departments, and, as appropriate, the Secretary of Homeland Security in developing and implementing such policies and programs.

On page 19, line 15, strike ''(c)'' and insert ''(d)''.

On page 20, line 4, strike ''(d)'' and insert ''(e)''.

AMENDMENT NNO. 3924, AS MODIFIED

At the appropriate place, insert the following:

SEC. ___. ENTERPRISE ARCHITECTURE.

(a) DEFINITION OF ENTERPRISE ARCHITECTURE.—In this section, the term ''enterprise architecture'' means a detailed outline or blueprint of the information technology of the Federal Bureau of Investigation that will satisfy the ongoing mission and goals of the Federal Bureau of Investigation and that sets forth specific and identifiable benchmarks.

(b) ENTERPRISE ARCHITECTURE.—The Federal Bureau of Investigation shall—

(1) continually maintain and update an enterprise architecture; and

(2) maintain a state of the art and up to date information technology infrastructure that is in compliance with the enterprise architecture of the Federal Bureau of Investigation.

(c) REPORT.—Subject to subsection (d), the Director of the Federal Bureau of Investigation shall report to the House and Senate Judiciary Committees, on an annual basis, on whether the major information technology investments of the Federal Bureau of Investigation are in compliance with the enterprise architecture of the Federal Bureau of Investigation and identify any inability or expectation of inability to meet the terms set forth in the enterprise architecture.

(d) FAILURE TO MEET TERMS.—If the Director of the Federal Bureau of Investigation identifies any inability or expectation of inability to meet the terms set forth in the enterprise architecture in a report under subsection (c), the report under subsection (c) shall—

(1) be twice a year until the inability is corrected;

(2) include a statement as to whether the inability or expectation of inability to meet the terms set forth in the enterprise architecture is substantially related to resources; and

(3) if the inability or expectation of inability is substantially related to resources, include a request for additional funding that would resolve the problem or a request to reprogram funds that would resolve the problem.

(e) Federal Bureau of Investigation's Enterprise Architecture, Agency Plans and Reports—This section shall be carried out in compliance with the requirements set forth in Sec. 206(f) and (1).

AMENDMENT NO. 3977

On page 4, beginning on line 10, strike ''information gathered, and activities'' and inserting ''foreign intelligence gathered, and information gathering and other activities''.

On page 4, line 16, insert before the period the following: '', but does not include personnel, physical, document, or communications security programs''.

On page 23, line 8, strike the period and insert ''as it pertains to those programs, projects, and activities within the National Intelligence Program''.

On page 24, line 10, insert ''transactional deposit'' after ''establish''.

On page 181, line 9, insert ''or involving intelligence acquired through clandestine means'' before the period.

AMENDMENT NO. 3978

(Purpose: to authorize 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) REQUIREMENT FOR SPECIALIST.—

(A) IN GENERAL.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify the diplomatic and consular posts at which visas are issued that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall assign or designate at 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.

(B) EXCEPTIONS.—The Secretary of State is not required to assign or designate a specialist as described in subparagraph (A) at a diplomatic and consular post if an employee of the Department of Homeland Security is assigned on a full-time basis to such post under the authority in section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236).

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 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 made available during the preceding fiscal year. Of the additional border patrol agents, in each fiscal year not less than 20 percent of such agents shall be assigned to duty stations along the northern border of the United States.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, 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 made available during the preceding fiscal year.

AMENDMENT NO. 3979

(Purpose: To amend the Immigration and Nationality Act to ensure that nonimmigrant visas are not issued to individuals with connections to terrorism or who intend to carry out terrorist activities in the United States)

At the end, add the following new title:

TITLE IV—VISA REQUIREMENTS

SEC. 401. IN PERSON INTERVIEWS OF VISA APPLICANTS.

(a) REQUIREMENT FOR INTERVIEWS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(h) Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for a nonimmigrant visa—

''(1) who is at least 12 years of age and not more than 65 years of age to submit to an in person interview with a consular officer unless the requirement for such interview is waived—

''(A) by a consular official and such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G) or is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof;

''(B) by a consular official and such alien is applying for a visa—

''(i) not more than 12 months after the date on which the alien's prior visa expired;

''(ii) for the classification under section 101(a)(15) for which such prior visa was issued;

''(iii) from the consular post located in the country in which the alien is a national; and

''(iv) the consular officer has no indication that the alien has not complied with the immigration laws and regulations of the United States; or

''(C) by the Secretary of State if the Secretary determines that such waiver is—

''(i) in the national interest of the United States; or

''(ii) necessary as a result of unusual circumstances; and

''(2) notwithstanding paragraph (1), to submit to an in person interview with a consular officer if such alien—

''(A) is not a national of the country in which the alien is applying for a visa;

''(B) was previously refused a visa, unless such refusal was overcome or a waiver of ineligibility has been obtained;

''(C) is listed in the Consular Lookout and Support System (or successor system at the Department of State);

''(D) may not obtain a visa until a security advisory opinion or other Department of State clearance is issued unless such alien is—

''(i) within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G); and

''(ii) not a national of a country that is officially designated by the Secretary of State as a state sponsor of terrorism; or

''(E) is identified as a member of a group or sector that the Secretary of State determines—

''(i) poses a substantial risk of submitting inaccurate information in order to obtain a visa;

''(ii) has historically had visa applications denied at a rate that is higher than the average rate of such denials; or

''(iii) poses a security threat to the United States.''.

SEC. 402. VISA APPLICATION REQUIREMENTS.

Section 222(c) of the Immigration and Nationality Act (8 U.S.C. 1202(c)) is amended by inserting ''The alien shall provide complete and accurate information in response to any request for information contained in the application.'' after the second sentence.

SEC. 403. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect 90 days after date of the enactment of this Act.

AMENDMENT NO. 3980

(Purpose: To require the establishment of pilot projects relating to the coordination of information among emergency first responders, and for other purposes)

At the appropriate place, insert the following:

SEC. ____. REGIONAL MODEL STRATEGIC PLAN PILOT PROJECTS.

(a) PILOT PROJECTS.—Consistent with sections 302 and 430 of the Homeland Security Act of 2002 (6 U.S.C. 182, 238), not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in coordination with the Executive Director of the Office of State and Local Government Coordination and Preparedness and the Undersecretary for Science and Technology, shall establish not fewer than 2 pilot projects in high threat urban areas or regions that are likely to implement a national model strategic plan.

(b) PURPOSES.—The purposes of the pilot projects required by this section shall be to develop a regional strategic plan to foster interagency communication in the area in which it is established and coordinate the gathering of all Federal, State, and local first responders in that area, consistent with the national strategic plan developed by the Department of Homeland Security.

(c) SELECTION CRITERIA.—In selecting urban areas for the location of pilot projects under this section, the Secretary shall consider—

(1) the level of threat risk to the area, as determined by the Department of Homeland Security;

(2) the number of Federal, State, and local law enforcement agencies located in the area;

(3) the number of potential victims from a large scale terrorist attack in the area; and

(4) such other criteria reflecting a community's risk and vulnerability as the Secretary determines is appropriate.

(d) INTERAGENCY ASSISTANCE.—The Secretary of Defense shall provide assistance to the Secretary of Homeland Security, as necessary for the development of the pilot projects required by this section, including examining relevant standards, equipment, and protocols in order to improve interagency communication among first responders.

(e) REPORTS TO CONGRESS.—The Secretary of Homeland Security shall submit to Congress—

(1) an interim report regarding the progress of the interagency communications pilot projects required by this section 6 months after the date of enactment of this Act; and

(2) a final report 18 months after that date of enactment.

(f) FUNDING.—There are authorized to be made available to the Secretary of Homeland Security, such sums as may be necessary to carry out this section.

Ms. COLLINS. Mr. President, I thank everyone who has worked so hard on this bill, particularly my colleague and partner, Senator LIEBERMAN.

I believe we are ready to move to third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

Ms. COLLINS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—96

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

NAYS—2

Byrd	Hollings

NOT VOTING—2

Edwards	Kerry

The bill (S. 2845), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

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

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

INTELLIGENCE COMMITTEE REORGANIZATION

The PRESIDING OFFICER (Mr. ALEXANDER). Under the previous order, the Senate will now proceed to the consideration of S. Res. 445, which the clerk will report.