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Senate

The Senate met at 10 a.m. and was called to order by the Honorable CHUCK HAGEL, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, our God, we honor Your name. Every day we praise You for You deserve our admiration. We will tell this generation of Your mighty works so that Your name will be known by those not yet born. We celebrate Your matchless mercy and Your power to save.

Thank You for keeping Your word, for picking us up when we have fallen. From Your hands, we find satisfaction and fulfillment for every need.

Today guide the Members of this body with Your love. Answer them when they ask for Your help. Be for each of them a shade by day and a defense by night. May they exercise sound judgment as they listen closely to Your wisdom. Keep them in the path that leads to love.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHUCK HAGEL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 4, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHUCK HAGEL, a Senator from the State of Nebraska, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. HAGEL thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished Senate majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning after a 1-hour period of morning business, we will resume consideration of the intelligence reform bill. In addition to a large number of pending amendments, we anticipate that more amendments will be offered today. As a reminder, the consent reached on Friday did set up a series of stacked votes beginning at 4:15 today. There are currently six votes in order. However, I anticipate other votes will be added to that series as debate continues. In addition, we well may have votes into the evening in order to make progress on the bill.

I remind my colleagues that a cloture motion was filed on the bill on Friday and that cloture vote will occur tomorrow morning. It is my hope and expectation cloture will be invoked and that we will be able to finish the bill either tomorrow afternoon, tomorrow evening, or Wednesday.

I say this because, as we all know, this is our last week in session. We will adjourn if we complete both of our intelligence reform efforts on this Friday, October 8. Our goal is to adjourn on Friday, October 8. Before that time, we do need to complete action on both arms of intelligence reform, including that relating to the Senate role on intelligence matters. We have a lot of work before us this week. We all need to prepare for busy sessions.

There are a lot of other events that are scheduled over the course of the week. Our focus must be on the business that is before us. Thus, I know everybody will be shifting things around. We need to put a major priority on what goes on here on the floor as well as on several conference reports.

In addition to what people will be seeing on the floor, we have the FSC/ETI manufacturing jobs bill that is currently in conference. There will be a lot of activity this afternoon, tonight, and tomorrow in that conference. I am hopeful we will be able to address that conference report sometime this week.

Homeland Security appropriations is also in conference and progress is being made there. That was the first bill we did when we came back 4 weeks ago. It is important that we complete it, especially since our goal is the safety and security of the American people. That bill directs the spending aspects of homeland security.

The underlying bill we have been on now for a week and a half, and we have been studying the issue aggressively in response to the 9/11 Commission report. We have made huge progress, and all of our colleagues have worked together, on both sides of the aisle, on this very nonpartisan issue. I thank all of our colleagues for participating and working with such focus in an expeditious and a bipartisan manner. The American people thank you. I thank you. The leadership on both sides of the aisle thanks you.

We have no greater duty in this body than protecting our Nation and in strengthening our intelligence system. We are meeting that responsibility. As we have said at the outset, when the Democratic leader and I set out this path, it was because, when we leave on

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

October 8, although we will have in all likelihood a little bit of business to take care of, in truth October 8 really brings to a close most of the activity, almost all of the activity, it would be inexcusable not to deal with these important issues on intelligence which affect the safety and security of the American people. If we were unable to finish that, because it means we would not be able to address it until next year, that would be unpardonable.

To date, the Senate, in this bill, has addressed 35 of the 39 recommendations of the 9/11 Commission. Those are the 39 recommendations that deal with executive branch reorganization. The remaining recommendations will be addressed this week.

The Senate has covered a full range of issues: establishing a national intelligence director to manage the Nation's intelligence community, to advise the President; creating a national counterterrorism center to maximize our intelligence-gathering capabilities and maximizing our counterterrorism activities; redefining the national foreign intelligence program to better coordinate and unify the functions of our intelligence agencies; strengthening and reforming the CIA, the FBI, and other intelligence-related agencies; and ensuring that winning the war on terrorism is our top priority.

There were two additional reforms suggested by the Commission concerning Senate oversight of intelligence and homeland security and, as I mentioned, the Senate will be considering these two remaining recommendations this week.

It is going to be a very full week, but the Democratic leader and I agree that getting this done now must be our top priority. We are making real progress on the Senate floor. We are on the home stretch. We have another 5 days, beginning early today, and I am sure we will use all 5 days to the fullest sense. We have to have these major reforms completed this week.

I thank my colleagues for staying on task. I thank the managers of the bill in particular, Senators COLLINS and LIEBERMAN. They and the Parliamentarian and staff have been working solidly through the weekend. The managers have shown real leadership. These reforms clearly will protect America and make a safer and really more prosperous America because of the increased security that people can feel with a maximally performing intelligence system.

RECOGNITION OF THE ASSISTANT MINORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished assistant minority leader is recognized.

PROGRESS IN THE SENATE

Mr. REID. Mr. President, last week we all did tremendously important work, including the work that was done by Senators COLLINS and LIEBERMAN on homeland security. We extended the highway bill until next May. The welfare bill, TANF, was extended. We passed a continuing resolution. These are things that did not take a lot of time, but a lot of work was entered into with many different groups and people to get to where we could complete those three items.

Mr. President, I would say through you to the distinguished majority leader, this week is going to be tough. We are going to have to have the cooperation of all Members because we not only have just a few days left, but those days are days that are involved with the Vice Presidential debate tomorrow and the Presidential debate on Friday. So we really have a lot of work to do. We are going to have to have the cooperation of all Members.

I think we have had good bipartisan support to move down the road on the homeland security bill. But I think people are going to have to take a look at the amendments they have filed. If an amendment in a subject area has been decided by an overwhelming vote, I think Senators should reconsider whether or not to propose those amendments. Some Senators are going to have filed amendments that are germane and they are going to have to decide whether or not they want to take the Senate's time. It would appear to me a number of these are not going to pass.

So we have a lot of work to do, a very short period of time to do it, and I think that with the spirit of getting toward the end of the session, which usually becomes a time for Members to cause problems, we haven't had that in the past several weeks and that has worked out very well. So I hope we can move forward as we have the past 3 weeks. It has been very rewarding to the Senate and to the country.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond 60 minutes with the first 30 minutes of that time under the control of the Democratic leader or his designee, and the second 30-minute period under the control of the majority leader or his designee.

ORDER OF PROCEDURE

Mr. REID. Mr. President, on behalf of Senator DASCHLE, I yield 10 minutes to the Senator from New Mexico, Mr. BINGAMAN, and 10 minutes to the Senator from Florida, Mr. NELSON.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. I thank the Chair. I thank my colleague from Nevada, Senator REID, for yielding me time.

KYOTO PROTOCOL

Mr. BINGAMAN. Mr. President, last week the Russian Federation began the process of ratifying the Kyoto Protocol on global warming. Russia's ratification is the crucial step that will bring the Kyoto Protocol into force as an international agreement.

In the initial stages of the negotiations, the Senate made clear that we would not be willing to sign any agreement on global warming that did not include scheduled commitments for the developing world in addition to the commitments that were being asked of ourselves. This was not a refusal to participate in the Kyoto negotiations, but it was a guide for what we would find acceptable if we were to actually enter into a treaty.

The Bush administration misrepresented that guide and decided to completely walk away from international negotiations on the issue. Now it looks as though a majority of the world will begin to move forward on the issue of global climate change without U.S. participation.

President Bush's decision was a profound and strategic mistake for our country. The protocol is moving forward now and the United States has very little to say about the direction that it will take. The administration has compounded the error of dropping out of the world climate discussion by failing to come up with a viable climate change policy of its own.

Relying solely on voluntary measures as the basis for our climate change strategy has proven to be ineffective in slowing the growth of our own greenhouse gas emissions. These voluntary actions have been in place since the previous Bush administration, the administration of George Herbert Walker Bush. And now they have been repackaged by the current Bush administration. The current administration and Republican leadership in the House have been so stalwart on this issue that they have opposed efforts in the Senate to even develop modest measures on climate protection, such as a national registry on greenhouse gas emissions and a national registry on climate change.

The science of climate change is clear. The potential losses to our economy through climate-related disruptions such as the increased frequency of hurricanes and other severe storms is starkly apparent. We are putting our own economic security and our competitive edge at risk every day that we delay addressing this issue. The fact that the Kyoto Protocol will officially be entered into force is a signal that the rest of the world is headed toward a marketplace for more efficient and cleaner ways to produce and use energy. But because we in the United States have absented ourselves from

the international discussions, we will have a limited role in setting the terms for the development of that marketplace.

The costs to our economic competitiveness could be substantial. A 1999 report by the President's committee of advisers on science and technology shows that between now and 2050 investments in new energy technologies in developing nations will likely be between $15 and $20 trillion, accounting for more than half of the global investments in energy supply.

Let me restate that. Between $15 and $20 trillion, 90 percent of the markets for coal and nuclear and renewable energy technologies that are expected to be developed, 90 percent of those markets are outside the United States. And the question arises: Who will supply those technologies? Given the right incentives, the United States has the technical capability and the human resources to lead in this area.

A recent edition of Newsweek demonstrated that a large number of U.S. companies, maybe even a majority, are ready to move forward. These companies want to take climate change seriously because they are fearful of losing a huge part of the growing market for clean energy technology. Clean energy technology is the future cornerstone of a world market, and we should be vying to capture that market. Instead, we are on a track for a future where we will be buying the technology from overseas rather than selling the technology to others.

In contrast to our weak policy on climate change, the Europeans and the Japanese have already made serious commitments to reducing emissions with or without Kyoto. They are poised to corner the market in the developing world while our discussions on climate are being held hostage by those who would like to avoid an honest discussion of the issue. The longer we play politics, the wider this gap will grow as the Europeans and the Japanese and others develop more efficient vehicles and cleaner and superior ways to produce energy.

Mr. President, I recently visited China, and the Chinese are developing at a rapid pace. My impression from that visit was of the enormous number of coal-fired powerplants that are scheduled to be built in that country over the next two decades.

This development illustrates why it is important to engage the developing world in climate negotiations. But by walking away from the table over 3 years ago, the administration did not improve its ability to cause that engagement to occur. Our misguided refusal to engage in the issue lets everyone else off the hook.

The news of Russia's willingness to go forward with the Kyoto Protocol should be a wake-up call to this administration. We should seize it as an opportunity for the United States to start showing leadership on the issue. Only then can we credibly engage China and the developing world. One way of taking that leadership is for the United States to propel itself forward in the development of cleaner and more efficient technology. If we do not and if Kyoto goes into force, then the United States will run the risk of falling behind in participating in important new markets for energy technology.

There are flexibility mechanisms within the Kyoto structure to allow the United States to participate in a global regime, but we need to take our own first steps.

Two credible first steps could be, first, for us to strengthen our own capabilities for energy technology R&D, and, second, for us to develop a robust and verified national registry for greenhouse gas emissions.

With respect to the registry, if the United States is to develop a strategy for helping to achieve a stable climate in the future, knowing where our emissions are coming from is a necessary first step. The Senate has gone on record in favor of such a registry in the last Congress and again in this Congress.

With time so short in this Congress, frankly, I am not optimistic that we will be able to revisit the issue, but I hope the developments in Russia will drive home the need to start a real debate on a proactive climate policy, and we need to start taking even modest steps to address this extremely important issue.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

AFTERMATH OF FLORIDA HURRICANES

Mr. NELSON of Florida. Mr. President, I want to give a report to the Senate on the aftermath of our State having been hit by four hurricanes and the recovery efforts that are coming along, and, since the Senate is planning to recess at the end of this week for some number of weeks until after the election, when we will come back in a lameduck session, it is all the more important that we get appropriated the $10.2 billion that has been requested by the White House for emergency hurricane relief so that all of this emergency relief that is going on can continue.

That is what I want to report to the Senate, having been in Florida this weekend, having been with the volunteers, with FEMA, with the State people, and with the local governments. It is amazing how everybody is pitching in and working together. Yet the hard reality of some parts of our State having been hit by three hurricanes, and especially along the Middle Eastern coast, what is called the treasure coast of Florida, having been hit at almost identically the same place by two major hurricanes, having winds sustained at 120 miles per hour when it hit the coast, with gusts up to 135 miles an hour, naturally people are reeling, they are tired and, in some cases, their patience is running out.

For example, in several mobile home parks I visited this weekend, there are people who cannot inhabit their home. The home is literally destroyed. So where are they staying? Some people are literally staying in tents in their front yards because the temporary housing that is supplied by FEMA is being delayed in the delivery. Once the temporary house is delivered, and it is usually in the form of a small trailer, it is set up usually in the driveway of the home so the homeowner can oversee the complete dismantling of the destroyed home and its removal, or the rebuilding and repair of the home if it is salvageable. In many other cases, people are staying with friends or with family, but they are being delayed in the process of rebuilding their lives until FEMA gets in the trailers.

I was told in one place that was hard hit—it is in south Brevard County, right at the Brevard County-Indian County river line, near the Sebastian River. It is a huge mobile home park called Barefoot Bay. Brevard County is my home county. One can image what 120-mile-an-hour winds do to a bunch of mobile homes. Let me tell you what it did. One could surely see the difference between the mobile homes constructed after the new standards imposed after the monster hurricane, Hurricane Andrew, hit Florida 12 years ago, and one can see what 120-mile-an-hour winds do to a mobile home that was not built according to those standards.

The little pieces of wood that form the ceiling of a mobile home are not very thick or wide. Does anyone think those old construction standards for mobile homes, with a little piece of wood that is a truss for a roof, is going to withstand 120-mile-an-hour winds whipping around when the ceiling is not very thick or very wide? It did exactly what one would expect—it absolutely ripped them up.

Another one of the lessons we are learning is that the new building codes are working. As I flew in helicopters across the barrier islands, when that wall of water came, as well as the 145-mile-an-hour winds on the first hurricane, Hurricane Charley, from that Army National Guard helicopter looking down at the barrier islands, one could clearly see what was constructed according to the new building codes because it was standing and relatively intact and what was old construction because it was history.

That scene was replicated after the third hurricane, Hurricane Ivan, that hit the barrier island up in Pensacola beach. It was the same scene out of the window of an Army National Guard helicopter: The new building codes are working.

My message to the Senate, my plea, my begging is that by the end of this week when we leave Washington, we have to have passed at the bare minimum the $10.2 billion request which is

not only for FEMA and all of the personal loans and grants, the Small Business Administration low-interest loans so people can rebuild their lives as well as their businesses, but also the money that will go to our military bases to repair the devastation that has occurred at the Kennedy Space Center with NASA. All of that is in this money, and we have to be able to rebuild our lives in Florida for the sake of people and for the sake of this country.

There is something FEMA can do, in addition to getting the temporary housing people are impatiently waiting for. FEMA can also address a chronic problem that does not happen just after one hurricane but gets magnified after multiple hurricanes within a 6-week period, and that is the accumulation of debris.

As I traveled through the mobile home park of Bombay Estates, it was because people from the Mormon Church came there over the weekend to clean up that debris and stack it in areas so those people could get back to their lives. The Red Cross, the Salvation Army—all of these private organizations are doing such a tremendous job, and yet FEMA is taking the position that it will not reimburse local governments for picking up debris unless the debris is on public right of way. That defies reality in Florida.

In Florida, we have many huge senior citizen complexes where the roads in them are private roads, and yet they are still citizens, they are still part of the community, and the debris is accumulating, and FEMA says it will not pay for the pickup of that debris.

Who is going to pay for it? That is part of what FEMA's disaster relief is for. Is the local government to pay for it? The little cities and towns cannot afford all of that expense. So what are they going to do? Assess a fee on all of the senior citizens in this huge senior citizen residential complex?

On fixed incomes, the senior citizens cannot afford it. Yet FEMA is taking the position that they will not pay for the pickup of the debris, but it is not a legitimate position.

Listen to what section 206.224 of the Code of Federal Regulations states. It states that FEMA may provide assistance to remove debris from privately owned lands and waters when it is in the public interest.

What is in the public interest? It is in the public interest to eliminate a threat to public health and safety.

How many canals and water reservoirs did I see littered with debris? If that debris is not picked up, it becomes a hazard for all kinds of pestilence, not even to speak of the danger. As I went through some of that debris yesterday, a lot of those carports in the mobile home parks were just twisted and flung by 120-mile-an-hour winds. They have sharp edges by which people can get really hurt.

So I hope we do not have to direct FEMA to do this by putting language in the Department of Homeland Security funding bill on FEMA's particular funding. We should not have to do that. FEMA has the authority already. It is just an interpretation of the law, and I think this is clearly a case, in the interest of the public safety and welfare, that FEMA should recognize this is not one hurricane but this is four hurricanes within 6 weeks in one State. That is my plea to the Senate, to the House of Representatives, and especially to FEMA.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. How much time does the minority have remaining in morning business?

The ACTING PRESIDENT pro tempore. The minority has 7 minutes remaining.

LANCE ARMSTRONG, A POSITIVE ROLE MODEL

Mr. REID. Mr. President, I flew to Las Vegas Friday, and on the way out there I read the anniversary edition of Sports Illustrated. It had in it what has transpired in the world of athletics during the last 50 years. The thing that struck my eye was Sports Illustrated said the most definitive role model during these past 50 years is not the name that one would think, but it is Lance Armstrong, the cyclist. Out of all the athletes, they said Lance Armstrong was the most positive role model of all the athletes in some 50 years. The reason that was important to me is I was going to Las Vegas Friday for an event with Lance Armstrong.

This man has done some tremendous things, and not only athletically. Just a few years ago, he was dying of cancer. Many of his sponsors, when he was sick—in fact, most of them—no longer would support him. They pulled their support and left him for dead because of his advanced cancer.

We all know that Lance Armstrong is in a class by himself as a cyclist, but he represents a growing population of cancer survivors.

In June, the Centers for Disease Control found that the number of cancer survivors in the United States had tripled over the past 30 years, a 300-percent increase. Unfortunately, people in my State have lower rates of cancer survivorship than our neighboring States.

Nevada is home to world-class physicians, but we have lacked a research institution that can provide cutting edge treatments for patients who have been helped by traditional therapies. As a result, many Nevadans have been forced to travel out of State for cancer care or to simply forego nontraditional treatments.

Just over 2 years ago, a young couple, Jim and Heather Murren, came to Las Vegas. Jim Murren came to work for MGM as one of its top executives, and he was accompanied by his wife, or vice versa, however one wants to state it. Heather Murren was a financial specialist in New York who worked for a large firm on Wall Street and was an important person in her own right. She came to Las Vegas, and discovered there was a need for a world-class cancer research institute in Las Vegas.

It was a vision she had. The Nevada Cancer Institute has taken shape at a breathtaking pace. The institute, which is set to open its doors next year, has already assembled a team of world-class scientists. They have recruited Dr. Nicholas Vogelzang, who had been the director of the University of Chicago's cancer research center, to direct the new Nevada Cancer Institute.

The Nevada Cancer Institute is offering hope to Nevadans and hope that more Nevadans will beat this dread disease and become like Lance Armstrong, a cancer survivor.

I mention this today because Friday evening, Nevadans celebrated the hope of greater cancer survivorship when Lance and the Tour of Hope cyclists rode down the Las Vegas strip. It is not often the Las Vegas strip is closed, but it was closed Friday for a short period of time.

The Tour of Hope is a week-long journey across America by a team of 20 cyclists who have been touched by cancer. Some are survivors. Others are research scientists, advocates and healers.

At the rally in Las Vegas on Friday, the Tour of Hope team members shared their inspiring stories. Lance Armstrong spoke about his experience and his passion for cancer research. He has done tremendous works on behalf of cancer patients. He founded the Lance Armstrong Foundation, which helps individuals living with, through, and beyond cancer. His historic six consecutive Tour de France victories inspired millions of Americans touched by cancer and the Tour of Hope is carrying his message across the country. Every American can help by signing the Cancer Promise, which is a pledge to support the search for a cure by learning about cancer prevention and research.

This weekend I had the opportunity to collect these promises from my fellow Nevadans and send them across the country with the Tour of Hope cyclists. In addition to signing these promises, many people showed their support by wearing these simple, little yellow plastic wristbands Lance had 5 million of these made. They were gone within a couple of weeks. Now over 12 million have been sold and millions more are being manufactured: ''Live strong,'' it says. These are to be worn all of the time.

Someone who closely watched the debate Thursday night between the President and Senator KERRY noted Senator KERRY had one of these on during the debate. These bands give hope—hope that lives can be saved and this dread disease can be beaten.

I am proud of the progress Nevada is making in this fight against cancer, but it is still unfortunate that too many Nevadans don't have access to quality health care. More than one in five working adults in Nevada have no access to health insurance, perhaps the highest rate in the country. Nationally, we know almost 45 million Americans don't have health insurance, an increase of more than 5 million in just the last 4 years alone.

One reason so many Americans are losing their insurance is because health care costs are spiraling. Employers that do not provide insurance for their employees don't do it because they are cheap or they are mean; they do it because they can't afford it. They know if they have employees with health insurance, they are happier employees.

Health insurance premiums have risen by double digits in the last 4 years. Premiums for a family now have reached about $10,000. Rising premiums have hit businesses and families, also. An average working family now pays nearly $2,700 out of their own pockets for premiums, in addition to paying deductibles and copayments.

It is not just premiums that are going up. The American Association of Retired Persons recently reported that, during the first part of this year, prescription drug prices rose more than 3.5 times the rate of inflation. The typical senior citizen will pay $191 more for prescription drugs this year than last year, and seniors are about to get hit with the largest Medicare premium increase in the history of the program. Monthly Medicare premiums will increase by $11.60 next year.

Today I am hopeful about the gains we are making in the fight against cancer, but I also know we must do more to get health care costs under control. Unfortunately, the President's Medicare bill that passed last year was a huge giveaway to big insurance companies and drug companies. I happen to think the drug companies and the big insurance companies can take care of themselves. We need to look out for working families who have lost their health insurance, families who are struggling with rising premiums and copayments, and senior citizens who are being pounded by the rising costs for prescription drugs.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask consent that the time run during the quorum call off the time I have left first and then start running off the time of the majority.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. Mr. President, may I inquire about the time remaining in the morning business period?

The ACTING PRESIDENT pro tempore. The Senate is currently in morning business. The majority has 30 minutes remaining.

Mr. LOTT. Thank you, Mr. President.

THE PRESIDENTIAL DEBATES

Mr. LOTT. Mr. President, many Americans watched the debate between the President and Senator KERRY last week. It was a huge audience, and I think that is encouraging because this is a very important election. Very important decisions will have to be made by the American voters. As always, the issues they were debating are very critical—foreign policy issues, the war on terrorism, the situation in Iraq.

My thoughts now, as I have thought all year, are that this is a time for America to have a sure and steady hand at the tiller. There are a lot of difficult situations around the world. There are a lot of important decisions that must be made and commitments have been made that must be honored. Of course, one of the greatest commitments of all is the commitment we made to the men and women in uniform—men and women serving all over the world, including Afghanistan and Iraq. We don't need an uncertain trumpet at a time such as this. We don't need to be undermining or questioning the job they are doing.

Let me emphasize that I don't question anybody's integrity on that, and I know everybody supports our troops. But what we say has consequences. We need to be particularly careful when it comes to foreign policy.

There were a few times last week when I wanted the President to jump in and make a challenge or a strong statement. But I know he didn't because the President of the United States has to think about what it would mean if he was critical in a debate like that about the United Nations or of a particular country such as, say, France. He withheld the criticism.

But we do need consistency and credibility as we go forward with the war on terrorism, as we deal with the situation in Afghanistan, and as we move toward elections in Iraq. I believe we are doing the right thing now by going in and taking out some of the insurgents and strongholds in Samarra, and I presume we are going to take some similar actions in other parts of Iraq so the people of Iraq can exercise that great right of freedom, the right to vote.

But the areas where I thought more should have been said are three. First, with regard to North Korea and other parts of the world, Senator KERRY says we need to have the broadest possible coalition; that we should have a summit; we should have done more at the United Nations; we should have done that, this, or the other. But when it comes to North Korea, we should have bilateral negotiations between the United States and North Korea. That was tried in the last administration. I thought they deserved credit for making a valiant effort. I met with former Secretary of Defense Perry, who negotiated with the North Koreans a couple of times. He talked about what they were trying to do. But the fact is, it didn't work; they were cheating.

Now, the President has been saying let us exercise patience. Let us bring in the Chinese, the South Koreans, the Russians, the Japanese, a coalition, a discussion group of six. That makes sense to me.

Why a broad coalition in other parts of the world, but when it comes to North Korea and a very dangerous situation, we want it to be just between the United States and North Korea, bilateral? Why don't we take advantage of the interests of our friends and neighbors in that region and the Chinese, who certainly have a vested interest in what happens in North Korea? Nobody wants North Korea to have nuclear weapons and the ability to deliver them—certainly not the Chinese, the Japanese, or the South Koreans. They are right there.

I think the President is pursuing the right course when it comes to North Korea.

Another area I have taken an interest in—and I know the Senator in the Chair, the Senator from Nebraska, has looked at this and worked on it and worried about it—and that is this question of nuclear proliferation and what we do about the nuclear weapons and the nuclear materiels the Russians have.

There is a program called Nunn-Lugar that is working to try to deal with that problem. Senator KERRY says we are not doing it fast enough; that what we are doing would take 13 years, and he could condense it to 4 years. Well, that may be easy to hope for or to say, but you have to make it happen. There is another party in this deal, and they are called the Russians. They have something to say about proliferation.

Would I like to see us do it faster? Should we perhaps put more money in this area? Yes. But the administration has been working in this area. The funding has gone up, and I think it is very important that we do it in such a way that we can make sure the money is going for what it is supposed to; that the money is not siphoned off into corporations that do not do the job and enrich themselves.

You can only do so much credibly in a specified period of time. You need to think about that. You need to work with the Russians.

That is why a delegation of us went to Russia earlier this year. That is why we have a delegation coming from Russia early next year continuing the dialog between the Senate and the Russian Federation Council.

One of the areas we talked about most with the Russians is this particular area. I know Senator LUGAR has worked hard on this issue. Senator LUGAR goes to the sites. He doesn't just talk to the officials; he looks at the sites to see what has happened.

Again, I think there was a problem with what Senator KERRY was saying that was not sufficiently challenged. I am sure it will be challenged over a period of time. But the area that really stood out the most to me was this question of globalization of the war on terrorism. The President raised the question: What does that mean? Are you talking about the United Nations? Are you talking about an organization that for 12 years and 13 resolutions talked tough and didn't do anything? Are you talking about an organization that was supposed to be watching over the Oil for Food Program for the Iraqis that wound up enriching people all over the place and some of our so-called allies being involved, or corporations in those countries being involved in that program in a fraudulent way?

Is that what he was talking about? Or was he talking about the Germans and French?

That is where the President exercised discretion in his comments. But I have to be more specific. Remember the French? They were the ones who had their Foreign Minister aggressively fighting what we were trying to do at the United Nations by flying all over the world, including to Africa, to specifically try to get people, or nations on the Security Council at the United Nations, not to be supportive of the broadest possible coalition.

So when he talked about a broader coalition, again, you need to ask yourself who is he talking about? Is he talking about just the Germans and the French?

I also believe there was a problem with diminishing the coalition which has been helpful—the Brits, the Italians, and the Spanish—until there was a change in administrations—and the Australians. How could you leave out the Australians and the Dutch? And the list goes on and on.

They may not have hundreds of thousands, but they do have hundreds and in some cases thousands. They are doing the job, they are part of the coalition, and we should not diminish the sacrifice they are making with their presence but, more importantly, with their men and women. So I think when we talk about globalization, we need to be very careful.

The President's primary responsibility has to be to the American people. Can we work with other nations? Can we work to have the broadest possible coalition? Can we work with all the international organizations? Yes. The President cannot ever cede the responsibility for making the decisions and making decisions for the American people to some other entity or to some other country.

I think the debate last week was telling. It was of concern to me because of some of the approaches that were suggested by Senator KERRY.

I hope the American people will look at this very carefully. This is a time for a sure and steady hand, a time for consistency and credibility. President Bush has exhibited all of those traits.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

SENATOR KERRY'S GLOBAL TEST

Mr. MCCONNELL. Mr. President, during last week's Presidential debate, the junior Senator from Massachusetts claimed that he would only use preemptive force to protect the American people if that use of force passed something he called a ''global test''.

Let me repeat exactly what he said, because it is significant and I think the American people need to hear it again. When asked by moderator James Lehrer if he would use preemptive force, Senator KERRY said:

> If and when you do it, Jim, you have to do it in a way that passes the test, that passes the global test where your countrymen, your people understand fully why you're doing what you're doing and you can prove to the world that you did it for legitimate reasons.

I have another test for Senator KERRY. It is called the ''defense of America'' test. It is very simple. There is only one question on the final exam: Would you, as President of the United States, do whatever it takes to defend the American people from another terrorist attack?

If a President fails this test, Americans could die. Let me repeat that, because this is a very serious matter.

If a President fails this all-important test, Americans could die.

Let's look at Senator KERRY'S record and see how he scores.

By insisting that any preemptive strike America might take must pass a ''global test,'' Senator KERRY would give France, Germany, or the U.N. a veto over America's right to self-defense. The final decision to protect America would be made not in the Oval Office but in foreign capitals. The final decision to protect America would be made not by an elected American President but by an unelected U.N. diplomats.

If America must submit to a ''global test'' before acting to defend herself, we may lose the best opportunity to take preemptive action while our ''global test graders'' dither and delay. Our enemies might attack while we await our ''global test grade.'' Terrorists who cut innocents' heads off—gleefully—on camera—won't hesitate to unleash a horrific attack while America waits for its ''global test results.''

To cover for his global test, last week Senator KERRY claimed he would do a better job defending the homeland than President Bush. This despite the President's tripling of homeland security funding, creation of the Department of Homeland Security, and implementation of the USA PATRIOT Act.

I am more of a football fan than a hockey fan, but let me make this analogy. Of course we want as strong a homeland defense as possible. But ultimately, homeland defense is like the goalie on a hockey team: a last chance to stop the enemy. The only way to win is to go on offense, and by subordinating America's right of preemption, Senator KERRY has put his team in the penalty box.

Now, let's suppose Senator KERRY passes his ''global test'' and decides to use military force. What kind of military would America have, if he had had his way throughout his 20-year career in this body?

He opposed the B–1 bomber that dropped the bombs to destroy the al-Qaieda training bases and Taliban strongholds in Afghanistan.

He opposed the B–2 bomber that drove Saddam Hussein out of his Iraqi command posts and down a spider hole.

He opposed the F–14D Fighter Aircraft that sent missiles into Tora Bora in the hunt for Osama bin Laden, who Senator KERRY claims to want to find.

He opposed the Apache helicopter that destroyed the Iraqi Republican Guard tanks in Kuwait during the first Persian Gulf war.

He opposed the Patriot Missiles that America sent our NATO allies to block the spreading of the Iron Curtain.

He has opposed for 20 years a missile defense system, which could be the last line of defense were a rogue nation like North Korea ever to launch a nuclear weapon.

In the debate last week, he opposed the bunker-buster weapons that can knock loose the terrorists who hide in caves deep under the Afghan desert.

In 1994, after the first attack on the World Trade Center, he proposed cutting intelligence funding by a whopping $5 billion, and defended his proposal on this very floor by saying, ''the madness must end.'' Most Senators from his own party, including Senator KENNEDY, opposed his proposal.

He has repeatedly voted against pay raises for the troops now in Iraq, choosing instead to boost their morale by telling them they are fighting the ''wrong war in the wrong place at the wrong time.''

He voted against the $87 billion for our troops in Iraq, even though it included body armor for our soldiers. He then claimed this was a ''protest'' vote. Let me suggest we should never use our troops as pawns for protest.

Now it is time to grade this test. Again, there is only one question. Would you, as President of the United States, do whatever it takes to defend the American people from another terrorist attack?

Judging from the best evidence—the only evidence—we have, Senator

KERRY's votes as recorded in the CONGRESSIONAL RECORD, it is clear he is not ready for the final exam.

A generation ago, Senator KERRY vigorously attacked America for its role in another war. He claims to have moderated his views since then. But this ''global test'' is strikingly similar to what he said in 1970: ''I'd like to see our troops dispersed through the world only at the directive of the United Nations.'' He hasn't changed. He wants to turn our troops into blue-helmeted human shields.

President Bush is playing offense by taking the fight to the terrorists, where they live, and he supports giving our military and intelligence forces every last tool they need to win the war on terrorism. That is the only way to protect America. Only America has the will and the means to protect America from attack, and only this American Government has the authority to decide how and when. President Bush gets that. Senator KERRY does not.

I yield the floor.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Wyoming.

FIGHTING THE WAR ON TERRORISM

Mr. THOMAS. Mr. President, I appreciate the comments made by my friend from Kentucky. Certainly those are the discussions going on today.

I take a minute or two to talk about the war on terrorism. We are in a war on terrorism. We need to conduct that war and take it to the terrorists, not here at home. We do have a plan. In war, obviously, the plan does not always turn out the way one hopes and we have to change from time to time.

We need to be together on the goals. Our goal is to win. We must do whatever is necessary to win. We should not have all of our conversations about this war based on politics. Hopefully that will be over soon. We ought to talk about the challenges before the country. We need to support our troops and goal—and that is to win.

We are not alone in our effort, although that is talked about sometimes. Some 80 nations are working together with us to ensure the world is a safer and a more secure place. The coalition is removing the threat of terrorism and building a foundation to enhance national and international security.

The war being fought in Afghanistan and Iraq is bringing about a fundamental change to the environment that has given rise and power to the extremists who export terrorism.

Contrary to what those who focus only on the negative would have you believe, we have some good things to talk about that move us toward this goal of winning over there. Coalition forces have not lost an engagement at the platoon level or above in 3 years of war.

This terrorist enemy knows we cannot be defeated by him, but he is focused on winning the battle of perception by attacking civilians to spread fear among local populations in Iraq and Afghanistan. The terrorists' goal is to win the perception battle and to force us to lose our will to win.

Unfortunately, by trying to exploit the negative aspects of the war, some in our country have fallen into the trap and are unwittingly advancing this cause. This is unfortunate and, quite frankly, very counterproductive to our goal of winning.

We have been successful in Iraq and Afghanistan in many ways. Of course, the situation is still violent. It is still volatile. It is not the way we would like it to be, and much more remains to be done. But, again, we will succeed by focusing on success and by moving toward our goals.

Today, in Afghanistan, coalition and Afghan forces are setting the conditions for a stable and safe environment for a successful presidential election in October, followed by parliamentary elections in the spring.

The United Nations Assistance Mission in Afghanistan reports that over 10 million voters are registered as of August 29 for the October 9 presidential election. More than 41 percent of registered voters are women. This is an unusual kind of change for Afghanistan.

Today, more than 18,000 coalition forces, together with the Afghan National Army and Afghan National Police, are increasing their security operations in towns and villages. These are tremendous accomplishments by any standard. Although several months ago, when I had the privilege of attending there, you could tell—you could tell from the kids in school, you could tell from the people on the street—this movement was taking place. Unfortunately, of course, it is being slowed down by the terrorist attacks in Iraq.

Despite the negativity coming from the President's opponents, the United States remains fully committed to assisting the Iraqis in restoring security and rebuilding their nation. The Iraqi National Conference met and has selected the Interim National Council. This Interim Council for the Iraqi Government is now planning for elections, of course, in January. Some say: Well, can that happen? It will not be smooth. Of course it will not be smooth. To make a transition of this kind is not a smooth operation. But the fact is, violence will continue to exist and these things will continue to happen. But this movement toward a change in government to self-government will persist.

The enemy obviously is unscrupulous and will do anything, including, of course, the killing of innocent children, to stop this movement toward freedom from taking seed.

Overwhelmingly, however, the people of Iraq want to rebuild their country and to defend it from fringe groups that wish to tear it apart. The largest single contributor to Iraq's security is that effort of Iraqi people who continue to step forward to join the various Iraqi security forces. More than 230,000 Iraqis serve as part of their country's security force, with another 20,000 in training. Again, I had the opportunity to visit some of these training facilities, and they were new at that time, they were still becoming efficient at that time. You could sense this was happening, and there was a commitment on the part of Iraqis to do some things that were much different than they had been accustomed to.

They have been trained and are on duty in areas including police service, national guard, border enforcement, the Iraq Army, and the Iraqi intervention force.

Now, there are those who may say: I know, but they are not doing very well on the borders. Of course not. It takes time to do these things. This an extreme change from what they were doing in the past. We also know in our own country how difficult it is for border protections.

So while performance varies in regions, Iraqi security forces continue to improve. And they are recruiting additional persons to strengthen their efforts to be very successful.

I think it is clear that the Iraqi people have much at stake in defeating the terrorist insurgency, and they are indeed taking on this burden which, of course, is exactly what has to be done in order to transfer the governance and the security of Iraq to the Iraqi people—our goal.

They need our unequivocal support, not talk of cutting and running, because the mission is difficult. All of us knew it was going to be difficult. Again, we have to go back to the basis of terrorism; we have to go back to 11 September; we have to go back to the previous gulf war where the agreements made by Saddam Hussein were never put in place.

So all those things go in to where we are. Where we are now, you can argue about, but that is where we are. We need to win. We need to be positive. We need to be supportive of our troops and of our commitment. Our goals are lofty, and the road, of course, has not been easy and will not be easy in the future. There will be tough times before we are through. But we must remain resolute and be sure the job is completed and that we win. Because only by fostering freedom and democracy and hope in these oppressed regions of the world can we truly root out and defeat the terrorist threat we have faced and continue to face today.

Mr. President, I yield the floor 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.

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.

CONCLUSION OF MORNING BUSINESS

Ms. COLLINS. Mr. President, shortly we will resume consideration of S. 2845. I am very hopeful that we will be able to clear an amendment that has been pending for some time. I know that the Senator from Ohio wishes to speak in opposition to Senator BYRD's amendment, which is the first amendment that we will vote on later this afternoon at 4:15. Until the Senator from Ohio arrives, which will be very shortly, I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator forbear while the Chair announces the period of morning business is closed.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

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

The bill clerk read as follows:

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

Pending:

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

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

Kyl Amendment No. 3801, to modify the privacy and civil liberties oversight.

Feinstein Amendment No. 3718, to improve the intelligence functions of the Federal Bureau of Investigation

Stevens Amendment No. 3839, to strike section 201, relating to public disclosure of intelligence funding.

Ensign Amendment No. 3819, to require the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators.

Reid (for Schumer) Amendment No. 3887, to amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group.

Reid (for Schumer) Amendment No. 3888, to establish the United States Homeland Security Signal Corps to ensure proper communications between law enforcement agencies.

Reid (for Schumer) Amendment No. 3889, to establish a National Commission on the United States-Saudi Arabia Relationship.

Reid (for Schumer) Amendment No. 3890, to improve the security of hazardous materials transported by truck.

Reid (for Schumer) Amendment No. 3891, to improve rail security.

Reid (for Schumer) Amendment No. 3892, to strengthen border security.

Reid (for Schumer) Amendment No. 3893, to require inspection of cargo at ports in the United States.

Reid (for Schumer) Amendment No. 3894, to amend the Homeland Security Act of 2002 to enhance cybersecurity.

Allard Amendment No. 3778, to improve the management of the personnel of the National Intelligence Authority.

Byrd Amendment No. 3845, to enhance the role of Congress in the oversight of the intelligence and intelligence-related activities of the United States Government.

Warner Modified Amendment No. 3877, to modify the role of the National Intelligence Director in the appointment of intelligence officials of the United States Government.

Leahy/Grassley Amendment No. 3945, to require Congressional oversight of translators employed and contracted for by the Federal Bureau of Investigation.

Reed Amendment No. 3908, to authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security.

Reid (for Corzine/Lautenberg) Amendment No. 3849, to protect human health and the environment from the release of hazardous substances by acts of terrorism.

Reid (for Lautenberg) Amendment No. 3782, to require that any Federal funds appropriated to the Department of Homeland Security for grants or other assistance be allocated based strictly on an assessment of risks and vulnerabilities.

Reid (for Lautenberg) Amendment No. 3905, to provide for maritime transportation security.

Reid (for Harkin) Amendment No. 3821, to modify the functions of the Privacy and Civil Liberties Oversight Board.

Roberts Amendment No. 3748, to clarify the duties and responsibilities of the Ombudsman of the National Intelligence Authority and of the Analytic Review Unit within the Office of the Ombudsman.

Roberts Amendment No. 3739, to ensure the sharing of intelligence information in a manner that promotes all-sources analysis and to assign responsibility for competitive analysis.

Roberts Amendment No. 3750, to clarify the responsibilities of the Directorate of Intelligence of the National Counterterrorism Center for information-sharing and intelligence analysis.

Roberts Amendment No. 3747, to provide the National Intelligence Director with flexible administrative authority with respect to the National Intelligence Authority.

Roberts Amendment No. 3742, to clarify the continuing applicability of section 504 of the National Security Act of 1947 to the obligation and expenditure of funds appropriated for the intelligence and intelligence-related activities of the United States.

Roberts Amendment No. 3740, to include among the primary missions of the National Intelligence Director the elimination of barriers to the coordination of intelligence activities.

Roberts Amendment No. 3741, to permit the National Intelligence Director to modify National Intelligence Program budgets before their approval and submittal to the President.

Roberts Amendment No. 3744, to clarify the limitation on the transfer of funds and personnel and to preserve and enhance congressional oversight of intelligence activities.

Roberts Amendment No. 3751, to clarify the responsibilities of the Secretary of Defense pertaining to the National Intelligence Program.

Kyl Amendment No. 3926, 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.

Kyl Amendment No. 3881, to protect crime victims' rights.

Kyl Amendment No. 3724, to strengthen anti-terrorism investigative tools, promote information sharing, punish terrorist offenses.

Stevens Amendment No. 3826, to modify the duties of the Director of the National Counterterrorism Center as the principal advisor to the President on counterterrorism matters.

Stevens Amendment No. 3827, to strike section 206, relating to information sharing.

Stevens Amendment No. 3829, to amend the effective date provision.

Stevens Amendment No. 3840, to strike the fiscal and acquisition authorities of the National Intelligence Authority.

Stevens Amendment No. 3882, to propose an alternative section 141, relating to the Inspector General of the National Intelligence Authority.

Collins (for Inhofe) Amendment No. 3946 (to Amendment No. 3849), in the nature of a substitute.

Sessions Amendment No. 3928, to require aliens to make an oath prior to receiving a nonimmigrant visa.

Sessions Amendment No. 3873, to protect railroad carriers and mass transportation from terrorism.

Sessions Amendment No. 3871, to provide for enhanced Federal, State, and local enforcement of the immigration laws.

Sessions Amendment No. 3870, to make information sharing permanent under the USA PATRIOT ACT.

Warner Amendment No. 3876, to preserve certain authorities and accountability in the implementation of intelligence reform.

Collins (for Cornyn) Amendment No. 3803, to provide for enhanced criminal penalties for crimes related to alien smuggling.

Collins (for Baucus/Roberts) Modified Amendment No. 3768, to require an annual report on the allocation of funding within the Office of Foreign Assets Control of the Department of the Treasury.

Collins (for Stevens) Amendment No. 3903, to strike section 201, relating to public disclosure of intelligence funding.

Frist (for McConnell) Amendment No. 3930, to clarify that a volunteer for a federally-created citizen volunteer program and for the program's State and local affiliates is protected by the Volunteer Protection Act.

Frist (for McConnell) Amendment No. 3931, to remove civil liability barriers that discourage the donation of equipment to volunteer fire companies.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Maine.

Ms. COLLINS. Thank you, Mr. President. The bill is now officially before the Senate. It is open for amendment. We have great deal of work to do on this legislation, as the Presiding Officer is well aware. I do anticipate many votes later today, starting at 4:15. I do anticipate a late session tonight in order to make considerable progress on the bill.

In addition, I want to alert my colleagues to the fact that the majority leader, with the consent of the Democratic leader, did file a cloture motion last week that will ripen tomorrow morning. So we are determined to make good progress on this bill. We made a great deal of progress last week. Negotiations continued over the weekend. But we have to finish this highly significant bill. That is the leader's intention. It is the floor managers' intention. And we will be working long and hard to do so both tonight and tomorrow night.

I thank the Chair.

The PRESIDING OFFICER. The Chair, in a helpful way, wishes to inform the Senate that under the previous order, at the hour of 4:15 today, the Senate will proceed to a series of votes on the pending amendments with 2 minutes equally divided for debate prior to each vote.

Ms. COLLINS. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, first, I congratulate Senator COLLINS and Senator LIEBERMAN for their very fine work on this bill. Anyone who has watched this debate has to be very impressed by the work they have done in, frankly, a relatively short period of time. They have held a number of hearings. They have diligently worked on this bill and brought the bill to the floor.

I came to the floor last week and asked my colleague from Maine some questions. I thought she had some very good answers. As I expressed at that time—and I have made no secret of this—I have always been concerned that any bill we produce, in fact, give the head of our intelligence enough authority, enough power to actually get the job done. And that was my concern. Frankly, that was the nature of my questions to my colleague from Maine last week.

I come to the floor this morning to express my concerns about the Byrd amendment. My reading of the Byrd amendment is, frankly, that it would strike at the heart of the Collins-Lieberman bill. I believe if the Byrd amendment were to be adopted, all my worst fears would be realized, and we would end up with a bill that would look like it was giving power to this new head of intelligence in this country, but, in fact, that person would not really have the requisite power they needed.

I wonder if I may ask my friend and colleague from Maine several questions about her interpretation of the Byrd amendment.

My understanding is that the Byrd amendment begins, on the copy I have, on page 27 of the bill and strikes the title ''Transfer or Reprogramming of Funds and Transfer of Personnel within NIP.''

I wonder if my colleague shares my concerns about the danger of this amendment. I think, frankly, this is a gutting amendment. I wonder what her reaction to that is.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, if the Senator from Ohio will yield, I will be happy to respond to his question. The Senator from Ohio is exactly right. The amendment offered by the Senator from West Virginia would greatly weaken the authority of the national intelligence director to move funding and people. That is one of the most important reforms made by this legislation. That is one reason I am strongly opposed to the amendment offered by the Senator from West Virginia.

I believe the Senator from Ohio is exactly right, that were the amendment to pass, it would severely undermine the reforms called for by the 9/11 Commission to create a NID with real authority. That means the authority over the budget, over the people in the national intelligence program, the authority to set priorities, and certainly the Byrd amendment would greatly weaken that authority.

Mr. DEWINE. I appreciate very much my colleague's response. That is the way I read this. As I expressed when I was on the floor last week, really what we need to do is to empower this person, this new position with the authority to get the job done. Never again do we want to be in a position where the head of intelligence of this country can come before the committee and say: I do not have enough power; I do not have the authority to get the job done; I could not move people around; I did not have the budget authority.

That, I think, is what my two colleagues who are on the floor right now have tried to craft with this bill. If you look at this particular section, it talks about the transfer of people and the transfer of money, and the ability of that person to be able to do that and to be the prime mover, the prime person who could do that.

Never again should the head of intelligence in this country really be subservient to anybody else. Yes, they should consult. Yes, they should involve other people. But they certainly should be the prime person.

I wonder if I may ask my colleague—I see Senator LIEBERMAN on the floor—I know some people do have concerns with the way the Senator has written the bill, that other agencies would not be consulted. With the way the Senator has written the bill, would the new head of intelligence consult other agencies and be involved with other agencies with regard to these very essential decisions?

Mr. LIEBERMAN. Mr. President, through you, I am pleased to respond to the Senator from Ohio. I thank him for his questions. The direct answer is that in the proposal Senator COLLINS and I have put down, the national intelligence director, in formulating the national intelligence budget, as distinguished from the military tactical intelligence joint budget, would be required to consult with the heads of the relevant intelligence agencies in formulating his budget, but we make very clear that the budget authority for the national intelligence budget ought to go to the national intelligence director, both in terms of final recommendations to the Office of Management and Budget and the President, but then that the money must come to the national intelligence director before it goes to those constituent agencies. That is a critical element of the authority that we want to establish in the national intelligence director where there is none.

We had repeated testimony before our committee from Secretary Powell, from former Directors of Central Intelligence that without budget authority, they are ineffective, they have no clout.

In addition to constricting, as the Senator from Ohio has made clear, the authority of the national intelligence director under the Collins-Lieberman proposal to transfer both personnel and funds, the Byrd amendment does dramatically undercut that budget authority by, if I can state this to the best of my ability in lay people's language, removing the authority of the new national intelligence director to have budget accounts at the Treasury Department, which would mean that the only way Treasury could transfer money to the national intelligence director was back through the Department of Defense. That is exactly what we are trying to change.

Mr. DEWINE. If I may ask an additional question for Senators who are watching today, maybe the answer is obvious, but what is the importance of that distinction, the inability to do that, having that money go through the Defense Department as opposed to the national intelligence director?

Mr. LIEBERMAN. It is just such a strange circumstance with which I believe many members of our committee were surprised to find, that the intelligence budget, including the CIA budget, the Central Intelligence Agency right now, goes through the Department of Defense before it gets there. Obviously, the Defense Department is an important user of intelligence, perhaps the most important, so is the State Department, the President, and the Homeland Security Department.

The current situation is a little bit—let me see if I can think of an analogy, and I know this is farfetched—where the budget of the Securities and Exchange Commission went through the Department of Health and Human Services. It may be a little farfetched. Maybe it went through one of the other Departments that is slightly more related. It makes no sense.

Again, we are trying to create authority here, and authority in this town, as we kept hearing over and over, is built on money, budget authority, and this amendment would remove that authority from the national intelligence director and, therefore, weaken that position. I fear it would get us back to where we are now, where we do not have that authority with anyone in the intelligence community and no one is in charge.

Mr. DEWINE. I wonder if I may ask my colleague another question. As one looks at the language throughout the bill that Senator COLLINS and Senator LIEBERMAN have crafted, they have made a distinction between the national intelligence programs and the nonnational intelligence programs, given certainly the authority over the national intelligence programs and what they described as far as the budget authority, execution authority over

those to the national intelligence director.

The other programs that are not national intelligence programs continue to remain, then, with other departments—for example, the Defense Department—is that correct?

Mr. LIEBERMAN. I am sorry? I missed the question.

Mr. DEWINE. The other programs that are not national intelligence programs would not come under, then, the national intelligence director?

Mr. LIEBERMAN. That is correct. We tried to draw some lines. They are not always clear because there are a lot of programs that overlap, but to say that anything in the national intelligence budget should go to the national intelligence director, that is his or her job. There are other programs that are uniquely the work of the Defense Department—I am going to put it another way: that are totally used by the Defense Department for tactical intelligence to support the work of one service of the military or a joint military action. But those assets are not used for anything else in our intelligence community nonmilitary and, of course, they should go for budget control to the Secretary of Defense.

Mr. DEWINE. That is the way the Senator's bill is written?

Mr. LIEBERMAN. Absolutely. We preserve that. There are one or two amendments that are seeking still to clarify that break that we will debate and vote on I would guess before this bill is finally considered, but that is exactly what we have done in the underlying bill.

Mr. DEWINE. When I came to the Senate floor last week, I was asking questions of both the Senator from Connecticut and my colleague from Maine, and I was happy to hear some of the answers about the Senator's understanding of this bill that has been drafted, but I am concerned that under the amendment from our colleague from West Virginia, these powers would be gone. For example, I asked about the ability to move personnel around, and the Senator assured me under his bill the national intelligence director would be able to move personnel around from one department to another as long as it was a national intelligence program. Is it the Senator's understanding under the amendment from our colleague from West Virginia that power would be gone?

Mr. LIEBERMAN. I say through the Chair, that power would be seriously limited, which is to say the personnel transfers under the amendment would have to be done in accordance with procedures to be developed by the national intelligence director with the concerned department head and only for periods up to 1 year, and that is a constriction that says to the national intelligence director: You do not have the latitude to do what you think is necessary to protect the national security interests. This is a little bit like saying to a general: You can only make a decision for a short period of time in moving your troops around to better confront the enemy and achieve victory. It makes no sense. It is a critical part of the overall proposal of our bill and the 9/11 Commission.

If the Senator from Ohio would give me a moment, this morning, the Family Steering Committee composed of families of victims of 9/11 sent a letter to every Senator commenting on some of these amendments. With regard to this amendment introduced by the Senator from West Virginia, No. 3845, they say that the 9/11 Commission has stated repeatedly that the power of the purse is critical for the national intelligence director position. S. 2845, the underlying bill, provides for the national intelligence director to be empowered with budget execution and transfer authorities. The NID also needs to be able to transfer personnel in response to threats, which is what the Senator's question goes to. So the families conclude: In summary, we oppose amendment No. 3845 introduced by the Senator from West Virginia and others because it reduces the authority of the national intelligence director.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, if the Senator from Ohio would yield on that point.

Mr. DEWINE. I sure will.

Ms. COLLINS. The amendment offered by our colleague from West Virginia would actually give the national intelligence director less authority than the DCI has under current law to move people and money around to address urgent needs. It not only would undo the reforms in our bill, it is a step back from current law.

Under the Byrd amendment, aggregate transfers from a department or agency would be limited to $100 million or 5 percent of the funds available to the department or the agency. There is no such limitation in current law. The amendment offered by the Senator from West Virginia not only undermines the reforms in this bill and significantly would weaken the authority of the NID to move people and money to meet urgent compelling needs, but it actually is weaker than the authority that the Director of the CIA now has. I just wanted to make that point. I know the Senator from Ohio is aware of that as well.

Mr. DEWINE. I thank my colleague for her answer, and that is something that should alarm all the Members of the Senate. I believe there is a general consensus—certainly there is in the intelligence community, a general consensus at least, and I think there is among Members of the Senate—that the power of the DCI today is not enough, and to think that we would be thinking about passing a bill that would pass with this amendment possibly that would weaken the head of our intelligence agencies and give that person less power to me is a shocking thought.

I believe our whole goal should, in a very responsible, rational way, create a new system, which this bill has done, to empower one person to have the authority to run the intelligence in this country. I am afraid, as this discussion has pointed out between my colleagues and myself, that the Byrd amendment will take us actually in the wrong direction. It is a weakening amendment. At least for this Member, it is a gutting amendment. It, frankly, would make it impossible for me to vote for this bill. It would destroy the power of the head of intelligence, this new position, and it would be the wrong thing to do. It is very well intended, but it would be a very serious mistake. This discussion we just had certainly brings that out.

Again, I want to congratulate my colleagues. They have done a very good job in trying to deal with all of the diverse needs we have in the intelligence community, the Defense Department, and all the other agencies. It has been a very tough job, and I congratulate them for their work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to thank our friend and colleague from Ohio for both his thoughtful consideration of this legislation and his very relevant questions this morning, which I do believe help to illuminate the consequences on one of the amendments we are going to vote on today.

Last week, the Senator was here in a less friendly posture. It is always better to have him on our side, and I thank him very much for caring enough about this critically important legislation to come over and be part of this debate.

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

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

The Senator from West Virginia is recognized.

AMENDMENT NO. 3845

Mr. BYRD. Mr. President, in a few hours the Senate will vote on the Byrd-Stevens-Inouye-Warner amendment. That amendment's purpose is to ensure that the new national intelligence authority is held accountable to the people's representatives in the Congress. Let me say again, the amendment which I have offered on behalf of myself and Mr. STEVENS, Mr. INOUYE, and Mr. WARNER has a purpose, that purpose being to ensure that the new national intelligence authority, the NID, is held accountable to the people's representatives in the Congress.

Last Friday, I spoke about the Englishmen who spilled their blood to wrest the power of the purse away from

monarchs, over many centuries, in England. Their struggle was enshrined in Article I, section 9 of the U.S. Constitution, which I hold in my hand, the Constitution of the United States—the struggle of Englishmen across many centuries, even prior to 1215 when the barons yielded, the great Magna Carta was agreed to by King John, a mighty monarch. And what does that section 9 of Article I say?

No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

Not just some of the moneys, all of the moneys. How then, I ask Senators, can a regular account of public money be kept if the Congress empowers a new intelligence director to spend money without regard to appropriations law and without regard to this Constitution?

This is a debate about power. Make no mistake about it. It is a debate about power and who should wield it—the elected representatives of the people or an unelected, unaccountable bureaucrat nestled deep inside our Nation's intelligence agencies.

It goes to the heart of the balance of power between the executive and the legislative branches of Government. I took an oath to support and defend that Constitution, and I have tried to do that now, I will soon be in my 59th year in government, in politics, in the legislative branches of Government—at the State level and at the national level.

Under the pending bill, the Treasury Secretary is authorized to create appropriations accounts to which the national intelligence director can transfer funds. Get that. We are talking about an unelected bureaucrat who will be able to transfer funds. The Collins-Lieberman bill includes no limits on how those funds can be used.

Let me say, I don't see either of the two managers on the floor but they are listening. I saw Senator LIEBERMAN just a few minutes ago. I am sure he is in the premises here. One of the distinguished persons who is aiding the Governmental Affairs Committee in this connection has nodded in the affirmative. So I am not talking behind Senator LIEBERMAN's back. He is here. He knows very well what I am saying, and I am sure he will be very ready to counter my arguments. I respect him for that.

Let me say again, under the pending bill, the Treasury Secretary is authorized to create appropriations accounts to which the national intelligence director can transfer funds. The Collins-Lieberman bill includes no limits on how those funds can be used once they are transferred. Under current law, the intelligence director would be authorized to transfer up to $3.5 billion from the defense budget, giving this director enormous transfer authority never contemplated by the Congress.

That places the Congress on the defensive. The Congress would have to act retroactively to transfers made by the national intelligence director, allowing the intelligence director to spend funds without adequate oversight by the Congress.

I remind Senators that in 1996, the National Reconnaissance Office—the Government's spy satellite agency—was discovered to have stashed away billions of dollars into a reserve that was not reported to the Congress. While the proponents of the bill before the Senate argue that the national intelligence director needs strong budget authority to fight the war on terror, Senators should understand that the intelligence director can use that authority for activities that have nothing to do with the war on terror. The intelligence director could use this sweeping transfer authority to circumvent the limitations imposed by the Congress, the elected representatives of the American people. It has happened before, and it will happen again. It can happen again and very likely it will happen again.

Senators COLLINS and LIEBERMAN have argued that our mandate here today is to implement the 9/11 Commission recommendations and that those recommendations include an intelligence director with strong budget authority. I respectfully submit that our mandate as Senators—my mandate, at least, as a Senator—first and foremost is to protect and defend the Constitution of the United States.

We took an oath to do so, and that mandate supersedes any recommendations put forward by any commission, including the 9/11 Commission. To provide virtually unchecked flexibility to an intelligence director to transfer funds from one account to another would nullify and make meaningless the legislative process of reviewing budget requests from the intelligence agencies. It would nullify and make meaningless congressional decisions about how funds are allocated.

Congressional judgment by elected lawmakers—I am elected; I am one of the elected lawmakers. From time to time I have to go back before the people and see if they want me to continue in this work. Congressional judgment by elected lawmakers would be made subordinate to executive judgments by unelected bureaucrats.

The power of the purse for which our English ancestors spilled their blood and which has protected our democratic institutions and individual rights for centuries would, in a very large measure, pass to the executive branch.

I am saying, in essence, that we need more time to discuss this amendment and to discuss this bill. I don't know what is in the bill. I have read parts of the bill, but I have many other duties to perform, and I think we need more time. This is a major bill. This is the very same thing we ran into when we created the Department of Homeland Security—the very same thing. We are backed up against the wall. The idea is you have to pass this. You have to do it. You have to get behind it. And we find we have a lot of problems with that.

I sought to have the leadership take a little more time on that bill, discuss it, debate it, but the leadership didn't choose to take more time.

It was the very same way with the nefarious resolution that was passed by this Senate on October 11 of 2002 to shift the constitutional power to declare war to a single individual; namely, the President of the United States. I pleaded that we have more time. I pleaded on that same occasion—I think it was with Mr. LIEBERMAN and with the other managers on both sides—please take more time.

Here we are shifting the power. Congress says in article I, section 8, that the Congress shall have the power to declare war. So the Framers of the Constitution did not intend for one man to be able to declare war. The Framers of the Constitution did not intend for one body to put this Nation into a war. It required both bodies. The Constitution says Congress—not just the Senate, not just the House—Congress, which is a combination of both, Congress shall have power to declare war. So the Framers meant for that very great question to be decided by a huge body of men. It was men in those days, only men in the Congress of the United States; but, of course, we know what ''Congress'' meant—for anybody who serves. It is Congress made up of the elected representatives of the American people. So I have a mandate to listen to the American people. I have a mandate to exercise whatever judgment I have and can bring to bear in my own way to look at these things and to ask questions.

So there we were. We passed it in a big hurry. The leadership on both sides said: Let's get this behind us. I am talking about the resolution that was passed by the U.S. Senate on October 11, 2002, shifting the power, shifting the decision to put this country at war, shifting that decision away from the Congress and handing it over lock, stock, and barrel to one man—the President of the United States. It does not make any difference if he is a Democrat or a Republican, that power is his and will be in the next President's hand. He will have that power, and the next one, if he or she decides to use it. It will be there for them because there is no sunset provision in that resolution terminating that power.

I sought even to have the Congress adopt an amendment which would have provided for a sunset provision in that power so that within a year or at most 2 years—and the circumstances were set forth in my amendment calling for a sunset provision, a termination of handing this power over to any President, Republican or Democrat. Do you know how many votes I got? Well, I got 31 votes, including my own.

I yet am astonished to this very day as to why the Members of the Senate of the United States sought not only to give that power to a President, one man—whether he is Democrat or Republican, that is not the point—shift that power to a President. I said: If we are going to be foolish enough to do that, let's at least have a sunset provision so we can terminate that power. But no, I got 31 votes, including my own—31 votes. What a shame that this Senate and the House would give that power to an individual and say: It's yours, take it, keep it until we in the Congress decide to repeal that provision and take it back. How about that. So the sunset provision was turned down.

I asked for more time. Oh, the leadership said: Let's get this behind us. The President said: Get it behind you; we have an election coming. That was the manipulation that was wrought to have that key vote occur just a few days before the national elections in the year 2002.

Why, those Members who were up for reelection, as they voted on that resolution, they certainly thought: If I vote against this, what is it going to do to me and my reelection? People might think I am unpatriotic; I better vote for this; man, I have to be reelected; I have to be reelected; I am going to vote for it; I have some questions about it, but I am going to put all questions aside because we have an election coming here. The leadership said: Put it behind us; let's vote on it, get it behind us.

I said at the time: You will not get this behind you because this President is not going to let you get it behind you. It is in his favor to make you vote before the election. You might vote differently after the election. No, you have to vote before the election. There we were. We did not have time. I pleaded for time, time, wait until after the election, let's wait to hear what the people have to say.

Here again, we are pressed for time. We are going to go out on I believe it is October 8 presumably for the elections, at least until they are over, so we are in a hurry. Let's not wait until after the election; no, let's get this behind us. We have to do what the Commission says. What about the Constitution? We are legislating in a tremendous hurry, and that is not good.

Former Secretary of State Henry Kissinger in his appearance before the Appropriations Committee said that ought to be put off. You need, I believe he said, 6 or 8 months. I am not sure I am quoting him precisely. In essence, that was his message: Put it off; don't do it in a time before an election; don't do it under the heat that is generated; take your time; this is a measured, measured decision, don't rush it through. Former Secretary of State Henry Kissinger showed the committee the names of several other very important dignitaries who, by their experience, see the reasoning all joined in the suggestion that we take our time. But no, we are brushing that aside, and that was the decision on the part of former Secretaries of Defense—for example, Mr. Cohen. It included both Republicans and Democrats urging that we take more time. I think we should take more time here because we are doing some dangerous things in this bill.

My amendment will keep the power of the purse where it belongs, not in the hands of the intelligence community but here in the hands of the people's elected representatives in the Congress. My amendment retains for the Congress the responsibility for deciding how budget accounts for the intelligence director should be structured while allowing the flexibility the Governmental Affairs Committee seeks for the transfer of personnel and funding within the intelligence community. My amendment is an oversight amendment. It guarantees better oversight over the way these funds are going to be spent.

Normally, when we pass an appropriation, we say to Mr. A, who is head of one agency: Here, you take this and you do this, and you do this, and you do this, and you do this, and then come back in a year and tell us what you did; come back in here tell us what you did with our limitations to do this, do this, but don't do this, don't do this. Under those limitations the agency assures Congress he will live up to the mandate, he will do this, he will do this, and he will not do this that Congress said don't do.

Well, that is not going to be the case. This national intelligence director will do whatever he wants to do, and then there will not be those limitations, either, on him or her. He is not going to be elected. He is going to be another bureaucrat—and I do not mean to speak in any derogatory manner concerning bureaucrats because we have to have them—but they are not elected by the people.

All these seats—these chairs, as I call them—were here many years before I came, and they are filled with Members who are elected by the people of their respective States. We have to answer to those people.

This amendment limits the transfer of funds to $100 million or to 5 percent of the Department or Agency budget, whichever is the lesser. Senators should realize that even with the limitations included in this amendment, the intelligence director is granted significant authority to transfer funds. He would still have significant authority. Given the history, though, of abuses of power and the violation of civil liberties that have taken place within our intelligence community, I cannot imagine Senators condoning such sweeping budget transfer authority.

Hear me, Senators. We should take time. We are talking about rushing through a massive change, one which will have some bearing upon this Constitution which we are sworn to support and defend, and yet we are going to do it with our ears closed, our eyes closed, and our voices unheard.

We are being pressured to act fast before we go home on October 8. I cannot imagine Senators condoning such sweeping budget transfer authority. Common sense and history suggest that if one man is given control of our intelligence agencies and one man is given control over funds appropriated to those agencies, abuses can occur, may occur, and in all probability will occur at some point in time. Those abuses may manifest themselves in the violations of civil liberties, your liberties. They may manifest themselves in scandals such as those at Abu Ghraib prison, or they may manifest themselves as they did in the lead-up to the war in Iraq through politicized intelligence. Therein lies a great danger.

The New York Times, on Sunday, wrote a very lengthy article—read it—entitled, ''How the White House Embraced Disputed Arms Intelligence.''

I ask unanimous consent that the article from the New York Times be reprinted in the RECORD at the close of my remarks.

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

(See exhibit 1.)

Mr. BYRD. Mr. President, the article explores how senior administration officials, including President Bush and Vice President CHENEY, ''repeatedly failed to fully disclose the contrary views of America's leading nuclear scientists'' when asserting in 2002 that Saddam Hussein was rebuilding his nuclear weapons program. The article reads:

> They sometimes overstated even the most dire intelligence assessments . . .

It goes on to say:

> yet minimized or rejected strong doubts of nuclear experts.

The article goes on:

> Today, 18 months after the invasion of Iraq, investigators there have found no evidence of . . . a revived nuclear weapons program.

Secretary of State Colin Powell said last Friday he regretted the administration's claims that Iraq had stockpiles of weapons of mass destruction in making its case for war.

So the gut-wrenching question for the Senator from Maine is—hear me—if we do this intelligence reorganization hurriedly, are we willing to launch our next preemptive war based on the presumption that our handiwork has corrected our intelligence problems? That is a very serious question.

I will say it again: The gut-wrenching question for you, ROBERT C. BYRD, and for every other Member of the Senate, remains: if we do this intelligence reorganization hurriedly, as we are doing, are we willing to launch our next preemptive war based on the presumption that our handiwork has corrected our intelligence problems?

Think about it. That should sober one up. The question remains, and we

are going to be held to it by the American people and by that Constitution: If we do this intelligence reorganization hurriedly, are we willing to launch our next preemptive war based on the presumption that our handiwork has corrected our intelligence problems?

I say to Senators, again, preemptive attack is the official policy of this Government. Preemptive attack today, under the Bush administration, is the official policy of this Government.

Remember also that preemption is totally antithetical to the U.S. Constitution because it clearly cuts the Congress out of decisions to go to war. Preemption by its very nature precludes congressional debates or approval of resolutions before commencing to shed the blood of our sons and our daughters. Preemption stands on its face antithetical, opposite, 180 degrees, to this Constitution, which says that the Congress shall have power to declare war; the Congress, meaning a group of people, two bodies, made up of men and women representing all of the States of this Union. Congress shall declare war, not one man. But the doctrine of preemption tells us the President—the President, not the Congress—the President shall have power to declare war. That is the preemptive doctrine. That great power may send your son, your daughter, your grandson, your granddaughter to war. Who says so? One man, the President of the United States.

So on its face it is unconstitutional. How can a President declare war without doing it clandestinely, secretly? If he wants to bomb a certain country, he is not going to take it up with the Congress. He wants to be secret about this because that strike has to be preemptive. How can it be preemptive if it is going to be debated by the Members of the United States Senate? It can't be preemptive.

Let us remember that intelligence—remember, this is not just ROBERT BYRD saying this—let us remember that the intelligence was manipulated to get us into the Iraq war. Will it not be more easily manipulated in the hands of one intelligence chief, a partisan chief more free than ever to tweak intelligence to please a President? It may be a Democratic President. Does that make it any better? No. That makes no difference.

It is comforting to believe that our intelligence agencies will not be manipulated for political gain, but it is also naive to believe that. To turn over to a greater degree the power of the purse to shadowy figures in the intelligence community is to invite abuses like those that lead to scandal and to the disgrace of the United States in the eyes of the international community.

Think of what we are doing here. It is just like it was when we had that resolution before the Senate on which the Senate voted on October 11, 2002. There is not another Senator on this floor, except the distinguished Senator from Mississippi, Mr. COCHRAN, who is presently presiding over this body, and myself, two Senators. A major question is before the Senate. We are talking about your oversight duties as a Member of the Senate, as you chair or as you serve on a committee—your oversight; the oversight powers of the Congress, provided for in the Constitution of the United States. Yet we are saying, Well, forget it.

The Congress must preserve its power to rein in—not just because it can but because the people expect it of the Congress—our Nation's intelligence agencies and to rein in the executive branch when abuses like these occur.

Further, we must do all we can to ensure that the new intelligence positions created by the Collins-Lieberman bill are held accountable to the Congress; in other words, to the people. This Constitution, in its first three words, says, ''We the people . . . .'' So we have a responsibility. We have a duty to the people we represent to see that these people are held accountable to the Congress.

On page 47, the pending bill creates four deputy national intelligence director positions as executive level 2 appointments, the equivalent of a Deputy Secretary of Defense or State. Yet none of these new positions is subject to Senate confirmation. How about that? The Congressional Research Service informs me that these deputy intelligence directors would be—listen to this—the only executive level 2 appointments in our Government not subject to confirmation by the Senate. There you have it. These people are going to have tremendous responsibilities, but I am informed that these deputy intelligence directors would be the only executive level 2 appointments in our Government not subject to Senate confirmation.

So it is clear that more needs to be done to ensure accountability to the Congress. How much thought was given to this in the distinguished committee? How much thought was given to this in the Commission that recommends to the Congress these reforms? These clearly mean that more needs to be done to ensure accountability to the Congress. The intelligence failures of 9/11 and the intelligence failures in Iraq are in part a testament to the dire consequences of the Congress abdicating its constitutional duties. The Congress was rushed, as it oftentimes is—rushed, pressured—could be pressured by circumstances only, but that is not quite the case. Congress was rushed into creating a homeland security department, and, in the process, it ceded authorities to the executive branch over organization and personnel matters. The result has been an underfunded homeland security agency whose effectiveness has been compromised, to some extent, by turf wars and bureaucratic resistance.

So we rushed consideration of the war resolution with Iraq, and in the process ceded the constitutional authority to declare war to the White House. The result has been a rush to war marked by foreign policy failures and scandals, with the death toll rising daily and with no end in sight to the chaos in Iraq.

What a pickle. What a pickle we have put ourselves in. Now the Congress is confronted with an intelligence reform bill, proposing to create a national intelligence director who will command 15 intelligence agencies and a $40 billion budget. Rather than learn from our mistakes, rather than take the time to thoughtfully consider this matter outside of Presidential politics, we are being pushed to finish this bill within a handful of days, finish this bill within a shirt-tail full of days, and to cede control over the allocation of the resources to the intelligence community.

Think about it. Think what you are doing. Think what you are about to do, Senators. National security experts are pleading with the Congress to stop for a minute. Hold on, here. Hold on, they say. Stop for a minute to think about what it is doing.

The Appropriations Committee heard from a bipartisan array of witnesses urging the Congress to slow down.

What is the hurry? What is the hurry?

The list is impressive. These men are not Members of the Congress. Listen to them, though. They are saying, slow down. David Boren, former Senator from the State of Oklahoma, former chairman of the Intelligence Committee in the Senate.

Here is another former Senator, Bill Bradley, saying let's slow down here. Slow down. Where is the hurry? Frank Carlucci, former Secretary of Defense under President Reagan. Here is a more recent Secretary of Defense, former Member of this body, a Republican, William Cohen. Robert Gates, Gary Hart, former U.S. Senator; Henry Kissinger, former Secretary of State; John Hamre.

In the case of some of these, their titles have momentarily escaped me.

Sam Nunn, former Senator from the State of Georgia and chairman of the Senate Armed Services Committee;

Warren Rudman, Republican, former Senator from New Hampshire; George Shultz, former Secretary of State, Republican—there you have it, an impressive roster of Republicans and Democrats who rendered great service to this country in one form or another. They are saying slow down. What is the hurry? What is the hurry? They are former Senators, former Department of Defense Secretaries, former Secretaries of State, Republicans and Democrats, all making the same plea: ''Racing to implement reforms on an election timetable is precisely the wrong thing to do.''

That is not ROBERT BYRD saying that. ROBERT BYRD is quoting these luminaries, and ROBERT BYRD feels the same way they do.

''Racing to implement reforms on an election timetable is precisely the wrong thing to do. Intelligence reform

is too complex and too important to undertake at a campaign breakneck speed.''

They are saying this subject matter deserves a thoughtful, comprehensive approach. Why in Heaven's name are we in all of this big hurry? Why is there all of this hurry? I am not saying there shouldn't be reform. I am not saying that at all. I am saying this is a major undertaking and we ought to have the time and we ought to take time to debate and ask questions and to try to remove the gremlins that may come to light if we take more time.

The Wall Street Journal concluded in August that:

The larger point here is that there is no need to rush to any quick political fix.

We may have a different President after the election. He may appoint—and probably would—a national intelligence director who will be a different person from that whom the current President may appoint, should he be reelected. We ought not to do this in such a big hurry.

The Wall Street Journal continues:

We are contemplating the biggest change to our intelligence services since 1947, while we are fighting a war against a lethal enemy . . .

a war that in large measure has resulted from faulty intelligence.

Are we fixing that fault in this bill? Are we dealing with 9/11 in this bill without casting a watchful eye to the future, to Iraq? How about it?

That work should take some time—and beltway forbid, maybe even a little thought.

That is a quotation from the Wall Street Journal of the month of August.

The case for stopping and thinking for a moment grows even stronger when one reads U.S. Circuit Court Judge Richard Posner's critique of the 9/11 Commission's report in the New York Times Book Review. Judge Posner writes:

The enormous public relations effort that the commission orchestrated to win support for the report before it could be digested . . . invites criticism . . . [as does] the commissioners' misplaced, though successful, quest for unanimity. . . . The Commission's contention that our intelligence structure is unsound predisposed it to blame the structure for the failure of the 9/11 attacks, whether it did or not. And pressure for unanimity encourages just the kind of herd thinking now being blamed for that other recent intelligence failure—the belief that Saddam Hussein possessed weapons of mass destruction. . . . For all one knows, the price of unanimity was adopting recommendations that were the second choice [or maybe even the third or fourth choice] of many of the commission's members. . . .

The larger concern is not only that the Congress, in its rush to act, may botch the implementation of the 9/11 Commission's recommendation, but that those recommendations may not be as well-thought-out as the public relations campaign would have us believe.

We are so threatened by the politics surrounding the 9/11 Commission's report and the release of its recommendations prior to the Presidential election that we stand ready—stand, salute—to abdicate our constitutional responsibilities rather than to question or probe deeper into the potential flaws of the Commission's recommendations.

I say again it is the same kind of thinking that occurred prior to the vote on the war resolution with Iraq, the same mentality that led to the much regretted passage of the PATRIOT Act with only a single dissenting vote in this Chamber, and that led to the creation of a Homeland Security Department that now struggles with its mission to make Americans safer from terrorism.

I urge Senators, I plead with Senators, I beg Senators to consider carefully their vote on this amendment.

I am sure there are many Senators who have regretted and will regret to their dying day their decision to vote for the Iraq resolution that was passed by this body on October 11, 2002. I am sure many Senators have lived to regret that vote because we were being pressured: Hurry, hurry, hurry, get this vote behind us. We don't want to talk more about this. We want to talk about the economy. They will regret it. I have had Senators tell me they regret it.

I urge Senators to consider carefully their vote on this amendment. Also, consider this Constitution and the oath I have taken this many times to support and defend the Constitution of the United States. This Constitution provides for adequate oversight. It gives the Congress the power, the oversight.

This bill will, to a considerable extent, take away that power. I am not seeking to undermine the intelligence reforms proposed by the Governmental Affairs Committee. I seek only to ensure that the Congress retain its oversight functions in intelligence and national security matters. We owe it to the people who had faith and confidence in us and who sent us here.

We are not elected here, sent here, by any President of the United States. No President tapped me on the shoulder and said, go get him, boy, I am going to see that you get it. No President can do that. No President can tap me on the shoulder and say: Boy, you are gone; you won't be back after this election. No, no President can say that, thank God. No President is king in this country. Not here, no. We did not swear an oath to adopt any particular commission's report.

We should use our own best judgment in this case, and in doing that we will arrive at different signals, of course, but that is our responsibility. We owe it to the victims of the September 11 attack and their families to get these reforms straight and to take time to study and debate them. Why not take more time? It would be a sad legacy if the suffering of these victims of the September 11 attack, it would be a sad legacy if their suffering and loss resulted not in the strengthening but in the weakening of our national security and intelligence service, leaving more Americans vulnerable to a terrorist attack.

In summary, it is a critical mistake to hand to an unelected intelligence chief nearly unfettered budget transfer authority. We are handing off the ability to exercise oversight. When we do that, we cannot determine whether congressional intent for the people's tax dollars has been met. We will not know about transfers until some time, perhaps, after the fact. Millions of dollars—nay, billions of dollars—could be moved around at the discretion of one man, an unelected figure, with no one the wiser. Resources could be switched from one area of the world to another area of the globe at the discretion of one man. Secret operations could be funded without the prior knowledge of any Member of Congress at the discretion of one man. This is one-man rule. Intelligence could be manipulated by one man, with discretion concerning where to take away secret resources and where to add them.

Absolute power, Senators just heard, corrupts absolutely, and the United States is about to aid and abet that truism.

Senators, Republicans and Democrats, we will rue the day when, because of rushing and posturing and hurrying, we created a spy chief with such awesome power.

I ask unanimous consent to add the names of Senator LEAHY, Senator DORGAN, and Senator BURNS as cosponsors.

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

Mr. BYRD. May the record show that John Hamre is a former Deputy Defense Secretary and Robert Gates is a former CIA Director.

[From the New York Times, Oct. 3, 2004]

HOW THE WHITE HOUSE EMBRACED DISPUTED ARMS INTELLIGENCE

(By David Barstow, William J. Broad and Jeff Gerth)

In 2002, at a crucial juncture on the path to war, senior members of the Bush administration gave a series of speeches and interviews in which they asserted that Saddam Hussein was rebuilding his nuclear weapons program. Speaking to a group of Wyoming Republicans in September, Vice President Dick Cheney said the United States now had ''irrefutable evidence''—thousands of tubes made of high-strength aluminum, tubes that the Bush administration said were destined for clandestine Iraqi uranium centrifuges, before some were seized at the behest of the United States.

Those tubes became a critical exhibit in the administration's brief against Iraq. As the only physical evidence the United States could brandish of Mr. Hussein's revived nuclear ambitions, they gave credibility to the apocalyptic imagery invoked by President Bush and his advisers. The tubes were ''only really suited for nuclear weapons programs,'' Condoleezza Rice, the president's national security adviser, explained on CNN on Sept. 8, 2002. ''We don't want the smoking gun to be a mushroom cloud.''

But almost a year before, Ms. Rice's staff had been told that the government's foremost nuclear experts seriously doubted that

the tubes were for nuclear weapons, according to four officials at the Central Intelligence Agency and two senior administration officials, all of whom spoke on condition of anonymity. The experts, at the Energy Department, believed the tubes were likely intended for small artillery rockets.

The White House, though, embraced the disputed theory that the tubes were for nuclear centrifuges, an idea first championed in April 2001 by a junior analyst at the C.I.A. Senior nuclear scientists considered that notion implausible, yet in the months after 9/11, as the administration built a case for confronting Iraq, the centrifuge theory gained currency as it rose to the top of the government.

Senior administration officials repeatedly failed to fully disclose the contrary views of America's leading nuclear scientists, an examination by The New York Times has found. They sometimes overstated even the most dire intelligence assessments of the tubes, yet minimized or rejected the strong doubts of nuclear experts. They worried privately that the nuclear case was weak, but expressed sober certitude in public.

One result was a largely one-sided presentation to the public that did not convey the depth of evidence and argument against the administration's most tangible proof of a revived nuclear weapons program in Iraq.

Today, 18 months after invasion of Iraq, investigators there have found no evidence of hidden centrifuges or a revived nuclear weapons program. The absence of unconventional weapons in Iraq is now widely seen as evidence of a profound intelligence failure, of an intelligence community blinded by ''group think,'' false assumptions and unreliable human sources.

Yet the tale of the tubes, pieced together through records and interviews with senior intelligence officers, nuclear experts, administration officials and Congressional investigators, reveals a different failure.

Far from ''group think,'' American nuclear and intelligence experts argued bitterly over the tubes. A ''holy war'' is how one Congressional investigator described it. But if the opinions of the nuclear experts were seemingly disregarded at every turn, an overwhelming momentum gathered behind the C.I.A. assessment. It was a momentum built on a pattern of haste, secrecy, ambiguity, bureaucratic maneuver and a persistent failure in the Bush administration and among both Republicans and Democrats in Congress to ask hard questions.

Precisely how knowledge of the intelligence dispute traveled through the upper reaches of the administration is unclear. Ms. Rice knew about the debate before her Sept. 2002 CNN appearance, but only learned of the alternative rocket theory of the tubes soon afterward, according to two senior administration officials. President Bush learned of the debate at roughly the same time, a senior administration official said.

Last week, when asked about the tubes, administration officials said they relied on repeated assurances by George J. Tenet, then the director of central intelligence, that the tubes were in fact for centrifuges. They also noted that the intelligence community, including the Energy Department, largely agreed that Mr. Hussein has revived his nuclear program.

''These judgments sometimes require members of the intelligence community to make tough assessments about competing interpretations of facts,'' said Sean McCormack, a spokesman for the president.

Mr. Tenet declined to be interviewed. But in a statement, he said he ''made it clear'' to the White House ''that the case for a possible nuclear program in Iraq was weaker than that for chemical and biological weapons.'' Regarding the tubes, Mr. Tenet said ''alternative views were shared'' with the administration after the intelligence community drafted a new National Intelligence Estimate in late September 2002.

The tubes episode is a case study of the intersection between the politics of preemption and the inherent ambiguity of intelligence. The tubes represented a scientific puzzle and rival camps of experts clashed over the tiniest technical details in secure rooms in Washington, London and Vienna. The stakes were high, and they knew it.

So did a powerful vice president who saw in 9/11 horrifying confirmation of his long-held belief that the United States too often naively underestimates the cunning and ruthlessness of its foes.

''We have a tendency—I don't know if it's part of the American character—to say, 'Well sit down and we'll evaluate the evidence, we'll draw a conclusion,' '' Mr. Cheney said as he discussed the tubes in September 2002 on the NBC News program ''Meet the Press.''

''But we always think in terms that we've got all the evidence,'' he said. ''Here, we don't have all the evidence. We have 10 percent, 20 percent, 30 percent. We don't know how much. We know we have a part of the picture. And that part of the picture tells us that he is, in fact, actively and aggressively seeking to acquire nuclear weapons.''

JOE RAISES THE TUBE ISSUE

Throughout the 1990's, United States intelligence agencies were deeply preoccupied with the status of Iraq's nuclear weapons program, and with good reason.

After the Persian Gulf war in 1991, arms inspectors discovered that Iraq had been far closer to building an atomic bomb than even the worst-case estimates had envisioned. And no one believed that Saddam Hussein had abandoned his nuclear ambitions. To the contrary, in one secret assessment after another, the agencies concluded that Iraq was conducting low-level theoretical research and quietly plotting to resume work on nuclear weapons.

But at the start of the Bush administration, the intelligence agencies also agreed that Iraq had not in fact resumed its nuclear weapons program. Iraq's nuclear infrastructure, they concluded, had been dismantled by sanctions and inspections. In short, Mr. Hussein's nuclear ambitions appeared to have been contained.

Then Iraq started shopping for tubes.

According to a 511-page report on flawed prewar intelligence by the Senate Intelligence Committee, the agencies learned in early 2001 of a plan by Iraq to buy 60,000 high-strength aluminum tubes from Hong Kong.

The tubes were made from 7075–T6 aluminum, an extremely hard alloy that made them potentially suitable as rotors in a uranium centrifuge. Properly designed, such tubes are strong enough to spin at the terrific speeds needed to convert uranium gas into enriched uranium, an essential ingredient of an atomic bomb. For this reason, international rules prohibited Iraq from importing certain sizes of 7075–T6 aluminum tubes; it was also why a new C.I.A. analyst named Joe quickly sounded the alarm.

At the C.I.A.'s request, The Times agreed to use only Joe's first name; the agency said publishing his full name could hinder his ability to operate overseas.

Joe graduated from the University of Kentucky in the late 1970's with a bachelor's degree in mechanical engineering, then joined the Goodyear Atomic Corporation, which dispatched him to Oak Ridge, Tenn., a federal complex that specializes in uranium and national security research.

Joe went to work on a new generation of centrifuges. Many European models stood no more than 10 feet tall. The American centrifuges loomed 40 feet high, and Joe's job was to learn how to test and operate them. But when the project was canceled in 1985, Joe spent the next decade performing hazard analyses for nuclear reactors, gaseous diffusion plants and oil refineries.

In 1997, Joe transferred to a national security complex at Oak Ridge known as Y–12, his entry into intelligence work. His assignment was to track global sales of material used in nuclear arms. He retired after two years, taking a buyout with hundreds of others at Oak Ridge, and moved to the C.I.A.

The agency's ability to assess nuclear intelligence had markedly declined after the cold war, and Joe's appointment was part of an effort to regain lost expertise. He was assigned to a division eventually known as Winpac, for Weapons Intelligence, Nonproliferation and Arms Control. Winpac had hundreds of employees, but only a dozen or so with a technical background in nuclear arms and fuel production. None had Joe's hands-on experience operating centrifuges.

Suddenly, Joe's work was ending up in classified intelligence reports being read in the White House. Indeed, his analysis was the primary basis for one of the agency's first reports on the tubes, which went to senior members of the Bush administration on April 10, 2001. The tubes, the report asserted, ''have little use other than for a uranium enrichment program.''

This alarming assessment was immediately challenged by the Energy Department, which builds centrifuges and runs the government's nuclear weapons complex.

The next day, Energy Department officials ticked off a long list of reasons why the tubes did not appear well suited for centrifuges. Simply put, the analysis concluded that the tubes were the wrong size—too narrow, too heavy, too long—to be of much practical use in a centrifuge.

What was more, the analysis reasoned, if the tubes were part of a secret, high-risk venture to build a nuclear bomb, why were the Iraqis haggling over prices with suppliers all around the world? And why weren't they shopping for all the other sensitive equipment needed for centrifuges?

All fine questions. But if the tubes were not for a centrifuge, what were they for?

Within weeks, the Energy Department experts had an answer.

It turned out, they reported, that Iraq had for years used high-strength aluminum tubes to make combustion chambers for slim rockets fired from launcher pods. Back in 1996, inspectors from the International Atomic Energy Agency had even examined some of those tubes, also made of 7075–T6 aluminum, at a military complex, the Nasser metal fabrication plant in Baghdad, where the Iraqis acknowledged making rockets. According to the international agency, the rocket tubes, some 66,000 of them, were 900 millimeters in length, with a diameter of 81 millimeters and walls 3.3 millimeters thick.

The tubes now sought by Iraq had precisely the same dimensions—a perfect match.

That finding was published May 9, 2001, in the Daily Intelligence Highlight, a secret Energy Department newsletter published on Intelink, a Web site for the intelligence community and the White House.

Joe and his Winpac colleagues at the C.I.A. were not persuaded. Yes, they conceded, the tubes could be used as rocket casings. But that made no sense, they argued in a new report, because Iraq wanted tubes made at tolerances that ''far exceed any known conventional weapons.'' In other words, Iraq was demanding a level of precision craftsmanship unnecessary for ordinary mass-produced rockets.

More to the point, those analysts had hit on a competing theory; that the tubes' dimensions matched those used in an early uranium centrifuge developed in the 1950's by a German scientist, Gernot Zippe. Most centrifuge designs are highly classified; this one, though, was readily available in science reports.

Thus, well before Sept. 11, 2001, the debate within the intelligence community was already neatly framed: Were the tubes for rockets or centrifuges?

EXPERTS ATTACK JOE'S CASE

It was a simple question with enormous implications. If Mr. Hussein acquired nuclear weapons, American officials feared, he would wield them to menace the Middle East. So the tube question was critical, yet none too easy to answer. The United States had few spies in Iraq, and certainly none who knew Mr. Hussein's plans for the tubes.

But the tubes themselves could yield many secrets. A centrifuge is an intricate device. Not any old tube would do. Carefully inquiry might answer the question.

The intelligence community embarked on an ambitious international operation to intercept the tubes before they could get to Iraq. The big break came in June 2001; a shipment was seized in Jordan.

At the Energy Department, those examining the tubes included scientists who had spent decades designing and working on centrifuges, and intelligence officers steeped in the tricky business of tracking the nuclear ambitions of America's enemies. They included Dr. Jon A. Kreykes, head of Oak Ridge's national security advanced technology group; Dr. Duane F. Starr, an expert on nuclear proliferation threats; and Dr. Edward Von Halle, a retired Oak Ridge nuclear expert, Dr. Houston G. Wood III, a professor of engineering at the University of Virginia who had helped design the 40-foot American centrifuge, advised the team and consulted with Dr. Zippe.

On questions about nuclear centrifuges, this was unambiguously the A–Team of the intelligence community, many experts say.

On Aug. 17, 2001, weeks before the twin towers fell, the team published a secret Technical Intelligence Note, a detailed analysis that laid out its doubts about the tubes' suitability for centrifuges.

First, in size and material, the tubes were very different from those Iraq had used in its centrifuge prototypes before the first gulf war. Those models used tubes that were nearly twice as wide and made of exotic materials that performed far better than aluminum. ''Aluminum was a huge step backwards,'' Dr. Wood recalled.

In fact, the team could find no centrifuge machines ''deployed in a production environment'' that used such narrow tubes. Their walls were three times too thick for ''favorable use'' in a centrifuge, the team wrote. They were also anodized, meaning they had a special coating to protect them from weather. Anodized tubes, the team pointed out, are ''not consistent'' with a uranium centrifuge because the coating can produce bad reactions with uranium gas.

In other words, if Joe and his Winpac colleagues were right, it meant that Iraq had chosen to forsake years of promising centrifuge work and instead start from scratch, with inferior material built to less-than-optimal dimensions.

The Energy Department experts did not think that made much sense. They concluded that using the tubes in centrifuges ''is credible but unlikely, and a rocket production is the much more likely end use for these tubes.'' Similar conclusions were being reached by Britain's intelligence service and experts at the International Atomic Energy Agency, a United Nations body.

Unlike Joe, experts at the international agency had worked with Zippe centrifuges, and they spent hours with him explaining why they believed his analysis was flawed. They pointed out errors in his calculations. They noted design discrepancies. They also sent reports challenging the centrifuge claim to American government experts through the embassy in Vienna, a senior official said.

Likewise, Britain's experts believe the tubes would need ''substantial re-engineering'' to work in centrifuges, according to Britain's review of its prewar intelligence. Their experts found it ''paradoxical'' that Iraq would order such finely crafted tubes only to radically rebuild each one for a centrifuge. Yes, it was theoretically possible, but an Energy Department analyst later told Senate investigators, it was also theoretically possible to ''turn your new Yugo into a Cadillac.''

In late 2001, intelligence analysts at the State Department also took issue with Joe's work in reports prepared for Secretary of State Colin Powell. Joe was ''very convinced, but not very convincing,'' recalled Greg Thielmann, then director of strategic, proliferation and military affairs in the Bureau of Intelligence and Research.

By year's end, Energy Department analysts published a classified report that even more firmly rejected the theory that the tubes could work as rotors in a 1950's Zippe centrifuge. These particular Zippe centrifuges, they noted, were especially ill suited for bomb making. The machines were a prototype designed for laboratory experiments and mean to be operated as single units. To produce enough enriched uranium to make just one bomb a year, Iraq would need up to 16,000 of them working in concert, a challenge for even the most sophisticated centrifuge plants.

Iraq had never made more than dozen centrifuge prototypes. Half failed when rotors broke. Of the rest, one actually worked to enrich uranium, Dr. Mahdi Obeidi, who once ran Iraq's centrifuge program, said in an interview last week.

The Energy Department team concluded it was ''unlikely that anyone'' could build a centrifuge site capable of producing significant amounts of enriched uranium ''based on these tubes.'' One analyst summed it up this way: the tubes were so poorly suited for centrifuges, he told Senate investigators, that if Iraq truly wanted to use them this way, ''we should just give them the tubes.''

ENTER CHENEY

In the months after Sept. 11, 2001, as the Bush administration devised a strategy to fight Al Qaeda, Vice President Cheney immersed himself in the world of top-secret threat assessments. Bob Woodward, in his book ''Plan of Attack,'' described Mr. Cheney as the administration's new ''self-appointed special examiner of worst-case scenarios,'' and it was a role that fit.

Mr. Cheney had grappled with national security threats for three decades, first as President Gerald R. Ford's chief of staff, later as secretary of defense for the first President Bush. He was on intimate terms with the intelligence community, 15 spy agencies that frequently feuded over the significance of raw intelligence. He knew well their record of getting it wrong (the Bay of Pigs) and underestimating threats (Mr. Hussein's pre-1991 nuclear program) and failing to connect the dots (Sept. 11).

As a result, the vice president was not simply a passive recipient of intelligence analysis. He was known as a man who asked hard, skeptical questions, a man who paid attention to detail. ''In my office I have a picture of John Adams, the first vice president,'' Mr Cheney said in one of his first speeches as vice president. ''Adams like to say, 'The facts are stubborn things.' Whatever the issue, we are going to deal with facts and show a decent regard for other points of view.''

With the Taliban routed in Afghanistan after Sept. 11, Mr. Cheney and his aides began to focus on intelligence assessments of Saddam Hussein. Mr. Cheney had long argued for more forceful action to topple Mr. Hussein. But in January 2002, according to Mr. Woodward's book, the C.I.A. told Mr. Cheney that Mr. Hussein could not be removed with covert action alone. His ouster, the agency said, would take an invasion, which would require persuading the public that Iraq posted a threat to the United States.

The evidence for that case was buried in classified intelligence files. Mr. Cheney and his aides began to meet repeatedly with analysts who specialized in Iraq and unconventional weapons. They wanted to know about any Iraqi ties to Al Qaeda and Baghdad's ability to make unconventional weapons.

''There's no question they had a point of view, but there was no attempt to get us to hew to a particular point of view ourselves, or to come to a certain conclusion,'' the deputy director of analysis at Winpac told the Senate Intelligence Committee. ''It was trying to figure out, why do we come to this conclusion, what was the evidence. A lot of questions were asked, probing questions.''

Of all the worst-case possibilities, the most terrifying was the idea that Mr. Hussein might slip a nuclear weapon to terrorists, and Mr. Cheney and his staff zeroed in on Mr. Hussein's nuclear ambitions.

Mr. Cheney, for example, read a Feb. 12, 2002, report from the Defense Intelligence Agency about Iraq's reported attempts to buy 500 tons of yellowcake, a uranium concentrate, from Niger, according to the Senate Intelligence Committee report. Many American intelligence analysts did not put much stock in the Niger report. Mr. Cheney pressed for more information.

At the same time, a senor intelligence official said, the agency was fielding repeated requests from Mr. Cheney's office for intelligence about the tubes, including updates on Iraq's continuing efforts to procure thousands more after the seizure in Jordan.

''Remember,'' Dr. David A. Kay, the chief American arms inspector after the war, said in an interview, ''the tubes were the only piece of physical evidence about the Iraqi weapons programs that they had.''

In March 2002, Mr. Cheney traveled to Europe and the Middle East to build support for a confrontation with Iraq. It is not known whether he mentioned Niger or the tubes in his meetings. But on his return, he made it clear that he had repeatedly discussed Mr. Hussein and the nuclear threat.

''He is actively pursuing nuclear weapons at this time,'' Mr. Cheney asserted on CNN.

At the time, the C.I.A. had not reached so firm a conclusion. But on March 12, the day Mr. Cheney landed in the Middle East, he and other senior administration officials had been sent two C.I.A. reports about the tubes. Each cited the tubes as evidence that ''Iraq currently may be trying to reconstitute its gas centrifuge program.''

Neither report, however, mentioned that leading centrifuge experts at the Energy Department strongly disagreed, according to Congressional officials who have read the reports.

WHAT WHITE HOUSE IS TOLD

As the Senate Intelligence Committee report made clear, the American intelligence community ''is not a level playing field when it comes to the competition of ideas in intelligence analysis.''

The C.I.A. has a distinct edge: ''unique access to policy makers and unique control of intelligence reporting,'' the report found. The Presidential Daily Briefs, for example, are prepared and presented by agency analysts; the agency's director is the president's principal intelligence adviser. This allows agency analysts to control the presentation of information to policy makers ''without having to explain dissenting views or defend their analysis from potential challenges,'' the committee's report said.

This problem, the report said, was ''particularly evident'' with the C.I.A.'s analysis of the tubes, when agency analysts ''lost objectivity and in several cases took action that improperly excluded useful expertise from the intelligence debate.'' In interviews, Senate investigators said the agency's written assessments did a poor job of describing the debate over the intelligence.

From April 2001 to September 2002, the agency wrote at least 15 reports on the tubes. Many were sent only to high-level policy makers, including President Bush, and did not circulate to other intelligence agencies. None have been released, though some were described in the Senate's report.

Several senior C.I.A. officials insisted that those reports did describe at least in general terms the intelligence debate. ''You don't go into all that detail but you do try to evince it when you write your current product,'' one agency official said.

But several Congressional and intelligence officials with access to the 15 assessments said not one of them informed senior policy makers of the Energy Department's dissent. They described a series of reports, some with ominous titles, that failed to convey either the existence or the substance of the intensifying debate.

Over and over, the reports restated Joe's main conclusions for the C.I.A.—that the tubes matched the 1950's Zippe centrifuge design and were built to specifications that ''exceeded any known conventional weapons application.'' They did not state what Energy Department experts had noted—that many common industrial items, even aluminum cans, were made to specifications as good or better than the tubes sought by Iraq. Nor did the reports acknowledge a significant error in Joe's claim—that the tubes ''matched'' those used in a Zippe centrifuge.

The tubes sought by Iraq had a wall thickness of 3.3 millimeters. When Energy Department experts checked with Dr. Zippe, a step Joe did not take, they learned that the walls of Zippe tubes did not exceed 1.1 millimeters, a substantial difference.

''They never lay out the other case,'' one Congressional official said of those C.I.A. assessments.

The Senate report provides only a partial picture of the agency's communications with the White House. In an arrangement endorsed by both parties, the Intelligence Committee agreed to delay an examination of whether White House descriptions of Iraq's military capabilities were ''substantiated by intelligence information.'' As a result, Senate investigators were not permitted to interview White House officials about what they knew of the tubes debate and when they knew it.

But in interviews, C.I.A. and administration officials disclosed that the dissenting views were repeatedly discussed in meetings and telephone calls.

One senior official at the agency said its ''fundamental approach'' was to tell policy makers about dissenting views. Another senior official acknowledged that some of their agency's reports ''weren't as well caveated as, in retrospect, they should have been.'' But he added, ''There was certainly nothing that was hidden.''

Four agency officials insisted that Winpac analysts repeatedly explained the contrasting assessments during briefings with senior National Security Council officials who dealt with nuclear proliferation issues. ''We think we were reasonably clear about this,'' a senior C.I.A. official said.

A senior administration official confirmed that Winpac was indeed candid about the differing views. The official, who recalled at least a half dozen C.I.A. briefings on tubes, said he knew by late 2001 that there were differing views on the tubes. ''To the best of my knowledge, he never hid anything from me,'' the official said of his counterpart at Winpac.

This official said he also spoke to senior officials at the Department of Energy about the tubes, and a spokeswoman for the department said in a written statement that the agency ''strongly conveyed its viewpoint to senior policy makers.''

But if senior White House officials understood the department's main arguments against the tubes, they also took into account its caveats. ''As for as I know,'' the senior administration official said, ''D.O.E. never concluded that these tubes could not be used for centrifuges.''

A REFEREE IS IGNORED

Over the summer of 2002, the White House secretly refined plans to invade Iraq and debated whether to seek more United Nations inspections. At the same time, in response to a White House request in May, C.I.A. officials were quietly working on a report that would lay out for the public declassified evidence of Iraq's reported unconventional weapons and ties to terror groups.

That same summer the tubes debate continued to rage. The primary antagonists were the C.I.A. and the Energy Department, with other intelligence agencies drawn in on either side.

Much of the strife centered on Joe. At first glance, he seem an unlikely target. He held a relatively junior position, and according to the C.I.A. he did not write the vast majority of the agency's reports on the tubes. He has never met Mr. Cheney. His one trip to the White House was to take his family on the public tour.

But he was, as one staff member on the Senate Intelligence Committee put it, ''the ringleader'' of a small group of Winpac analysts who were convinced that the tubes were destined for centrifuges. His views carried special force within the agency because he was the only Winpac analyst with experience operating uranium centrifuges. In meetings with other intelligence agencies, he often took the lead in arguing the technical basis for the agency's conclusions.

''Very few people have the technical knowledge to independently arrive at the conclusion he did,'' said Dr. Kay, the weapons inspector, when asked to explain Joe's influence.

Without identifying him, the Senate Intelligence Committee's report repeatedly questioned Joe's competence and integrity. It portrayed him so determined to prove his theory that he twisted test results, ignored factual discrepancies and excluded dissenting views.

The Senate report, for example, challenged his decision not to consult the Energy Department on tests designed to see if the tubes were strong enough for centrifuges. Asked why he did not seek their help, Joe told the committee: ''Because we funded it. It was our testing. We were trying to prove some things that we wanted to prove with the testing.'' The Senate report singled out that comment for special criticism, saying, ''The committee believes that such an effort should never have been intended to prove what the C.I.A. wanted to prove.''

Joe's superiors strongly defend his work and say his words were taken out of context. They describe him as diligent and professional, an open-minded analyst willing to go the extra mile to test his theories. ''Part of the job of being an analyst is to evaluate alternative hypotheses and possibilities, to build a case, think of alternatives,'' a senior agency official said. ''That's what Joe did in this case. If he turned out to be wrong, that's not an offense. He was expected to be wrong occasionally.''

Still, the bureaucratic infighting was by then so widely known that even the Australian government was aware of it. ''U.S. agencies differ on whether aluminum tubes, a dual-use item sought by Iraq, were meant for gas centrifuges,'' Australia's intelligence services wrote in a July 2002 assessment. The same report said the tubes evidence was ''patchy and inconclusive.''

There was a mechanism, however, to resolve the dispute. It was called the Joint Atomic Energy Intelligence Committee, a secret body of experts drawn from across the federal government. For a half century, Jaeic (pronounced jake) has been called on to resolve disputes and give authoritative assessments about nuclear intelligence. The committee had specifically assessed the Iraqi nuclear threat in 1989, 1997 and 1999. An Energy Department expert was the committee's chairman in 2002, and some department officials say the C.I.A. opposed calling in Jaeic to mediate the tubes fight.

Not so, agency officials said. In July 2002, they insist, they were the first intelligence agency to seek Jaeic's intervention. ''I personally was concerned about the extent of the community's disagreement on this and the fact that we weren't getting very far,'' a senior agency official recalled.

The committee held a formal session in early August to discuss the debate, with more than a dozen experts on both sides in attendance. A second meeting was scheduled for later in August but was postponed. A third meeting was set for early September; it never happened either.

''We were O.B.E.—overcome by events,'' an official involved in the proceedings recalled.

WHITE HOUSE MAKES A MOVE

''The case of Saddam Hussein, a sworn enemy of our country, requires a candid appraisal of the facts,'' Mr. Cheney said on Aug. 26, 2002, at the outset of an address to the Veterans of Foreign Wars national convention in Nashville.

Warning against ''wishful thinking or willful blindness,'' Mr. Cheney used the speech to lay out a rationale for pre-emptive action against Iraq. Simply resuming United Nations inspections, he argued, could give ''false comfort'' that Mr. Hussein was contained.

''We now know Saddam has resumed his efforts to acquire nuclear weapons,'' he declared, words that quickly made headlines worldwide. ''Many of us are convinced that Saddam will acquire nuclear weapons fairly soon. Just how soon, we cannot really gauge. Intelligence is an uncertain business, even in the best of circumstances.''

But the world, Mr. Cheney warned, could ill afford to once again underestimate Iraq's progress.

''Armed with an arsenal of these weapons of terror, and seated atop 10 percent of the world's oil reserves, Saddam Hussein could then be expected to seek domination of the entire Middle East, take control of a great portion of the world's energy supplies, directly threaten America's friends throughout the region, and subject the United States or any other nation to nuclear blackmail.''

A week later President Bush announced that he would ask Congress for authorization

to oust Mr. Hussein. He also met that day with senior members of the House and Senate, some of whom expressed concern that the administration had yet to show the American people tangible evidence of an imminent threat. The fact that Mr. Hussein gassed his own people in the 1980's, they argued, was not sufficient evidence of a threat to the United States in 2002.

President Bush got the message. He directed Mr. Cheney to give the public and Congress a more complete picture of the latest intelligence on Iraq.

In his Nashville speech, Mr. Cheney had not mentioned the aluminum tubes or any other fresh intelligence when he said, ''We now know that Saddam has resumed his efforts to acquire nuclear weapons.'' The one specific source he did cite was Hussein Kamel al-Majid, a son-in-law of Mr. Hussein's who defected in 1994 after running Iraq's chemical, biological and nuclear weapons programs. But Mr. Majid told American intelligence officials in 1995 that Iraq's nuclear program had been dismantled. What's more, Mr. Majid could not have had any insight into Mr. Hussein's current nuclear activities: he was assassinated in 1996 on his return to Iraq.

The day after President Bush announced he was seeking Congressional authorization, Mr. Cheney and Mr. Tenet, the director of central intelligence, traveled to Capitol Hill to brief the four top Congressional leaders. After the 90-minute session, J. Dennis Hastert, the House speaker, told Fox News that Mr. Cheney had provided new information about unconventional weapons, and Fox went on to report that one source said the new intelligence described ''just how dangerously close Saddam Hussein has come to developing a nuclear bomb.''

Tom Daschle, the South Dakota Democrat and Senate majority leader, was more cautious. ''What has changed over the course of the last 10 years, that brings this country to the belief that it has to act in a pre-emptive fashion in invading Iraq?'' he asked.

A few days later, on Sept. 8., the lead article on Page 1 of The New York Times gave the first detailed account of the aluminum tubes. The article cited unidentified senior administration officials who insisted that the dimensions, specifications and numbers of tubes sought showed that they were intended for a nuclear weapons program.

''The closer he gets to a nuclear capability, the more credible is his threat to use chemical and biological weapons,'' a senior administration official was quoted as saying. ''Nuclear weapons are his hole card.''

The article gave no hint of a debate over the tubes.

The White House did much to increase the impact of The Times' article. The morning it was published, Mr. Cheney went on the NBC News program ''Meet the Press'' and confirmed when asked that the tubes were the most alarming evidence behind the administration's view that Iraq had resumed its nuclear weapons program. The tubes, he said, had ''raised our level of concern.'' Ms. Rice, the national security adviser, went on CNN and said the tubes ''are only really suited for nuclear weapons programs.''

Neither official mentioned that the nation's top nuclear design experts believed overwhelmingly that the tubes were poorly suited for centrifuges.

Mr. Cheney, who has a history of criticizing officials who disclose sensitive information, typically refuses to comment when asked about secret intelligence. Yet on this day, with a Gallup poll showing that 58 percent of Americans did not believe President Bush had done enough to explain why the United States should act against Iraq, Mr. Cheney spoke openly about one of the closest held secrets regarding Iraq. Not only did Mr. Cheney draw attention to the tubes; he did so with a certitude that could not be found in even the C.I.A.'s assessments. On ''Meet the Press,'' Mr. Cheney said he knew ''for sure'' and ''in fact'' and ''with absolute certainty'' that Mr. Hussein was buying equipment to build a nuclear weapon.

''He has reconstituted his nuclear program,'' Mr. Cheney said flatly.

But in the C.I.A. reports, evidence ''suggested'' or ''could mean'' or ''indicates''—a word used in a report issued just weeks earlier. Little if anything was asserted with absolute certainty. The intelligence community had not yet concluded that Iraq had indeed reconstituted its nuclear program.

''The vice president's public statements have reflected the evolving judgment of the intelligence community,'' Kevin Kellems, Mr. Cheney's spokesman, said in a written statement.

The C.I.A. routinely checks presidential speeches that draw on intelligence reports. This is how intelligence professionals pull politicians back from factual errors. One such opportunity came soon after Mr. Cheney's appearance on ''Meet the Press.'' On Sept. 11, 2002, the White House asked the agency to clear for possible presidential use a passage on Iraq's nuclear program. The passage included this sentence: ''Iraq has made several attempts to buy high-strength aluminum tubes used in centrifuges to enrich uranium for nuclear weapons.''

The agency did not ask speechwriters to make clear that centrifuges were but one possible use, that intelligence experts were divided and that the tubes also matched those used in Iraqi rockets. In fact, according to the Senate's investigation, the agency suggested no changes at all.

The next day President Bush used virtually identical language when he cited the aluminum tubes in an address to the United Nations General Assembly.

DISSENT, BUT TO LITTLE EFFECT

The administration's talk of clandestine centrifuges, nuclear blackmail and mushroom clouds had a powerful political effect, particularly on senators who were facing fall election campaigns. ''When you hear about nuclear weapons, this is the national security knock-out punch,'' said Senator Ron Wyden, a Democrat from Oregon who sits on the Intelligence Committee and ultimately voted against authorizing war.

Even so, it did not take long for questions to surface over the administration's claims about Mr. Hussein's nuclear capabilities. As it happened, Senator Dianne Feinstein, another Democratic member of the Intelligence Committee, had visited the International Atomic Energy Agency in Vienna in August 2002. Officials there, she later recalled, told her they saw no signs of a revived nuclear weapons program in Iraq.

At that point, the tubes debate was in its 16th month. Yet Mr. Tenet, of the C.I.A., the man most responsible for briefing President Bush on intelligence, told the committee that he was unaware until that September of the profound disagreement over critical evidence that Mr. Bush was citing to world leaders as justification for war.

Even now, committee members from both parties express baffled anger at this possibility. How could he not know? ''I don't even understand it,'' Olympia Snowe, a Republican senator from Maine, said in an interview. ''I cannot comprehend the failures in judgment or breakdowns in communication.''

Mr. Tenet told Senate investigators that he did not expect to learn of dissenting opinions ''until the issue gets joined'' at the highest levels of the intelligence community. But if Mr. Tenet's lack of knowledge meant the president was given incomplete information about the tubes, there was still plenty of time for the White House to become fully informed.

Yet so far, Senate investigators say, they have found little evidence the White House tried to find out why so many experts disputed the C.I.A. tubes theory. If anything, administration officials minimized the divide.

On Sept. 13, The Times made the first public mention of the tubes debate in the sixth paragraph of an article on Page A13. In it an unidentified senior administration official dismissed the debate as a ''footnote, not a split.'' Citing another unidentified administration official, the story reported that the ''best technical experts and nuclear scientists at laboratories like Oak Ridge supported the C.I.A. assessments.''

As a senior Oak Ridge official pointed out to the Intelligence Committee, ''the vast majority of scientists and nuclear experts'' in the Energy Department's laboratories in fact disagreed with the agency. But on Sept. 13, the day the article appeared, the Energy Department sent a directive forbidding employees from discussing the subject with reporters.

The Energy Department, in a written statement, said that it was ''completely appropriate'' to remind employees of the need to protect nuclear secrets and that it had made no effort ''to quash dissent.''

It closed hearings that month, Congress began to hear testimony about the debate. Several Democrats said in interviews that secrecy rules had prevented them from speaking out about the gap between the administration's view of the tubes and the more benign explanations described in classified testimony.

One senior C.I.A. official recalled cautioning members of Congress in a closed session not to speak publicly about the possibility that the tubes were for rockets. ''If people start talking about that and the Iraqis see that people are saying rocket bodies, that will automatically become their explanation whenever anyone goes to Iraq,'' the official said in an interview.

So while administration officials spoke freely about the agency's theory, the evidence that best challenged this view remained almost entirely off limits for public debate.

In late September, the C.I.A. sent policymakers its most detailed report on the tubes. For the first time, an agency report acknowledged that ''some in the intelligence community'' believed rocket were ''more likely end uses'' for the tubes, according to officials who have seen the report.

Meanwhile, at the Energy Department, scientists were startled to find senior White House officials embracing a view of the tubes they considered thoroughly discredited. ''I was really shocked in 2002 when I saw it was still there,'' Dr. Wood, the Oak Ridge adviser, said of the centrifuge claim. ''I thought it had been put to bed.''

Members of the Energy Department team took a highly unusual step: They began working quietly with a Washington arms-control group, the Institute for Science and International Security, to help the group inform the public about the debate, said one team member and the group's president, David Albright.

On Sept. 23, the institute issued the first in series of lengthy reports that repeated some of the Energy Department's arguments against the C.I.A. analysis, though no classified ones. Still, after more than 16 months of secret debate, it was the first public airing of facts that undermined the most alarming suggestions about Iraq's nuclear threat.

The reports got little attention, partly because reporters did not realize they had been done with the cooperation of top Energy Department experts. The Washington Post ran a brief article about the findings on Page A18. Many major newspapers, including The Times, ran nothing at all.

SCRAMBLING FOR AN ''ESTIMATE''

Soon after Mr. Cheney's appearance on ''Meet Press,'' Democratic senators began pressing for a new National Intelligence Estimate on Iraq, terrorism and unconventional weapons. A National Intelligence Estimate is a classified document that is supposed to reflect the combined judgment of the entire intelligence community. The last such estimate had been done in 2000.

Most estimates take months to complete. But this one had to be done in days, in time for an October vote on a war resolution. There was little time for review or reflection, and no time for Jaeic, the joint committee, to reconcile deep analytical differences.

This was a potentially thorny obstacle for those writing the nuclear section: What do you do when the nation's nuclear experts strongly doubt the linchpin evidence behind the C.I.A.'s claims that Iraq was rebuilding its nuclear weapons program?

The Energy Department helped solve the problem. In meetings on the estimate, senior department intelligence officials said that while they still did not believe the tubes were for centrifuges, they nonetheless could agree that Iraq was reconstituting its nuclear weapons capability.

Several senior scientists inside the department said they were stunned by that stance; they saw no compelling evidence of a revived nuclear program.

Some laboratory officials blamed time pressure and inexperience. Thomas S. Ryder, the department's representative at the meetings, had been acting director of the department's intelligence unit for only five months. ''A heck of a nice guy but not savvy on technical issues,'' is the way one senior nuclear official described Mr. Ryder, who declined comment.

Mr. Ryder's position was more alarming than prior assessments from the Energy Department. In an August 2001 intelligence paper, department analysts warned of suspicious activities in Iraq that ''could be preliminary steps'' toward reviving a centrifuge program. In July 2002 an Energy Department report, ''Nuclear Reconstitution Efforts Underway?'', noted that several developments, including Iraq's suspected bid to buy yellowcake uranium from Niger, suggested Baghdad was ''seeking to reconstitute'' a nuclear weapons program.

According to intelligence officials who took part in the meetings, Mr. Ryder justified his department's now firm position on nuclear reconstitution in large part by citing the Niger reports. Many C.I.A. analysts considered that intelligence suspect, as did analysts at the State Department.

Nevertheless, the estimate's authors seized on the Energy Department's position to avoid the entire tubes debate, with written dissents relegated to a 10-page annex. The estimate would instead emphasize that the C.I.A. and the Energy Department both agreed that Mr. Hussein was rebuilding his nuclear weapons program. Only the closest reader would see that each agency was basing its assessment in large measure on evidence the other considered suspect.

On Oct. 2, nine days before the Senate vote on the war resolution, the new National Intelligence Estimate was delivered to the Intelligence Committee. The most significant change from past estimates dealt with nuclear weapons; the new one agreed with Mr. Cheney that Iraq was in aggressive pursuit of the atomic bomb.

Asked when Mr. Cheney became aware of the disagreements over the tubes, Mr. Kellems, his spokesman, said, ''The vice president knew about the debate at about the time of the National Intelligence Estimated.''

Today, the Intelligence Committee's report makes clear, that 93-page estimate stands as one of the most flawed documents in the history of American intelligence. The committee concluded unanimously that most of the major findings in the estimate were wrong, unfounded or overblown.

This was especially true of the nuclear section.

Estimates express their most important findings with high, moderate or low confidence levels. This one claimed ''moderate confidence'' on how fast Iraq could have a bomb, but ''high confidence'' that Baghdad was rebuilding its nuclear program. And the tubes were the leading and most detailed evidence cited in the body of the report.

According to the committee, the passages on the tubes, which adopted much of the C.I.A. analysis, were misleading and riddled with factual errors.

The estimate, for example, included a chart intended to show that the dimensions of the tubes closely matched a Zippe centrifuge. Yet the chart omitted the dimensions of Iraq's 81-millimeter rocket, which precisely matched the tubes.

The estimate cited Iraq's alleged willingness to pay top dollar for the tubes, up to $17.50 each, as evidence they were for secret centrifuges. But Defense Department rocket engineers told Senate investigators that 7075–T6 aluminum is ''the material of choice for low-cost rocket systems.''

The estimate also asserted that 7075–T6 tubes were ''poor choices'' for rockets. In fact, similar tubes were used in rockets from several countries, including the United States, and in an Italian rocket, the Medusa, which Iraq had copied.

Beyond tubes, the estimate cited several other ''key judgments'' that supported its assessment. The committee found that intelligence just as flawed.

The estimate, for example, pointed to Iraq's purchases of magnets, balancing machines and machine tools, all of which could be used in a nuclear program. But each item also had legitimate non-nuclear uses, and there was no credible intelligence whatsoever showing they were for a nuclear program.

The estimate said Iraq's Atomic Energy Commission was building new production facilities for nuclear weapons. The Senate found that claim was based on a single operative's report, which described how the commission had constructed one headquarters building and planned ''a new high-level polytechnic school.''

Finally, the estimate stated that many nuclear scientists had been reassigned to the A.E.C. The Senate found nothing to back that conclusion. It did, though, discover a 2001 report in which a commission employee complained that Iraq's nuclear program ''had been stalled since the gulf war.''

Such ''key judgments'' are supposed to reflect the very best American intelligence. (The Niger intelligence, for example, was considered too shaky to be included as a key judgment.) Yet as they studied raw intelligence reports, those involved in the Senate investigation came to a sickening realization. ''We kept looking at the intelligence and saying, 'My God, there's nothing here,''' one official recalled.

THE VOTE FOR WAR

Soon after the National Intelligence Estimate was completed, Mr. Bush delivered a speech in Cincinnati in which he described the ''grave threat'' that Iraq and its ''arsenal of terror'' posed to the United States. He dwelled longest on nuclear weapons, reviewing much of the evidence outlined in the estimate. The C.I.A. had warned him away from mentioning Niger.

''Facing clear evidence of peril,'' the president concluded, ''we cannot wait for the final proof—the smoking gun—that could come in the form of a mushroom cloud.''

Four days later, on Oct. 11, the Senate voted 77–23 to give Mr. Bush broad authority to invade Iraq. The resolution stated that Iraq posed ''a continuing threat'' to the United States by, among other things, ''actively seeking a nuclear weapons capability.''

Many Senators who voted for the resolution emphasized the nuclear threat.

''The great danger is a nuclear one,'' Senator Feinstein, the California Democrat, said on the Senate floor.

But Senator Bob Graham, then chairman of the Intelligence Committee, said he voted against the resolution in part because of doubts about the tubes. ''It reinforced in my mind pre-existing questions I had about the unreliability of the intelligence community, especially the C.I.A.,'' Mr. Graham, a Florida Democrat, said in an interview.

At the Democratic convention in Boston this summer, Senator John Kerry pledged that should he be elected president, ''I will ask hard questions and demand hard evidence.'' But in October 2002, when the Senate voted on Iraq, Mr. Kerry had not read the National Intelligence Estimate, but instead had relied on briefing from Mr. Tenet, a spokeswoman said. ''According to the C.I.A.'s report, all U.S. intelligence experts agree that Iraq is seeking nuclear weapons,'' Mr. Kerry said then, explaining his vote. ''There is little question that Saddam Hussein wants to develop nuclear weapons.''

The report cited by Mr. Kerry, an unclassified white paper, said nothing about the tubes debate except that ''some'' analysts believed the tubes were ''probably intended'' for conventional arms.

''It is common knowledge that Congress does not have the same access as the executive branch,'' Brooke Anderson, a Kerry spokeswoman, said yesterday.

Mr. Kerry's running mate, Senator John Edwards, severed on the Intelligence Committee, which gave him ample opportunity to ask hard questions. But in voting to authorize war, Mr. Edwards expressed no uncertainty about the principal evidence of Mr. Hussein's alleged nuclear program.

''We know that he is doing everything he can to build nuclear weapons,'' Mr. Edwards said then.

On Dec. 7, 2002, Iraq submitted a 12,200-page declaration about unconventional arms to the United Nations that made no mention of the tubes. Soon after, Winpac analysts at the C.I.A. assessed the declaration for President Bush. The analysts criticized Iraq for failing to acknowledge or explain why it sought tubes ''we believe suitable for use in a gas centrifuge uranium effort.'' Nor, they said, did it ''acknowledge efforts to procure uranium from Niger.''

Neither Energy Department nor State Department intelligence experts were given a chance to review the Winpac assessment, prompting complaints that dissenting views were being withheld from policy makers.

''It is most disturbing that Winpac is essentially directing foreign policy in this matter,'' one Energy Department official wrote in an e-mail message. ''There are some very strong points to be made in respect to Iraq's arrogant noncompliance with U.N. sanctions. However, when individuals attempt to convert those 'strong statements'

into the 'knock-out' punch, the administration will ultimately look foolish—i.e., the tubes and Niger!''

THE U.N. INSPECTORS RETURN

For nearly two years Western intelligence analysts had been trying to divine from afar Iraq's plans for the tubes. At the end of 2002, with the resumption of United Nations arms inspectors, it became possible to seek answers inside Iraq. Inspectors from the International Atomic Energy Agency immediately zeroed in on the tubes.

The team quickly arranged a field trip to the Nasser metal fabrication factory, where they found 13,000 completed rockets, all produced from 7075–T6 aluminum tubes. The Iraqi rocket engineers explained that they had been shopping for more tubes because their supply was running low.

Why order tubes with such tight tolerances? An Iraqi engineer said they wanted to improve the rocket's accuracy without making major design changes. Design documents and procurement records confirmed his account.

The inspectors solved another mystery. The tubes intercepted in Jordan had been anodized, given a protective coating. The Iraqis had a simple explanation: they wanted the new tubes protected from the elements. Sure enough, the inspectors found that many thousands of the older tubes, which had no special coating, were corroded because they had been stored outside.

The inspectors found no trace of a clandestine centrifuge program. On Jan. 10, 2003, The Times reported that the international agency was challenging ''the key piece of evidence'' behind ''the primary rationale for going to war.'' The article, on Page A10, also reported that officials at the Energy Department and State Department had suggested the tubes might be for rockets.

The C.I.A. theory was in trouble, and senior members of the Bush administration seemed to know it.

Also that January, White House officials who were helping to draft what would become Secretary Powell's speech to the Security Council sent word to the intelligence community that they believed ''the nuclear case was weak,'' the Senate report said. In an interview, a senior administration official said it was widely understood all along at the White House that the evidence of a nuclear threat was piecemeal and weaker than that for other unconventional arms.

But rather than withdraw the nuclear card—a step that could have undermined United States credibility just as tens of thousands of troops were being airlifted to the region—the White House cast about for new arguments and evidence to support it.

Gen. Richard B. Myers, chairman of the Joint Chiefs of Staff, asked the intelligence agencies for more evidence beyond the tubes to bolster the nuclear case. Winpac analysts redoubled efforts to prove that Iraq was trying to acquire uranium from Africa. When rocket engineers at the Defense Department were approached by the C.I.A. and asked to compare the Iraqi tubes with American ones, the engineers said the tubes ''were perfectly usable for rockets.'' The agency analysts did not appear pleased. One rocket engineer complained to Senate investigators that the analysts had ''an agenda'' and were trying ''to bias us'' into agreeing that the Iraqi tubes were not fit for rockets. In interviews, agency officials denied any such effort.

According to the Intelligence Committee report, the agency also sought to undermine the I.A.E.A.'s work with secret intelligence assessments distributed only to senior policy makers. Nonetheless, on Jan. 22, in a meeting first reported by The Washington Post, the ubiquitous Joe flew to Vienna in a last-ditch attempt to bring the international experts around to his point of view.

The session was a disaster.

''Everybody was embarrassed when he came and made this presentation, embarrassed and disgusted,'' one participant said. ''We were going insane, thinking, 'Where is he coming from?' ''

On Jan. 27, the international agency rendered its judgment: it told the Security Council that it had found no evidence of a revived nuclear weapons program in Iraq. ''From our analysis to date,'' the agency reported, ''it appears that the aluminum tubes would be consistent with the purpose stated by Iraq and, unless modified, would not be suitable for manufacturing centrifuges.''

THE POWELL PRESENTATION

The next night, during his State of the Union address, President Bush cited I.A.E.A. findings from years past that confirmed that Mr. Hussein had had an ''advanced'' nuclear weapons program in the 1990's. He did not mention the agency's finding from the day before.

He did, though, repeat the claim that Mr. Hussein was trying to buy tubes ''suitable for nuclear weapons production.'' Mr. Bush also cited British intelligence that Mr. Hussein had recently sought ''significant quantities'' of uranium from Africa—a reference in 16 words that the White House later said should have been stricken, though the British government now insists the information was credible.

''Saddam Hussein,'' Mr. Bush said that night, ''has not credibly explained these activities. He clearly has much to hide. The dictator of Iraq is not disarming.''

A senior administration official involved in vetting the address said Mr. Bush did not cite the I.A.E.A. conclusion of Jan. 27 because the White House believed the agency was analyzing old Iraqi tubes, not the newer ones seized in Jordan. But senior officials in Vienna and Washington said the international group's analysis covered both types of tubes.

The senior administration official also said the President's words were carefully chosen to reflect the doubts at the Energy Department. The crucial phrase was ''suitable for nuclear weapons production.'' The phrase stopped short of asserting that the tubes were actually being used in centrifuges. And it was accurate in the sense that Energy Department officials always left open the possibility that the tubes could be modified for use in a centrifuge.

''There were differences,'' the official said, ''and we had to address those differences.''

In his address, the President announced that Mr. Powell would go before the Security Council on Feb. 5 and lay out the intelligence on Iraq's weapons programs. The purpose was to win international backing for an invasion, and so the administration spent weeks drafting and redrafting the presentation, with heavy input from the C.I.A., the National Security Council and I. Lewis Libby, Mr. Cheney's chief of staff.

The Intelligence Committee said some drafts prepared for Mr. Powell contained language on the tubes that was patently incorrect. The C.I.A.wanted Mr. Powell to say, for example, that Iraq's specifications for roundness were so exacting ''that the tubes would be rejected as defective if I rolled one under my hand on this table, because the mere pressure of my hand would deform it.''

Initelligence analyst at the State Department waged a quiet battle against much of the proposed language on tubes. A year before, they had sent Mr. Powell a report explaining why they believed the tubes were more likely for rockets. The National Intelligence Estimate included their dissent—that they saw no compelling evidence of a comprehensive effort to revive a nuclear weapons program. Now, in the days before the Security Council speech, they sent the secretary detailed memos warning him away from a long list of assertions in the drafts, the intelligence committee found. The language on the tubes, they said, contained ''egregious errors'' and ''highly misleading'' claims. Changes were made, language softened. The line about ''the mere pressure of my hand'' was removed.

''My colleagues,'' Mr. Powell assured the Security Council, ''every statement I make today is backed up by sources, solid sources. These are not assertions.''

He made his way to the subject of Mr. Hussein's current nuclear capabilities.

''By now,'' he said, ''just about everyone has heard of these tubes, and we all know there are differences of opinion. There is controversy about what these tubes are for. Most U.S. experts think they are intended to serve as rotors in centrifuges used to enrich uranium. Other experts and the Iraqis themselves argue that they are really to produce the rocket bodies for a conventional weapon, a multiple rocket launcher.''

But Mr. Powell did not acknowledge that those ''other experts'' included many of the nation's most authoritative nuclear experts, some of whom said in interviews that they were offended to find themselves now lumped in with a reviled government.

In making the case that the tubes were for centrifuges, Mr. Powell made claims that his own intelligence experts had told him were not accurate. Mr. Powell, for example, asserted to the Security Council that the tubes were manufactured to a tolerance ''that far exceeds U.S. requirements for comparable rockets.''

Yet in a memo written two days earlier, Mr. Powell's intelligence experts had specifically cautioned him about those very same words. ''In fact,'' they explained, ''the most comparable U.S. system is a tactical rocket—the U.S. Mark 66 air-launched 70-millimeter rocket—that uses the same, high-grade (7075–T6) aluminum, and that has specifications with similar tolerances,''

In the end, Mr. Powell put his personal prestige and reputation behind the C.I.A.'s tube theory.

''When we came to the aluminum tubes,'' Richard A. Boucher, the State Department spokesman, said in an interview, ''the secretary listened to the discussion of the various views among intelligence agencies, and reflected those issues in his presentation. Since his task at the U.N. was to present the views of the United States, he went with the overall judgment of the intelligence community as reflected by the director of central intelligence.''

As Mr. Powell summed it up for the United Nations, ''People will continue to debate this issue, but there is no doubt in my mind these illicit procurement efforts show that Saddam Hussein is very much focused on putting in place the key missing piece from his nuclear weapons program: the ability to produce fissile material.''

Six weeks later, the war began.

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I have enormous respect for the Senator from West Virginia, for his years of experience and his dedication to the Constitution and his ability to protect the rightful prerogatives of this body. I do, however, disagree with him, respectfully, on the contents of his amendment.

I note, as I said this morning, the limitations in Senator BYRD's amendment would inhibit the ability of the national intelligence director to move people and money around to counter the threats facing our country. That is a major reform that has been recommended not only by the 9/11 Commission but by the witnesses before our committee and is a major reform supported by the administration.

Senator BYRD argues that the transfer authorities in the underlying bill cede too much power to the executive branch. But, in fact, the DCI currently has transfer authorities.

This is not a novel concept. We give the NID more transfer authority than the DCI currently has, but we are not taking power from Congress in any way because our bill does not change the existing process through which transfers must be approved by the appropriate congressional committees.

Mr. President, I will have more to say on Senator BYRD's amendment later.

AMENDMENT NO. 3950 TO AMENDMENT NO. 3705

Mr. President, at this point, I would like to take the opportunity to clear a pending amendment, so I ask unanimous consent that the pending amendment be set aside, and I send to the desk a second-degree amendment to the Collins-Carper-Lieberman-Coleman amendment No. 3705.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Without objection, it is so ordered. The pending amendment is set aside.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself and Mr. LIEBERMAN, proposes an amendment numbered 3950 to amendment No. 3705.

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

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

The amendment is as follows:

(Purpose: To make certain technical amendments)

On page 5, after line 2, insert the following:

(7) Grant programs under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121–5206).

On page 10, line 17, strike the semicolon and all that follows through page 11, line 7, and insert a period.

On page 12, line 5, strike ''(5)'' and insert ''(6)''.

On page 12, lines 17 through 20, strike ''technical assistance provided by any Federal agency to States and local governments to conduct threat analyses and vulnerability assessments'' and insert ''technical assistance provided by any Federal agency to States and local governments regarding homeland security matters''.

On page 18, line 9, insert ''secure'' after ''for''.

On page 23, line 18, insert ''on the basis of terrorist threat'' after ''grant''.

On page 25, line 24, insert ''on the basis of terrorist threat'' after ''distribute''.

Ms. COLLINS. Mr. President, this second-degree amendment addresses several relatively minor concerns raised by some of the Members of this body and the Department of Homeland Security about the underlying amendment. I know of no objection to the second-degree amendment. The changes it would make do not in any way affect the funding formula of the underlying amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am pleased to rise in support of this amendment. It builds on some extraordinary work done by the bipartisan membership of the Governmental Affairs Committee on a separate bill before we were assigned responsibility for this intelligence reform months ago in which the chairman and Senator CARPER played leading roles. I give them both great credit.

There is nothing more difficult than funding formulas around this place, for understandable reasons. I think this amendment strikes the right balance in the distribution of homeland security grant funds. The balance is to make certain we apply the dollars across our country in a way that protects us against the enemy we face, the terrorist enemy we face that is ruthless and unpredictable. To some extent, we think we understand them. The probabilities are they will strike more at large cities and visible and symbolic targets, but the reality is we cannot have our focus on what this enemy will do to us or aspire to do to us, be limited to the dreadful and tragic experience of September 11 in which they hit visible symbols of America's greatness because this same terrorist ilk has struck throughout the world at other kinds of targets that are not so visible, at buses with innocents on them, and other means of transportation, at gatherings of people in Iraq adjacent to places where Iraqis are lining up to apply to become security officers.

So that is the balance we are trying to strike which is to give special attention to the larger cities that are more likely to be targets but to understand that in a way that we have never experienced in our history before, all of America is potentially a target because these people do not ever play by anybody's rules of warfare. They strike at the most vulnerable targets. That means they could strike anywhere.

The Governmental Affairs Committee spent many months working on this compromise legislation. The amendment incorporates the text of that Governmental Affairs legislation, unanimously approved, to help streamline our funding for first responders around America. It ensures that a very significant part of the homeland security funding will be determined on the basis of the risks and threats that particular communities face, which moves us substantially in the direction that the 9/11 Commission recommended.

At the same time, this amendment will guarantee that each State, and therefore the localities under the State, continues to receive a minimum amount of funding to build up essential capabilities to both prevent and respond to a potential terrorist attack.

So I am pleased this amendment appears to be acceptable on both sides. I join in urging its adoption.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, as the Senator from Connecticut has indicated, the underlying amendment would implement the Homeland Security Grant Enhancement Act. This legislation is the product of three hearings and 2 years of negotiation on the Governmental Affairs Committee. It was approved by a unanimous vote, and it currently has 29 cosponsors.

It is supported by Senators from big States, such as Michigan and Ohio, and small States, such as Maine and Delaware. The widespread support in the Senate demonstrates that the amendment takes a balanced approach to homeland security funding. It recognizes that a threat-based funding formula is a critical aspect, but it also preserves and recognizes the fact that first responders in every State stand on the front lines of securing the homeland.

I am constantly reminded that two of the hijackers on 9/11 began their journey of death and destruction from Portland, ME. So small States are not immune from being used as staging grounds for terrorist attacks.

I think we have come up with a carefully balanced formula that will help make our Nation safer. Secretary Ridge frequently reminds us that homeland security starts with hometown security. Our legislation recognizes that as well.

I note that the legislation is supported by a wide variety of organizations, including the National Governors Association, the National Council of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, Advocates for EMS, the International City/County Management Association, the Fraternal Order of Police, and the Fire Chiefs Association.

I know the Presiding Officer is very familiar with this issue in his capacity as the distinguished chairman of the Homeland Security Appropriations Subcommittee, and we have enjoyed working closely with him and his staff as well.

I want to mention one aspect of the underlying bill; that is, it would provide greater flexibility in the use of homeland security funds so we can ensure that if a State needs to have more training as opposed to buying more equipment, there is more flexibility for the use of those funds in a flexible manner via a waiver from the Secretary of Homeland Security.

This was a particular concern to the Senator from Missouri, Mr. TALENT. I know having that flexibility will enable our first responders, whether they live in Maine, Missouri, or Mississippi, to be better prepared.

Mr. President, I know of no further requests for debate on the second-degree amendment nor on the underlying amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the second-degree amendment No. 3950.

The amendment (No. 3950) was agreed to.

Ms. COLLINS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I am pleased that the Senate today will accept a bipartisan amendment, No. 3705, to the National Intelligence Reform Act of 2004, S. 2845, offered by Senator COLLINS, for myself and eight other cosponsors, that will revise the formula for the allocation of State and local homeland security grant funding.

Homeland security is a national responsibility shared by all States, regardless of size. Each State has basic terrorism preparedness needs and, therefore, a minimum amount of domestic terrorism preparedness funds is necessary for each State. Our first responders in each and every State are on the front lines in defending against and preparing for terrorist attacks. We need to ensure that they receive the funding they need to prepare for and respond to such attacks.

Recognizing that every State and community should have helped to meet those needs, I authored a minimum formula for State and local basic formula grants to emergency responders that are distributed to States by the Department of Homeland Security Office of State and Local Government Coordination and Preparedness. That formula guarantees that each State—regardless of size—receives at least 0.75 percent of the national allotment to help meet their national domestic security needs.

Congress continues to recognize that every State and community—rural or urban, small or large—has basic domestic security needs and merits the Federal help to meet those needs. Both the Senate and House Homeland Security appropriations bills for Fiscal Year 2005 keep the all-State minimum formula for first responder grants that are distributed to the States.

Representatives and officials from urban States and cities have argued that Federal money to fight terrorism is sent to areas that do not need it and it is ''wasted'' in small towns. However, Congress has shown that it recognizes these highly populated, highly threatened and highly vulnerable areas have terrorism preparedness needs beyond those basic needs for each State. That is why we in the Senate last month included $1.2 billion for discretionary grants to high-threat urban areas for the coming fiscal year. The House-passed Homeland Security appropriations bill included $1 billion for the Urban Areas Security Initiative.

Not all those who are leaders in urban areas believe that every cent of State and local homeland security funding should go solely to first responders in our cities. I recall this past August, former New York City Mayor Rudy Giuliani brought a warning to emergency first responders in my home State of Vermont that should serve as a notice to all Americans. He said there was no doubt in his mind that another serious attack on the United States would be attempted, and he said it could just as easily be small town America rather than another large city.

''The risk of another attack is a very great one. . . . The biggest city and the smallest towns, both had to be prepared,'' he was quoted by The Rutland Herald. While in Vermont, Mr. Giuliani publicly lauded the value of the work that first responders in small local communities do day after day. I join him in that praise.

I remind my colleagues that the town of Shanksville, PA, where the fourth hijacked airliner, United flight 93, crashed on September 11, 2001, is a tiny town of 245 residents with only one fire truck in a small fire station. On that day, Shanksville's police officers, fire fighters, and EMS officers who raced to the crash site of flight 93 were on the front lines of terrorism response. It is a threat we cannot always predict but one that we must always try to be prepared to meet.

Officials in the current administration hold the same view. In an interview published in the 2004 edition of The Year in Homeland Security, the Director of the Office for Domestic Preparedness, Sue Mencer, stated the following: . . . ''there should be some base level funding to each state and territory regardless of size or population density. There are infrastructures everywhere, although they may not be so dramatic as a Brooklyn Bridge or Golden Gate. There are critical underground pipelines, highways, bridges that we don't think of automatically but still need to be protected.''

Critics of the all-State minimum seem to forget that since the September 11, 2001, terrorist attacks, we have asked all-State and local first responders to defend us as never before on the front lines in the war against terrorism. Emergency responders in a rural State have the same responsibilities as those in any urban State to provide enhanced protection, preparedness and response against terrorists.

Fostering divisions between States ignores the real problem: We should be looking to increase the funds to our Nation's first responders. The Hart-Rudman report on domestic preparedness argues that the U.S. will fall approximately $98.4 billion short of meeting critical emergency responder needs over the next 5 years if current funding levels are maintained. Clearly, the domestic preparedness funds available are still not enough to protect from, prepare for, and respond to future domestic terrorist attacks anywhere on American soil.

I am proud to join Senator COLLINS and my eight colleagues in cosponsoring her bipartisan amendment to revise the formula for the allocation of State and local homeland security grant funding. This amendment maintains the 0.75 percent minimum that each State currently receives under the USA PATRIOT Act to help ensure that every State can respond to its preparedness needs, but it also clarifies and recognizes the fact that some States indeed have high-threat areas. I will continue to oppose any efforts to reduce adequate support and resources for our police, fire, and EMS services in each State and community as they continue to protect us from terrorists or respond to terrorist attacks, as well as carry out their other preparedness responsibilities. We should adequately meet the needs of all of our dedicated first responders and resist efforts that would pit them against each other.

We must continue our efforts to ensure the readiness of our States and communities. Should the United States experience terrorist attacks like those we endured over 3 years ago, I want to make sure that each police officer, firefighter, or rescue worker who responds to those attacks has the best training and equipment available to get the job done. I applaud all the hard work of all our State and local emergency first responders who not only continue to carry out the day-to-day responsibilities they have always had, but also find themselves serving on the front lines in the war on terrorism.

AMENDMENT NO. 3705, AS AMENDED

Ms. COLLINS. Mr. President, I know of no further debate on the underlying amendment, the Collins-Carper-Lieberman-Coleman amendment No. 3705.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 3705, as amended.

The amendment (No. 3705), as amended, was agreed to.

The PRESIDING OFFICER. If there is no objection, the motion to table is laid on the table.

Mr. LIEBERMAN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I note the Senator from North Dakota is on his feet. I wonder if the Senator could inform us whether he is seeking recognition to talk about the bill or offer an amendment or morning business.

Mr. DORGAN. Mr. President, I seek recognition to speak about the bill and about Senator BYRD's amendment and generally about the subject the Senate is considering.

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

AMENDMENT NO. 3845

Mr. DORGAN. Mr. President, let me say that the Senator from West Virginia has done a great service today by

pointing out that there is a substantial difference between flexibility and accountability. I cosponsored the amendment offered by Senator BYRD, not because I want less flexibility but because I demand and expect that we should have accountability in terms of how money is spent by the Federal Government, especially in these areas.

I don't think there is one instance in which the administration would argue they have not been given the flexibility to move funding from one account to another in order to accomplish their specific goals and purposes in defeating terrorism. The Congress has been extraordinarily generous in working with the administration in every conceivable way to move money around to areas where they need that money with which to fight terrorism.

Senator BYRD, in his amendment, indicates that he thinks we should continue to have some accountability. Under the pending bill, the Treasury Secretary is authorized to create appropriations accounts, to which the national intelligence director then can transfer funds, and there are really no limits on how those funds would be used at this point.

Let me give a short description of some of the angst I have about this when you just provide funding and say: Katey, bar the door, do what you want, and don't worry about how we feel about it.

This is a tiny little issue, but there is a small area down in the Treasury Department called the Office of Foreign Asset Control, OFAC. Its purpose is to track money that goes to fund and support terrorist organizations so we can shut down that funding. That is the purpose of OFAC. I found that OFAC has 21 people tracking American tourists traveling to Cuba. These are American citizens who are suspected of trying to take a vacation in Cuba. We have 21 people in an agency designed to try to interrupt the flow of money to terrorists who are now spending their time trying to shut down travel by the American people to Cuba.

I will give you an example. A young woman named Joni Scott went to Cuba. She didn't have a license to go there. She went there to distribute free Bibles on the streets of Havana and other Cuban cities. She is a devoutly religious young woman. I have met with her. She went to Cuba to distribute free Bibles. OFAC tracked her down and slapped her with a $10,000 fine because she didn't have a general license to go to Cuba.

And there is Joan Slote, a 76-year-old grandmother who likes to ride bicycles, who signed up with a Canadian company for a bicycle tour of Cuba. She happens to be a senior Olympian who rides bicycles in the Senior Olympics. They tracked her down and slapped a $10,000 fine on her. It was later reduced, but they decided they were going to try to attach her Social Security check because she did not pay her fine on time. That was because she had been in Europe. She rushed back home when her son had a brain tumor and was dying, went to her son's bedside, and was not at home to get her mail. What was her transgression? She was an American who decided to ride a bike in Cuba.

My point is this: This is a rather small agency, OFAC. And when Paul O'Neill was the Secretary of the Treasury, I asked him at a hearing, because I was the chair of the appropriations subcommittee—I said: Mr. Secretary, wouldn't you really prefer to use all of those assets at OFAC to track terrorists? He didn't answer for three or four times. Finally, about the fifth time, he said: Of course.

If I had my choice, that would be the most productive thing. We now discover that more and more of those people at OFAC are being used to track Americans who travel to Cuba. I don't understand that. But it goes to the point that Senator BYRD has made. Should we have some accountability? When we decide to take the taxpayers' money and appropriate that money, should we have some accountability with respect to how the money is spent? This isn't about Republicans or Democrats, conservatives or liberals; it is about accountability.

My colleague from West Virginia, a unique, extraordinary Senator, often pulls from his pocket that well-worn and underlined copy of the Constitution and he asks whether the Senate is carrying out its responsibility. Because after all, this is a Government with several branches. We want to work together. We certainly all want to fight terrorism. There is no question about that. We are willing to appropriate the funds with which to combat terrorism, but we are not all willing to say: By the way, here is the check, spend it the way you want. Congress needs to be involved.

This is not about turf. This amendment described today by Senator BYRD is a bipartisan amendment. But it is not about turf. It is about Republicans and Democrats together who have joined to take a look at this issue and say: In this circumstance, we believe there ought to be some fundamental accountability.

Mr. LIEBERMAN. Mr. President, would the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. LIEBERMAN. I appreciate what the Senator said. I must say that Senator COLLINS and I in crafting the underlying bill were very careful to make sure we did not diminish the accountability the national intelligence director will have to the internal executive branch budget procedures or to Congress. There is a movement of authority here. The movement of authority is from the Department of Defense to the national intelligence director. The Byrd amendment would eliminate that, would force the money to go back to the Department of Defense.

I want to assure the Senator that internally the limits of transfer authority in our bill are quite clear. The national intelligence director has to get approval from the Office of Management and Budget.

More to the point, on congressional oversight, our legislation doesn't alter today's balance between the executive and legislative branch at all. For example, on page 28, paragraph (4) of the bill:

> Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for appropriate congressional committees.

Page 29, paragraph (5)(A):

> The National Intelligence Director shall promptly submit to appropriate committees of Congress a report on any transfer of personnel . . .

And finally: ''Any transfer of funds or personnel cannot exceed applicable ceilings established in law for such transfer'' by that Congress.

So my question is why my friend from North Dakota thinks in any way this proposal, which does move budget authority from the Defense Department to the national intelligence director, alters the authority of Congress to hold these people accountable?

Mr. DORGAN. Mr. President, I cosponsored the amendment not because of what I think but because of what I know. Let me describe for the Senator from Connecticut a circumstance that I believe means less accountability for the Congress and a circumstance that puts the Congress in a position of having to act retroactively with respect to an action that is already taken which dramatically changes the prerogatives of Congress.

As I understand it, under the bill, the Secretary of the Treasury is authorized to create appropriations accounts to which the national intelligence director then can transfer funds. As I further understand it, the underlying bill includes no limits on how those funds can be used once they are transferred.

As I understand it, the intelligence director would be authorized to transfer about $3.5 billion from the defense budget, and that gives the director a substantial amount of transfer authority never contemplated by Congress. The circumstance is that Congress would have to take action only retroactively to transfers that are made by the national intelligence director, which means that director begins and works to expend funds by their own volition.

My colleague from Connecticut indicates that they must get approval from the Office of Management and Budget. I would point out, that is just the administration giving itself approval to do what it wants. That is not a check and balance of any type.

My point is this: Once these transfers are made into this account and from the account, the only action that would then be available to Congress is some retro-action to say that is not what we intended. That puts Congress in a circumstance that, in my judgment, is disadvantageous for the body

in this Government that has the power of the purse.

I go back to this point, and this is a small point, but it is one that is instructive to me: If we do not tell those for whom we appropriate money how we want those funds to be spent, then, Katey, bar the door. Then you have a circumstance of the type I just described to my colleagues. I bet there is not one colleague in this Chamber who would stand up and say this young woman named Joni Scott should have been fined for going to Cuba to distribute free Bibles. I bet there is not one person in this Chamber who would stand up and say: I think we ought to fine a good Christian, a young woman who goes to Cuba and distributes free Bibles.

That is what the people in OFAC are doing. They are tracking people down, such as Joni Scott. That is not the intent, in my judgment. When we appropriate funding—and we are going to appropriate a lot of it—we are in every circumstance accommodating to the administration when it needs to move money for a good purpose, to combat terrorism. When we appropriate that money, we demand accountability. We expect and demand accountability. That is what the Byrd amendment provides.

It is not a radical amendment. First of all, it is bipartisan, and, second, it is just the most fundamental step that, in my judgment, we ought to take as a Congress because we, after all, are the ones who decide how much the American people pay in taxes, what do they have to provide for Government, and then we are the stewards of how that money is spent.

Without this amendment, we have lost control over the stream of this funding. That is why I was a cosponsor of the Byrd amendment, again a bipartisan amendment.

I think it is the right thing for us to do.

I must say to my colleague from Connecticut, I honestly do not think this amendment in any way undermines the Collins-Lieberman bill. I think, frankly, it will strengthen that bill and say to every Member of the House and Senate, Republicans and Democrats: We are going to do this in a way that requires accountability. What better message, in my judgment, than that message? So I actually think it strengthens the underlying bill.

Mr. LIEBERMAN. Mr. President, if I may respond.

Mr. DORGAN. I will be happy to yield for a question.

Mr. LIEBERMAN. Then I will be happy to yield back.

There is a misunderstanding, and I want to see if I can clarify it. There are three parts of the amendment offered by the Senator from West Virginia and others. Two have to do with transfers of personnel and money and whether they can be limited in any way.

We believe it is not right for Congress to limit the authority—here I mean amounts of money or personnel of the nature of how long the national intelligence director, whom I have been calling the general we do not have now of our intelligence forces, can transfer personnel or money to fight the war on terrorism, to plug a gap that he sees existing in his ranks, to respond to a crisis that occurs somewhere in the world. That is the kind of flexibility we want to give him. That is subject to oversight, but that is a limitation on the power the national intelligence director has in our bill, recommended by the 9/11 Commission, supported by the families of those who died on 9/11.

That is one part. We can argue about that. But it is definitely a cut in the authority of the national intelligence director to help us wage war on terrorism.

Mr. DORGAN. Mr. President, if I can reclaim my time for a moment on that point because I think this is a fruitful discussion, the authority in the underlying bill given to the national intelligence director is extraordinary and above that which we provide in most other circumstances with respect to appropriations. The two Senators may well intend that. I expect they do intend that. Our only point is there has never been a circumstance, to my knowledge, where someone has come to us on an urgent basis saying, We need to plug this hole, we need to move funds, there has never been a circumstance in which the Congress says: No, you cannot do that. We have always said: Absolutely, let us work with you.

Mr. LIEBERMAN. Mr. President, I want to make clear again, there is an alteration of authority and accountability here but not between the executive branch and Congress. The alteration of authority and accountability is between agencies of the executive branch, between the Defense Department and the national intelligence director because, as has been said over and over—and talk about accountability, we are spending, by most estimates—and I cannot say the exact number because it is classified—we spend over $40 billion a year on our intelligence agencies, and the 9/11 Commission and Members of this Congress know it and tell us there is no one in charge. What kind of accountability is that?

One of the main purposes of this bill is to put someone in charge, the national intelligence director, and to hold him accountable.

I want to repeat, there is nothing in this bill—there may be some alteration of authority that comes through in the congressional oversight reforms that are coming from Senator MCCONNELL and Senator HARRY REID among different committees of the Congress, but all the review and approvals that Congress has for appropriations now will exist when this bill passes. But the national intelligence director will have more authority than the Director of Central Intelligence has today. It is true the Department of Defense, which currently, strangely, receives more than 80 percent of the intelligence budget and then funnels it out to the intelligence community, will lose some of that authority.

There is nothing in this bill—if you see it, bring it to us. Senator COLLINS and I will review it and see if we can alter it. That is not our intention. I want to say what bothers me about the amendment, apart from the transfer, is that it strikes a section in our bill which we thought was process, was routine, which simply says: If we are to give this national intelligence director some authority for the budget, we have to give the Treasury the authority to set up accounts for that person in the Treasury so he can spend it, but he has to spend it according to the appropriations of Congress. He has to spend subject to all the oversight, notification, and accountability of Congress.

I remain puzzled, and I do feel very strongly that this amendment will do serious damage to our proposal, unanimously adopted by the committee based on recommendations of the 9/11 Commission and strongly supported by the families of the victims of 9/11.

Mr. DORGAN. Mr. President, let me just say, first of all, you can delegate authority, but you cannot delegate responsibility. No one can delegate responsibility. We have certain responsibilities for the taxpayers' money. I must say the amendment that has been offered, in my judgment, conforms to the Constitution's understanding of what our responsibilities are.

We have a disagreement. I don't want that disagreement to undermine my comments about the work that Senator COLLINS and Senator LIEBERMAN have done. They have done a lot of work on this bill, perhaps more than anyone else in the Congress, with hearing after hearing after hearing. Very few of us not on that committee understand the hours and the work they put in on this product. I don't mean by cosponsoring this amendment to denigrate or undermine their work, I mean to improve on that work.

And let me just make this point: We have a very fundamental disagreement, the Senator from Connecticut and I, because he believes there is no new authority given to the national intelligence director. As I understand this, what happens is, the Treasury Secretary creates appropriations accounts, and he creates appropriations accounts to which the national intelligence director can then transfer funding.

I also understand under current circumstances, several billion dollars would be transferred to those accounts, and then at some point later, if the Congress determines the expenditures for which that sum of several billion dollars has been committed is not appropriate to what the Congress intended, Congress can then retroactively evaluate how to deal with that. I am saying I believe it puts us in a position, historically, that we are not

in with respect to our role as appropriators.

I think the circumstances have always been that money is appropriated through an appropriations process, not through an authorization. The bill we have today is an authorization. I happen to believe this authorization bill should give some additional authority to a new person—in this case the national intelligence director—but I am going to speak for a moment, when we finish this discussion, about the stovepipes and my concerns about what is going on in intelligence generally and why we are in a position, I think, of some vulnerability based on what is not being done.

So I happen to think that it is useful to put someone in charge, but putting someone in charge does not mean that we ought to say to them, oh, by the way, here is a pot of money, move it around as you wish, let us know how you used it, and then we will take a look at it and see whether we evaluate that to have been appropriate use. That is not the way we do things in Congress.

Mr. LIEBERMAN. Will the Senator yield for a moment?

Mr. DORGAN. Of course, I would be happy to yield.

Mr. LIEBERMAN. I could not disagree more with the Senator's understanding of the language in the bill. If there is any basis to the Senator's understanding, we ought to sit together and see if we can fashion a change, because the intention, as I understand it—and perhaps the Senator from Maine may want to speak to this section—was to simply make clear that as we are giving budget authority, and we are giving authority to the NID, but we are holding him or her accountable—as we give that authority to the NID, an account has to be created in the Treasury where he can receive that money, which now goes to the Defense Department.

Our reading of this part of this amendment was that if the formation of these accounts for the national intelligence director at the Treasury is prohibited, then the money is going to go back to Defense again and they are going to undercut the new national intelligence director and go back to the stovepipes.

We have no intention to create pots of money that the NID will do whatever he wants with. Incidentally, any transfer of funds from within the intelligence community—and the budget of this agency itself is not going to be large; it is going to oversee a budget for agencies that is going to be large—will have to be made according to the normal procedures with notification to Congress. We have not altered that at all.

We have even said explicitly that the power—we want to create as much strength in this office as possible. The power in the Appropriations Committee each year to set certain ceilings on transfers remains untouched. We reaffirm it in our proposal.

So we have very different views of this part of the Byrd amendment, and if there is any basis for what the Senator from North Dakota is saying, we ought to sit down and figure out how to correct it because we just want to help this office to work. We do not want to give them any authority to hold billions of dollars of money without holding them accountable.

Mr. BYRD. Will the Senator yield?

Mr. DORGAN. I would be happy to yield to the Senator from West Virginia.

Mr. BYRD. Why not take more time? What is all the rush? Why not take time? That is all I am asking for is take time. The distinguished Senator has offered to sit down with the distinguished Senator from North Dakota. Why do we not take time and try to work this out? There are many other questions. That is what I am asking. Let us have more time. We are being forced to operate under the gun here and that does not lend itself to very wise legislation. That is what I am asking: How about more time? We might resolve several of these problems then.

Mr. LIEBERMAN. I say to the Senator from West Virginia——

Mr. DORGAN. I would be happy to yield for a response.

Mr. LIEBERMAN. I thank the Senator, and I will give it right back.

I say to the Senator from West Virginia most respectfully, we are here. We have been working on this bill in our committee since the end of July. We have listened to a lot of people in the committee. We have altered parts of it. Just last week in 5 days of consideration, several of our colleagues introduced amendments. We thought they would do damage to the bill but they had some merit. We reasoned with them. We came up with clarifications. Sometimes we accepted whole amendments.

Perhaps there is some lack of clarity in this particular part that we can resolve together, but on the overall question, I say to Senator BYRD, we do not have time. It is 3 years plus since these terrorists struck America and killed 3,000 of our innocents, men, women, children. Every form of citizen and noncitizen happened to be in the wrong place at the wrong time.

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

Mr. DORGAN. Mr. President, let me reclaim my time.

Mr. LIEBERMAN. Well, I did not finish but he can take it over. I just want to say, we are under threat. This Capitol——

The PRESIDING OFFICER. The Senator yielded for the purpose of answering questions not for a debate.

Mr. LIEBERMAN. I thank the Chair.

Mr. DORGAN. In my judgment, the discussion we have just had is easily resolved. Either the Senator is providing much greater authority and therefore more flexibility at the expense of less accountability to the Congress or he is not. As I read this, I believe the amendment that has been offered by Senator BYRD, Senator STEVENS, Senator INOUYE, Senator WARNER, myself and others, a bipartisan amendment, does not in any way weaken the bill that came to the Senate floor on which the Senator has spent a lot of time. I think it, in fact, strengthens it. It strengthens the role of Congress and I think makes this a better bill.

So I understand the Senator believes that the way the Senator has created this underlying Collins-Lieberman bill does not provide less accountability for Congress. The Senator has described it as much better flexibility, and that flexibility, as I read this, comes at the expense of accountability for the Congress.

My only point is, all of us want exactly the same thing. We want this to work. If there is anybody in here who does not want this to work, they do not belong in this Chamber. We want this to work. Why do we want it to work? Because we know people want to murder innocent Americans. They want to commit acts of terror in this country and we need to stop them.

Now, how do we stop them? With good intelligence.

I cannot say how profoundly disappointed I am at the poor intelligence we have been given as a Congress in recent years. Somebody needs to answer to that. Somebody needs to be accountable for that. In part, that is what Senator LIEBERMAN and Senator COLLINS are trying to do with this legislation. That is why I commend them for their work.

Let me describe a continuing problem that we have with our law enforcement and intelligence communities in their efforts to prevent another terrorist attack.

On September 10, 2001, the day before 9/11, two messages apparently related to the 9/11 hijackings were intercepted by our Government, by the National Security Agency. The Arabic language messages said, ''The match is about to begin'' and ''tomorrow is zero hour.''

Those messages were not translated until the day after 9/11.

You would think that the FBI's translation capabilities would have been vastly improved in the intervening three years. Yet last week we learned that the Inspector General of the Department of Justice had issued a report, which found that three years later, the FBI has neglected to translate hundreds of thousands of hours of intercepted communications among suspected terrorists.

This is not about politics at all. There is no partisanship in this. The question is, Do the FBI, CIA, the NSA, and others do an effective job or do they not? Can we prevent acts of terrorism or can we not?

Let me read this, from the Inspector General's report: Three years after September 11, more than 120,000 hours of potentially valuable terrorism-related recordings have not yet been translated by the linguists at the FBI.

In fact, some recordings have been deleted from audio computer files, and FBI officials speaking on condition of anonymity said officials have had to go back to original al-Qaida recordings on some occasions to try to restore them, after realizing that copies had been deleted because of capacity problems.

The inspector general's report said the linguists might not have realized that material was deleted unless a case officer simply happened to notice it missing from the final transactions. The FBI had failed to institute necessary controls to prevent critical audio material from being automatically deleted.

After September 11, 2001, the FBI director said this:

The FBI needed to change from an agency primarily focused on investigating crime to one whose primary focus is the prevention of future terrorist attacks.

The Inspector General says:

Yet necessary system controls have not been established to prevent critical audio materials from being automatically deleted, such as protecting sessions of the highest priority on digital collection systems, active on-line storage until linguists review them.

This is the Inspector General, again. He says:

The results of our tests showed that three of our FBI offices tested had al-Qaida sessions that potentially were deleted by the system before linguists had a chance to review them.

There is something wrong here. How can you have 120,000 hours of intercepted phone messages and all kinds of audio recordings—terrorists, al-Qaida recordings—that have never been listened to? Is there a recording in that 120,000 hours that sounds like the recording on September 10, 2001, a recording that says: ''Tomorrow is the zero hour,'' and no one has listened to it? I don't know.

The American people understand, I think, that the capability of our intelligence system, the CIA, the FBI, and others, will determine whether we are successful in preventing another terrorist attack.

So it is disheartening when you see the same failures cited over and over, with little improvement.

Let's go back to August 2000, before this administration took over. In that month, we had a report of the National Commission on Terrorism—a report authorized by this Congress, issued by a commission chaired by Ambassador Paul Bremer. This was the same Paul Bremer who later went on to head the Coalition Provisional Authority in Iraq.

The Bremer commission, 4 years ago—this is before 9/11—had this to say:

The FBI's ability to exploit the increasing volume of terrorism information has been hampered by aging technology.

All U.S. Government agencies faced a chronic shortage of linguists to translate raw data into useful information. This shortage has a direct impact on our counterterrorism efforts.

Mr. Bremer said then, over 4 years ago, that what we need are additional linguists, we need to interpret the raw data, we need to be able to understand it, determine what it means for this country's safety.

Here we are 4 years later and we get an Inspector General's report that says there are 120,000 hours of potentially valuable terrorism-related recordings not even translated.

Indeed, the Inspector General of the Department of Justice concluded that one-third of terrorism-related audio recordings were not translated within 12 hours as mandated by the FBI rules. There are 123,000 hours in languages primarily related to counterterrorism—Arabic, Farsi, Urdu, Pashtun—that have not been translated; 370,000 hours of recordings in languages connecting to counterintelligence probes had not been deciphered by that time. That is nearly one-half million hours potential leads to terrorist plots, sitting there, uninterpreted.

We can pass legislation. We can have a debate about all these issues. But if agencies can't get their act together, can't do the job, don't even interpret the al-Qaida recordings to understand what is there, how on Earth are we going to protect this country?

The 9/11 Commission, incidentally, the Commission which has prompted this bill coming to the floor of the Senate, says the following:

The analysts for the 9/11 Commission

. . . had difficulty getting access to the FBI and intelligence community information they were expected to analyze. The poor state of the FBI's information systems meant that such access depended in large part on an analyst's personal relationships with the individual in the operational units or squads where the information resided. For all of these reasons, prior to 9/11 relatively few strategic analytic reports about counterterrorism had been completed. Indeed, the FBI had never completed an assessment of the overall terrorist threats to the U.S. homeland.

And I continue to quote:

The FBI did not have an effective intelligence collection effort. The FBI did not dedicate sufficient resources to the surveillance and translation needs of counterterrorism agents. It lacked sufficient translators proficient in Arabic and other key languages, resulting in a significant backlog of untranslated intercepts.

This from the 9/11 Commission. Following the release of this information from the 9/11 Commission, we now have the release of the Inspector General's report, which is absolutely stunning. It is astonishing to receive a report that, nearly 4 years after a recommendation was made by the Bremmer-Sonnenberg Commission, 3 years after we were attacked on 9/11, that we have 120,000 hours of recordings of intercepted information, a portion of which is from al-Qaida, and it has not yet been interpreted or translated. This is unbelievable.

I talked for a few moments about accountability. Where is the accountability here? Who is accountable for that? Who is responsible for that?

I want to make one other point, if I might. Again, I know I had a discussion with my colleague from Connecticut. My colleague from Maine is on the floor. I don't know whether she heard me, but I said I appreciated the work the two have done to bring this to the floor. Much of it has great merit, in my judgment. Much will be very protective of this country's interests and advances our interests in combating terrorism. I do support the amendment because I think that amendment will strengthen the bill. But let me say one other thing. The 9/11 report is a roadmap and we are using that roadmap in an attempt to construct some legislation here. Other roadmaps, for example, include this Inspector General's report of which we have just become aware. That ought to tell us something about where we are headed here. It is not good.

Let me mention one additional point. As we evaluate what yet needs to be done to protect this country, and discuss issues of transparency, there remain 28 pages of information up in the Intelligence Committee that should still be released. They are classified ''top secret.'' Some in the Senate have read this material; all have the opportunity to read it. It comes from the December 2002 report of the Joint Intelligence Committee of the House and Senate that was sent to the White House and then was published. That report was on 9/11, what happened, and how it happened. That report was published in the December 2002 with 28 pages missing, and the 28 pages deal with Saudi Arabia. That is what has been said publicly, disclosed publicly, but yet they are deemed top secret and the American public is not able to see them. Then, the chairman of the Senate Intelligence Committee, RICHARD SHELBY, indicated that he thought 95 percent of it could be easily declassified. The Foreign Minister of Saudi Arabia thought it should be declassified. Yet it has been classified by the White House, which refuses to share this information with Congress and the American people.

I believe, once again, that all of us should continue to ask the White House to declassify those 28 pages. That, too, is a contribution to understanding what happened and what we do about it.

Those 28 pages, in my judgment, should be released. They cannot as long as they are classified ''top secret.'' In my judgment, they should be declassified. Again, Senator SHELBY indicated that he thought 95 percent of it could easily be declassified, and, as I indicated, the Foreign Minister of Saudi Arabia called for its declassification. Considering that fifteen of the 19 terrorists who struck this country were Saudis, I think our country deserves to get to the bottom of this.

I believe, once again, as we finish discussing these issues on intelligence, 9/11, and how to strengthen this country, how to prevent future acts of terrorism, that these 28 pages ought to be made available to the American people.

I came to the floor today to talk about this inspector general's report and to weigh in briefly on an amendment offered by my colleague, Senator BYRD.

Let me conclude as I started by saying that I believe Senator BYRD has done a great service to the Senate by once again saying there is merit in many of these proposals and that he doesn't come to the floor to denigrate these proposals. He comes to the floor to strengthen these proposals. I agree with him that we have a government in which we have separating powers with respect to the ability and the fight to try to prevent further acts of terrorism from occurring in this country.

All of us need to work together. But we need to work smart. Working hard and working smart sometimes can be two different things. I hope we will work smart working together to have accountability in Congress to provide the flexibility while still retaining accountability so we can create this new agency, get rid of these stovepipes, and have agencies that are forward working, that will share information which will protect this country from future acts of terrorism. All of us share that goal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I note that the Senator from North Dakota gave a very troubling and compelling example of the fact that the FBI is so far behind in translating critical messages and documents. I am troubled by that, also.

Where we may differ is, I believe, that the authority given to the national intelligence director by the bill will allow us to address that problem. Now we will have one person in Government who is accountable and responsible and who will be able to—unless the Byrd amendment is agreed to—transfer the people and the funds necessary to tackle that backlog. That can't happen because of a very cumbersome process. I see our legislation and the authority it gives the new NID to be critical in allowing us to address just those kinds of problems.

We know there is a shortage of linguists throughout the Federal Government, but we also know there are thousands of linguists. Some of them are in the FBI, some of them are in the CIA, and some are in various other agencies. If we had a national intelligence director who was able to marshal those resources, then we could get rid of those backlogs. I think that would be very helpful.

I have other comments I want to make in response to the Senator's comments on the Byrd amendment.

Mr. DORGAN. Mr. President, will the Senator yield for one point?

Ms. COLLINS. If I could complete my sentence, I would be happy to yield briefly for a question.

The Senator from Missouri has been waiting for some time to speak on the amendment that was just cleared on homeland security grants. I will yield briefly for a question.

Mr. DORGAN. I thank the Senator.

I only make the point that I don't think any of us disagree with the point of having sufficient flexibility so the agencies will make decisions to hire people to translate the tapes. Somebody must be accountable today—not just tomorrow—for 120,000 pages not being translated.

My point is, whether Senator BYRD or myself or any other Senator, we all want sufficient resources to be devoted to the task at hand—especially the urgent task at hand. With or without the kind of flexibility you provide in this bill, I believe the evidence is that in every circumstance in the last 3 years when the administration asked for flexibility in moving funding, it has been granted by this Congress, and it has done so immediately. I know that because I am an appropriator and I see what comes to us. We move it immediately.

I wanted to make the point that I don't think there is any disagreement at all about our interest in seeing critical issues funded. We all want that to happen.

Ms. COLLINS. Mr. President, reclaiming my right to the floor, let us look at what happens under the current system when funds are reprogrammed. I would like to quote from the acting CIA Director John McLaughlin testimony that he gave before the Senate Armed Services Committee which parallels conversations that Senator LIEBERMAN and I had with him privately. It goes directly to this point of the need for a more agile system.

Yes, the DCI has some reprogramming authority now. But let us look at the way it works. Listen to what John McLaughlin says:

> Typically you require the approval of the agency that is surrendering the funds. Then you require the approval of the department head who overseas the agency. Usually that is the Secretary of Defense. Then you require the approval of OMB. Then you require the approval of six congressional committees. Typically that takes 5 months.

I want to repeat that. That reprogramming takes 5 months, on average.

John McLaughlin goes on to say:

> So you can see that is not very agile to meet the needs of today. My view is that the national intelligence director ought to have the authority to move those funds.

We are facing an agile enemy, and what are we putting up against him? A system where it takes 5 months to move funds from one category to another.

I wish to address the issue of the accounts under the bill, which both Senator BYRD and Senator DORGAN have addressed. These are simply accounts that allow the NID to receive the appropriations. That is all they are. The accounts set up under our bill do not give the NID any additional authority. These are just regular Treasury accounts.

Why are they needed? They are needed because the money now is funneled through the Department of Defense.

If you are going to allow the NID to receive the appropriations from Congress from a mechanics standpoint, you have to have a mechanism whereby the Treasury Department sets up the accounts for him. That is all this is. In fact, I refer to page 24, line 12, of our legislation. These accounts are set up explicitly ''for the purpose of carrying out the responsibilities and authorities of the director under this act.''

The accounts themselves do not allow or authorize the NID to transfer funds. There is transfer authority. It is on page 27 of the bill. These authorities include a number of important safeguards.

First of all, transfers will still require congressional approval just as they do now. We are not changing the balance of power between this new position and the Congress. The transfers are subject to the applicable ceilings established in law to the appropriation ceilings. The transfers cannot be made unilaterally by the NID. They require the approval of the Director of Management and Budget.

Finally, the NID must consult with the affected agency heads, but no longer will he have to get the approval of the agency head and then the department head and then Office of Management and Budget and then Congress—that whole intricate system. We would allow consultation. Then the NID can move the money with the approval of OMB and subject to the same congressional review we have now. This is not a radical new concept. It is an essential authority. We cannot afford to have a process that takes 5 months for money to be moved from one account to another.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 3705

Mr. TALENT. Mr. President, I thank the Senator from Maine for her comments. I am going to make a couple of comments about an amendment the Senate adopted an hour or two ago that I am strongly supportive of and was pleased to cosponsor. I want a little more on the record about what that amendment does.

As I travel around Missouri and talk with first responders about homeland security, there is a consistent theme I hear. This goes back several years ago when I was not even in the Senate and was just campaigning. Over and over again, what I heard from fire chiefs, local public health authorities, police chiefs, and sheriffs was this: Look, we thank the Federal Government for sending money to help be prepared, but do not tell us in a detailed way what to do with the money.

I had one fire chief from Missouri say his big fear is: They will send the money and I will need the dollars to buy a better communication system so

that in the event there is a terrorist-related disaster, I can find out where my guys and gals are and tell them where to go. My big fear is they will tell me I have to buy HAZMAT suits when I don't need HAZMAT suits, because we already have in Missouri a tremendous HAZMAT regional team that I would call if we ever had that problem.

This concern resonated with me. I said to myself, that is what the Federal Government will do. It will send them the money but then tell them what to do with it. Accountability is fine. It is fine maybe to have certain standards in certain areas that are off limits—maybe you do not want them to spend the money on routine personnel costs. But I am a big believer that our first responders are best prepared to handle disaster-related emergencies when they prepare themselves better just to handle emergencies. The kind of problems or threats associated with terrorist disasters are 80 percent the same as with any other disaster—fire, people being crushed or trapped in buildings. The better they are prepared to do their job on a day-to-day basis, the better they will be prepared to protect, help, cure, or get us loose from some terrorist-related disaster.

After I came to the Senate, I found out in large part we have, unfortunately, done exactly what they were afraid we were going to do, which is send them the money with so many strings attached that they do not have the flexibility to use it the way they want.

We had an example of this in Missouri last year when Senator BOND and I were contacted by the local Jewish community in St. Louis which was hosting the Maccabi Games—like the international youth Olympics for Jewish youth from around the world. Those games drew over 5,000 young Jewish people from around the world. The Maccabi Games were an obvious target for a terrorist threat—that is just a matter of common sense—and there were a lot of extra costs associated with protecting the games.

The local hosts wanted some of those costs reimbursed. We certainly understand that. We tried to get money that had already been assigned to the State of Missouri reprogrammed or changed so they could use it for this obviously necessary purpose, and we could not. The statute was too closed to let the money be reprogrammed, despite the best efforts of Senator BOND and I.

It turned out that the Maccabi Games went on without incident, and we are all very grateful. But the problems remain for the discretion on the part of the Secretary of Homeland Security and the Director of the Office of State and Local Government Coordination to at least have the authority to entertain a waiver application by States to reprogram dollars where, at least, some unexpected need arises.

I joined with Senator COLLINS in cosponsoring legislation to that effect. I offered a sense-of-the-Senate resolution on the Homeland Security appropriation which did get adopted by the Senate and had a colloquy with Senator COCHRAN at the time about the need to follow up on this issue. I was very pleased to cosponsor with Senator COLLINS, an amendment that, among other things, does create that kind of waiver authority for the Secretary of Homeland Security and for the Director to help out in instances such as that.

I congratulate the Senator from Maine for her interest. She has heard the same things I have heard. She knows the need to do something about it. I am very pleased that with the adoption of that amendment, we have taken a step in that direction. It is not as far as we need to go, in my judgment. We can trust our first responders more than we will trust them even with this amendment becoming law—and I hope it does become law—but it is a step in the right direction. I will keep working in that direction. The people of Missouri and the people of the country will be better off as we make progress toward that end.

To reiterate, as I have traveled across the State of Missouri discussing homeland security, nearly every police chief and every first responder has told me the same thing: Don't tie our hands on how we are going to use money you give us. Leave us some discretion on how to use those funds. At the same time, the Department of Homeland Security asserts it must tightly control how every dollar is spent. I appreciate the need for accountability given the department's mission. I also appreciate that in many instances our first responders know best how to allocate these funds and that sometimes very legitimate concerns fall outside the narrow spending guidelines of the department.

For example, in St. Louis last year, our local Jewish community hosted the Maccabi Games, an international Jewish Youth Olympics, which drew over 5,000 Jewish youth from around the world. Given the security environment, Missouri's Homeland Security Office threat assessment team stressed the need for greater security but lacked the latitude to reallocate even a modest sum from the monies awarded to the State. Despite all of our efforts here, they were unable to free up dollars to provide for the necessary security.

Thankfully, the event ended without incident, but it still illustrates the need for discretion on the part of the Secretary and the director of the Office for State and Local government Coordination to approve waiver applications on the part of the State to reprogram some of their Federal grant homeland money when some new kind of security issue arises that was unforeseen when they originally applied for those grants.

Last year, I engaged in a colloquy on this floor with Chairman COCHRAN on this issue and have been working since arriving in the Senate with Chairman COLLINS to craft language that would provide State and local governments with flexibility in the reallocate a portion of homeland security grant funds based upon the changing threat environment. Last week I successfully offered an amendment to the Department of Homeland Security Appropriations bill that addressed this issue.

I am pleased that Senator COLLINS has included in her amendment language that we worked on together over the past year to provide the discretionary authority needed by the State homeland security officials.

Ms. COLLINS. I appreciate the leadership of the distinguished Senator from Missouri to allow greater flexibility for State and local officials in spending homeland security grant funds. I agree that greater flexibility is needed to use homeland security funds to meet special security needs. I am pleased to include in my amendment language Senator TALENT and I have crafted over the past 18-months which last week he made the subject of a sense of the senate resolution granting authority to the Director of the Office for Domestic Preparedness to approve the reallocation of funds available to State homeland security officials in unspent homeland security funds. I am confident that this language would allow State and local officials to reallocate homeland security grant funds to provide greater safety for special security events like the Maccabi Games. Senator TALENT has been tireless in his efforts to pass his measure and achieve this flexibility to help local first responders and I am proud that we could include it in this amendment. I look forward to continuing to work with the Senator from Missouri on this important issue.

Mr. TALENT. Mr. President, I will make a comment or two on the bill as a whole. I will not hold the Senate up a long time. We are trying to get this bill done, and I fully support that.

There is an area of the bill I would like to register, for the record, concern on the part of this Senator. Probably the bill's managers will recognize the legitimacy of that concern.

First, I want to say how much I have appreciated the work by the Senator from Maine and the Senator from Connecticut on this bill. I have enjoyed this debate and enjoyed the part that I played in it—not that it has been significant but just attending the briefings, visiting with the Senators on and off the Senate floor. In my work on the Armed Services Committee, we have had hearings on this subject.

This has been handled in the way the American people like to see the Senate handle things. It has been bipartisan in the best sense of that word—not that we have tried to conceal legitimate differences of opinion that sometimes separate the two parties, but because we have understood that the right way to deal with those differences is to reconcile them where we can, to have

them out without being personal or political about it, and understand we are all working for the good of the American people and the security of the country.

We can all agree, having been here now through almost this entire Congress, that unfortunately, the Senate does not always operate in that ideal fashion. I believe it has operated in that way on this bill, and the leadership of the two Senators is the reason. It is clear from listening to this debate and watching it on TV in my office that both of these Senators have done their due diligence. They know their subject. There has not been a point raised that they were unfamiliar with. That has been very impressive to me and has led me to decide that I am going to give them the benefit of the doubt on amendments that are offered because clearly they have studied this. It is not a case where they are refusing to consider any concern or looking down on a Senator who is raising it.

It is important for the public to know that personal factors like that can play a part in legislation. The trust and regard in which these two Senators are held by the rest of the body is making a difference.

I also agree with them that it is time to do something; that 3 years is long enough. Some people say 40 years, because there have been a number of recommendations for changing how we do intelligence over the decades. I think it is time to get something done. I agree with that.

I also like the creation of a national intelligence director. I do wish we could have come up with a different name than NID. Imagine how often that name is going to be used and what it may come to represent in Washington, but it may be too late to do anything about that.

For some reason, I do not think people have aired on the floor—and I want to; it is a practical reason—there are times in our history when foreign policy and national defense are bigger issues than at other times. The American people in the United States of America are a people who are concerned with their day-to-day lives. That is as it should be. We would rather, if we could, avoid having to engage extensively in these tremendous efforts abroad and in all the foreign policy discussions and reconstructions that go with that.

In our elections, sometimes we elect Presidents in a context where foreign policy does not seem to be all that important. I think it is another way of saying some Presidents are more interested than other Presidents in intelligence on a day-to-day basis. I do not say that to be critical. I do not think there has been a President who has ever served in that high office who has not cared about the security of the country. But I think people here understand what I mean.

Now that we are fighting this terrorist war, we all read stories about intelligence. We know how important it is. We are all following it on a day-today basis. Everybody wants to serve on the Intelligence Committee or the Foreign Affairs Committee, and that is fine. But in other times, attention and interest wanes.

I think by having a national intelligence director, what we will help ensure is that even in those times when interest is waning on the part of other high-level political actors, maybe even the President, we will have somebody in Washington whose job it is to look at all this in a comprehensive way, and try to make sure the agencies under him or her are working together on behalf of the interests of the American people, in a way rather like we have done with the Federal Reserve, where we have created an agency and we have vested a lot of authority in a Chairman of the Federal Reserve. We know that person is watching monetary policy and other policy.

Over time, what has happened is Presidents of both parties and under all circumstances realize that appointments to that kind of job are very highly scrutinized, and you put in people who have prestige and gravitas and the regard of people of both parties and the regard of the country.

It is my hope that will happen with the national intelligence director. Presidents, whether foreign policy is the No. 1 concern for them or not, will know this is an important appointment and they need to put somebody in this position, from administration to administration, who has the regard of everybody in the country, who watches and knows about foreign policy and about intelligence. That will help create a stability over time and a continuity in our intelligence policy.

Now, I am not downgrading the concerns people have expressed. There is always a tension in this kind of thing. You cannot create and set up a higher authority such as this without increasing the risk that if you get a person in there who is very autocratic, it may tend to create a certain kind of groupthink among the agencies even more than we now have, that people could be acting in way that is designed to please only this national intelligence director rather than trying to have their own opinions regarding intelligence. But there are safeguards in the bill designed to deal with that. I certainly have had some concerns along those lines, but I am going to exercise the benefit of the doubt in favor of supporting the creation of a national intelligence director.

There is an area, though—and the Senators have addressed it; I think perhaps they could again in response to my remarks—I am concerned about the flow of intelligence to the troops in the field. Here is the kind of classic situation I am concerned about. We have, of course, an extensive satellite system in place. We get intelligence all the time from those satellites. Particularly since the first Gulf War, the Department of Defense has become pretty good at getting that intelligence off the set satellites and getting it out to the field in real time. That means virtually instantaneously, so that it can be used by our special operations troops, by commanders in the field to check and select targets. This kind of mapping and satellite intelligence can be used even to move troops around during some kind of an engagement. It works pretty well. I know that for a fact.

I think one of the reasons it does work is these agencies—the National Reconnaissance Office, the National Geospatial-Intelligence Agency, the National Security Agency—are in the Department of Defense and the customers they are serving with that intelligence are in the Department of Defense. It is very reasonable to believe that if the provider of the intelligence and the customer of the intelligence are in the same Department, the same bureaucratic structure, they will share intelligence better.

If that were not true, then why are we doing this bill? Because the whole point of the bill is to get all these intelligence agencies under some kind of joint authority so they will share better. In most cases, I think it is very clear how the bill is doing that, that the bill is breaking down existing bureaucratic barriers.

But I do think we all ought to be honest enough to admit with respect to this particular kind of sharing, we are setting up a bureaucratic barrier that does not exist now, because we are going to pull those agencies out of the control of the Department of Defense and put them under the national intelligence director, at least partially. So there is at least a risk we will put up a stovepipe in the name of taking down stovepipes, that we will put up a stovepipe in an area where the sharing is working. It would be ironic if one of the effects of the bill were to interrupt the sharing of the intelligence in the one area where we have confidence now that it is being shared.

Now, I feel a lot better about this concern than I did when I first heard about this bill. I know the Senator from Maine and the Senator from Connecticut have put measures in the bill designed to ensure that flow of intelligence continues. I am glad they have done that. I am glad they recognized the importance of this concern, because it is going to grow as time goes on.

Let me give you an example. We are trying, on the Armed Services Committee—and both Senators serve on that Committee, so they know this as well as I—to make all the various what we call weapons platforms for the Army network-centric. What this means is they will all be networked in, so that we hope in the near future intelligence from a satellite will not even have to go through a middleman at the NGA or the NSA, it will go directly

from the satellite down to the commander in the field. It is very important that we procure weapons systems and platforms and communications systems and signal intelligence systems that are all linked together.

This bill, for example, gives procurement authority to the NID over the satellite end of those systems. So we are going to have the NID procuring the satellites, the platforms that are getting the intelligence. We are going to have the Department of Defense procuring its end of the platform that is going to be receiving the intelligence, and there is a danger we will end up with a stovepipe we do not want.

I am not saying this is a reason to oppose the bill. I am not saying it is a reason to change the bill. I am saying it is a concern. I guess what I would say to my friends from Connecticut and Maine is, if they could give us their assurance that not only in the passage of the bill but in the implementation of it, and in the months and years after that, they will remain conscious of these concerns and try to ensure a free flow of intelligence from these various intelligence organizations out to the troops in the field, even though they will no longer be in the same bureaucratic organizations.

Maybe the Senator from Maine would yield for a question from me or have a brief colloquy, if I can ask consent to do that.

I have been airing the point you and I have talked about privately, and you have addressed on the floor as well, about the importance of making sure that tactical military intelligence continues to flow from the NGA and the NRO and the others out to troops in the field.

I was telling the Presiding Officer you all have done a lot to allay my concern in that regard. What I was hopeful of, and I wanted to put on the record, is to get assurance from you and the Senator from Connecticut that in implementing this bill you will continue to oversee this aspect of it and try to make certain the NID understands the importance of acting jointly with the DOD in ensuring that this intelligence continues to flow. Because no matter what protocols you put in the bill, this is a fruitful area for oversight to make certain that this intelligence is not interrupted. Would the Senator from Maine care to comment?

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I am pleased to give the assurances the Senator from Missouri is seeking. He and I, as he mentioned, along with my friend from Connecticut, serve on the Armed Services Committee and have a deep commitment to making sure that our men and women in the military receive the real-time, actionable intelligence they need to be effective. Nothing in this bill would in any way hinder the flow of intelligence from NSA to the combatant commanders to the troops on the ground in Iraq and Afghanistan—nothing.

In fact, as the Senator from Missouri knows, we opposed an amendment last week which would have undermined the relationship between those defense agencies and the Secretary of Defense by essentially moving them out of the Pentagon—not physically but from an authority standpoint—and having them only report to the national intelligence director. We recognized that we need a dual reporting, that these agencies are providing critical intelligence to our troops and to Pentagon officials as well as to the rest of the intelligence community.

I agree with the Senator that vigilant oversight is going to be necessary to make sure this is implemented in the manner we intend. But I must say, given the clear language of the bill, given the fact that tactical intelligence assets are completely exempted from the NID's control, and given the fact that any NID is going to be committed to providing excellent intelligence to our troops, I can't imagine the bill having the negative impact that he might feel.

Mr. TALENT. I have been much reassured by the debate, by your comments, and by my further thinking on the subject. I do think it is unlikely that any national intelligence director would not be sensitive to this. And given the congressional concern that has been expressed, if he or she were insensitive, we certainly could do something about it.

To give an example—and I shared this with the Senate—on procurement, you know the extent to which we are trying to procure network-centric type platforms for the Army. And since now the various satellite agencies would be under the procurement authority of the NID, it would be important early in this process to get some kind of memorandum of understanding or protocol so there would be a joint type procurement process to make certain that what the Army was doing to get network-centric receivers was compatible with whatever the NID was procuring for satellite.

I expect there will be a number of instances in practice where it will be useful for all of us to be aware on a continuing basis of this concern and trying to make certain that they work together, as we did with Goldwater-Nichols. There is an example of a congressional enactment and oversight that has increased the joint process.

I don't offer these remarks in hostility to the bill but to put on the record again the importance of this, to make clear your intent and the intent of the Senator from Connecticut in this regard. I would be happy to have the Senator comment further.

Ms. COLLINS. Let me indicate to the Senator from Missouri that I very much appreciate his concern in this area. There is no greater advocate for our troops than he. I join with him in an assurance that we are going to watch this very carefully. The language of the bill is very tightly and carefully drafted. The commitment to our troops is there. There is nothing in this bill that would in any way hinder military operations, readiness, or the flow of real-time, actionable intelligence to our troops. That is essential. The Senator has my commitment to continue to monitor this very closely.

Mr. TALENT. I am grateful. I don't know if the Senator from Connecticut wanted to say something now or later. I am not inviting you to admit a concern that you don't think is in the language of the bill, that would suggest a weakness in the bill that you don't believe is there. It is just that any change in structure like this has the potential, if we are not careful, to interrupt that flow. I am pleased about your reassurances. I won't make you say it for the 15th time. I will just reclaim my time and close briefly. It has been a pleasure to participate in this debate and to watch how my friends from Connecticut and Maine have handled it. I do think it is time to do something. I had concerns. I had concerns about the speed with which we were acting. I think we can all concede the honesty of those concerns. I do believe, however, for the reasons I have indicated, that we ought to move forward. I think we can, while guarding against the dangers that are present whenever you have a major change like this. There is a lot about our intelligence system that is working. We do want to be careful that in trying to fix the parts that aren't, we don't cause problems for the parts that are working.

The Senators from Maine and Connecticut have done a good job in guarding against that. I congratulate them on their work. Again, I am pleased the Senate has adopted an amendment which finally takes a first step toward allowing our first responders, our State and local officials on whom we depend, to have discretion in where they are going to use these homeland security grants the country is giving them.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, before the Senator from Missouri leaves the floor, I thank him for his statement. I thank him for his kind words about Senator COLLINS and me, which she certainly deserves and I am glad to be along with her on that ride.

I thank him for the specific question and assure the Senator on my behalf, one, that Senator COLLINS and our committee were focused throughout the deliberations on making sure this substantial reorganization of our intelligence assets not in any way diminish the availability of intelligence to the warfighter. In fact, in the best of all situations, we believe the recommendations that we have made will improve intelligence to the warfighter.

By way of reassurance, I want to quote from GEN Michael Hayden, Director of the National Security Agency, who said in testimony before the other body:

An empowered national intelligence director who would direct authority over the national agencies should not be viewed as diminishing our ability or willingness to fulfill our responsibilities as combat support agencies.

He was speaking on behalf of the three.

It was quite illuminating, in talking to General Hayden and others. They are in direct daily contact, particularly with the combatant commanders. They have people out in the field right now with those combatant commanders, particularly in the most active areas of the world, such as the central command, which includes Iraq and Pakistan. After having described that close integration of national intelligence assets with the warfighters, General Hayden concluded:

It is inconceivable to me that any future leader of the National Security Agency could or would ever act any differently.

GEN James Clapper, head of the NGA, National Geospatial Agency, expressed exactly the same sentiments to us.

I want to reassure the Senator from Missouri, more to the point of his question, that to the extent we are able—and I am sure if we are not, the Armed Services Committee will—we will definitely keep a close eye as this new system is implemented to make sure our intention, which is that this reform improves intelligence for our warfighters, in fact is being realized.

Mr. TALENT. I can see how that would happen, and we should not accept something that is working fairly well if we think we can make it better. It may be possible by moving these agencies into the NID for budgetary purposes that they will get a higher priority than they get now with the DOD which does not see itself primarily as an intelligence department. I can see potential pluses to this. I just thought it was very important that the record show the concern about this is not only deep with you two as the managers but also all throughout the Senate and the Congress, that there are many of us who are familiar with this and who know this current system is working, certainly working much better than it used to.

I hope whoever is going to be the national intelligence director—I certainly will bring this up in the confirmation process, and I hope you two do as well—knows we want his cooperation and will continue to want this to be a priority.

I thank the Senator for his comments.

I yield back my time.

Ms. COLLINS. Madam President, I am very pleased to see the Senator from Minnesota is on the floor. Senator COLEMAN has been one of the most diligent members of the Governmental Affairs Committee on this issue. He came to virtually every hearing we had throughout the August recess, starting on the very first hearing on July 30. He is a cosponsor of the bill. He helped to write many of its provisions. I am very grateful for his leadership and support, and I look forward to hearing his comments.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. COLEMAN. Madam President, I express my deep gratitude for the kind words of the Senator from Maine and my gratitude for the incredible work she and the Senator from Connecticut did in pulling us together in doing a series of hearings—I believe eight—with countless hours of testimony, a very thorough review of the recommendations of the 9/11 Commission, and then an analysis of how do we take those recommendations and somehow move forward in a way that improves, increases the level of safety and security in this great country of ours. That was the challenge and it certainly is a challenge.

I think the chairman has been challenged with drafting a bill that represents a kind of balance here between ambitious reform of our intelligence services and the continuity of the existing intelligence assets we rely upon to keep our country safe. There was discussion during the hearings about the nature of change and some of the challenges of concern—a concern that if we are to make changes, is that going to make us more vulnerable during that period of time.

There was great thought that went into the balance we see in this bill: The balance between the creation of a powerful national intelligence director, on the one hand, and this concept of departmental autonomy on the other; and the right balance between centralization of the information sharing and the balance of civil liberties we cherish as Americans. How do you provide those protections without undermining the ability to do the hard work that has to be done in intelligence, and that keeps up the morale of those on the front lines every day making us safer—folks who, in many ways, are simply unknown; we will never know who they are. At one of our hearings, which was classified, even the name of the witness was classified. I sat there as a relatively new Member of the Senate listening to the incredible work that is going on day to day to keep our country safe. I was struck by that, and I am deeply committed to making sure as we move forward in reform that we keep the morale up and the appreciation up, that we strike the right kind of balance.

After hours of hearings and countless study, I believe the bill drafted by the chair and ranking member represents the kind of balance we need. Today and tomorrow, we are going to vote on a number of amendments that would unravel this carefully constructed balance by weakening the national intelligence director. I urge my colleagues to oppose any such efforts to undermine this balance.

I agree with the sponsors of these amendments that it is vitally important soldiers in combat get timely, accurate information that is relevant to their immediate needs. I also agree the military chain of command needs to be respected. However, I disagree on their interpretation of how the Collins-Lieberman bill would affect the armed services.

Last week, we debated and voted on an amendment that would have effectively removed several intelligence agencies from the Defense Department. We defeated the amendment because a strong majority of the body thought, as I do, that the Department of Defense needs to retain its combat support relationship with such agencies as the National Security Agency and National Reconnaissance Office. I think that vote reflects the importance we attach to the Department's role in intelligence.

The central finding of the 9/11 Commission was that prior to 2001, the safety of Americans was substantially weakened by the absence of a strong entity to make sure that the use of intelligence assets reflected national priorities and that the intelligence gathered was shared with officials who needed it, even if those officials were located in different agencies. I note that the Chair, on a number of occasions, talked about a George Tenet memo in 1998, where he declared war on al-Qaida and nobody knew about it. There were agencies throughout Government that never got this declaration of war from the head of the CIA. As the Commission put it, no one was in charge.

As I say that, I do want to say, having listened to the testimony, today we have a new level of cooperation and collaboration between those involved in intelligence gathering. And because of that new level of cooperation and collaboration, we are moving forward and this country is safer today than it was on 9/11. But the reality of the case is that with no one in charge, institutional silos arose to prevent important pieces of information from being collected into an overall threat assessment that might have alerted officials to the danger we faced.

So it is clear to me, and as recommended in this bill, we need a strong national intelligence director, strong enough to enforce common policies throughout the intelligence community whenever and wherever intelligence collected by one agency might be useful to another. We do not need a mere coordinator. That is what we have now; we have a coordinator. We need someone who can focus resources and attention on the most vital threats, national priorities. That person can only succeed if we give him or her the strong powers they need over the budget and personnel.

I have heard members point out that the 9/11 Commission did not point to any institutional policy that prevented the sharing of information. The argument is, if we can do all this today, why do we have to make institutional

change? They argue the problem is due to individuals who failed to perform their jobs by failing to convey information they were supposed to share. It is true that the commission's report discusses several specific instances of this type of bureaucratic behavior, and in the end things that should have been done were not done, none of which seem to have led to disciplinary action. Nevertheless, there were policies such as the wall between domestic and foreign intelligence that inhibited the full sharing of information.

But even that is not quite the full story. It is my belief such insular behavior will always exist, unless and until we have a strong national intelligence director who can effectively enforce common information policies. That is what the Collins-Lieberman bill creates. That is why keeping these powers is so important.

In the committee markup, the Senator from Michigan pointed out instances where language could have been made clearer. I agree with him that clearer lines of authority are important. But I fear that the amendments being offered today are not mere clarifications but, rather, represent a fundamental tip in the balance and will result in erosion of the power of the NID.

I believe the Department of Defense will have a strong role in the new intelligence constructs that the Collins-Lieberman bill creates. The DOD will retain full authority over tactical intelligence. It will have a seat at both the National Counterterrorism Center and the Joint Intelligence Community Council to argue for institutional interests and ensure that its needs are met.

The bill also leaves direct, day-to-day command of the Department of Defense intelligence agencies with the DOD. Most of the staff of the intelligence agencies will remain uniformed service men and women. The Department will remain the intelligence community's largest consumer of information. The Secretary of Defense will remain one of the most senior members of the Cabinet, with close communication with the President.

If we are going to create a NID with actual clout when it comes to enforcing common intelligence standards, the NID must have the ability to transfer funds and personnel within the intelligence community. Witness after witness came before us and said: With budget authority, there is power. Whoever controls the purse has power. We understand that in this body. He or she must be able to move assets where they are needed most and ensure full compliance with communitywide requirements. The chairman of the 9/11 Commission has admonished Congress, saying, ''If you are not going to create a NID who has the powers of budget and appointment, don't do it.'' These powers are necessary to ensure that intelligence gathered by intelligence agencies reflects national priorities and is shared among all parts of the Government that need it.

The Collins-Lieberman bill gives the national intelligence director a number of important powers. He is supposed to develop common policies of personnel, budget practices, information networks, security classifications, and communication systems. If we want him to succeed in these tasks, we must also give him or her the powers to accomplish them.

This body voted last week to retain day-to-day control of the Defense intelligence services with the DOD, and I supported that sentiment. But since the NID will not have direct day-to-day control, it is even more important that he have the ability to transfer money and personnel.

We all know that bureaucracies have a natural tendency to resist change. So the question is, Will the national intelligence director be able to enforce his policies in the face of the inertia that normally characterizes existing agencies? Not unless everybody knows he is in charge of the resources and has the power to shift them according to agency performance and his evaluation of needs.

The bill contains numerous provisions to ensure that this power is used responsibly. We make it clear that only the national intelligence director can make these transfers of resources and personnel. We also retain Congress's authority to approve transfers before they occur. That way, it will be clear who is responsible for them and who will have to justify them. We create the joint intelligence community council made up of the users of intelligence, including the Secretary of Defense, to advise and evaluate the national intelligence director.

We require the NID to notify Congress, including the Committee on Armed Services, whenever there are transfers of personnel to or from the Department of Defense. In light of these protections, it is extremely unlikely that the intelligence community will fail to support our armed services. In fact, it is stronger than that. It simply is not going to happen. We have set in place the kind of measures, the kind of safeguards, the kind of oversight, the kind coordination that will ensure the needs of the armed services are met. The intelligence needs of the armed services will be met.

Another amendment would remove the section of the bill that would disclose the total funding for intelligence. I must respectfully disagree with those who believe this disclosure will harm our national security.

Again, this was an issue in which we had very clear testimony before the committee. By the way, after all, reliable estimates of this number already appear in the trade press. Moreover, the 9/11 Commission recommended going further. They wanted to disclose the totals for each agency. But here we have a balance.

In our history as a nation, we have found the benefits of disclosure usually outweigh the costs. What we have in the way of disclosure makes policymakers accountable to their actions. But again, we have struck a balance.

I note in his testimony before the committee last month, then-acting CIA Director John McLaughlin agreed that declassification of the top line figure would make sense. He testified:

> It reinforces responsibility and accountability on those receiving the money, because you can see whether it's going up, down, or so forth. . . . It also does the same thing for Congress. . . . I don't think declassifying the top line would be a major security threat.

Given all this, it is difficult for me to believe that disclosure would weaken our safety in any meaningful way. It would, however, lead to more open debate about how much we need to spend to keep America safe, and I think that is a good thing.

There are also proposals to exempt military personnel from the national intelligence director's transfer, detail, and assignment authority. I can understand the desire to maintain the military chain of command, but if we want the national intelligence director to develop and enforce common intelligence policies even in the face of agency silos, then he or she is going to need to draft his or her own players and make sure they are playing on the same team. When the national intelligence director transfers a soldier out of an intelligence agency, that soldier returns to the Armed Forces where he or she will be, once again, safely in the chain of command. But as long as they remain in the intelligence community, they are responsible for meeting the needs of the entire community, not just the Department of Defense, and that is why that individual must have the confidence of the national intelligence director.

There is a second reason for keeping personnel authority in the national intelligence director. We all agree on the creation of a National Counter-terrorism Center—there has not been a lot of debate over that—and intelligence centers that represent other national priorities. We mean for these centers to contain the best people from each agency. Assuming, for example, that the National Count-er-ter-rorism Center consists of the best terrorism experts from each element of the intelligence community, it makes sense for it to be the forum for negotiating common policies and planning joint operations. But in order to prevent each agency from creating its own counterterrorism unit and sending the NCTC only junior workers or workers sitting out their final years until retirement, the national intelligence director must have the power to bring the best and the brightest to the National Counter-ter-rorism Center.

I note that the Chair talked about her visit to the current TTIC, the Terrorist Threat Integration Center, the forerunner of the NCTC. She noticed

how young some of the personnel there were. At this stage in time, it is not seen as the best place to be, but with a strong national intelligence director and a clear National Counterterrorism Center, we want the best and the brightest, and the national intelligence director should have the right to bring those people to the table to work with him or her.

Finally, we will vote on amendments that would take one agency or another out of the definition of ''national intelligence program'' and thereby move their budgets away from the national intelligence director's authority and back under the Defense Secretary's authority. This might be wise if we make the Secretary of Defense responsible for enforcing common intelligence policies and meeting the intelligence needs of the entire Government, but in that case we would not need a national intelligence director. In that case, we ought to also transfer the CIA into Defense.

On the other hand, if we want a strong coordinator of intelligence and we do not want that person to be the Secretary of Defense, then the national intelligence director must have the budget power over all parts of the intelligence community that service common needs. It simply would not make sense to break agencies, such as the NSA or NRO, up into pieces depending on whether this program or that fell into the national intelligence program. They should either be part of a coordinated approach to intelligence or they should be totally separate. I submit they are too important not to be brought into the national intelligence policy.

I note that even under the Collins-Lieberman bill, these agencies would remain under the day-to-day control of the Department of Defense. Most of their personnel will still consist of uniformed military officers. The relevant congressional committees will remain actively involved in ensuring the needs of the military are met, and the Secretary of Defense will remain a senior Cabinet member with a direct line to the President. With all this, it is difficult for me to believe that the intelligence our combat forces receive will diminish in any material way. It seems more probable that through better coordination and sharing, the Armed Forces will have access to better intelligence under the Collins-Lieberman bill than they would have in a watered-down version, and I think that is the key here.

In this post-9/11 world in which we live, where we understand the nature of the importance of intelligence, we must understand the importance of breaking down the silos that in the past prohibited folks from working together. It is clear we all will benefit. The Department of Defense benefits and the intelligence agencies benefit, but most importantly, the people of this great country benefit. When we have and will have a strong national intelligence director, a clear sense of somebody in charge with accountability and credibility, with the support and confidence of the President, we will all be able to sleep easier at night.

I urge my colleagues to resist the natural hesitation in the face of major change. Everybody likes change until it happens to them. The events of 9/11 changed the world, and we must change our mindsets in response. I believe the Collins-Lieberman bill represents the right balance and will make America safe.

I urge my colleagues to reject those amendments that would weaken the balance, that would weaken the strength of the national intelligence director.

Let's move America forward. Let's make the change. Let's support this bill.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I thank the Senator from Minnesota for his comments. As I indicated, he has been a key member in drafting this bill. I very much appreciate his many contributions and support.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I join in thanking the Senator from Minnesota. Senator COLEMAN really hung in there with us and did the hard work in July, August, and September, both in attending the hearings and in helping to draft a bill over a 2-day markup.

His statement today means a lot to us personally, but I hope and believe it will mean a lot to the other Members of the Senate because it is a strong explanation of why this bill is urgently necessary. People asked earlier: What is the rush? People today asked: What is the rush? The rush is, we were attacked on September 11. It is more than 3 years later, and Congress has not acted to adequately reorganize our intelligence assets community, which the 9/11 Commission told us, and everybody agrees, does not have a leader in charge.

Right now—what is his name?—Zawahiri, the second to bin Laden in al-Qaida, last week put out another tape urging Islamist terrorists around the world to attack America and Americans. So we are at war, and we are not properly defending ourselves. That is the urgency.

The Senator from Minnesota has spoken very eloquently today, both for the bill and against weakening amendments. That is really going to be the test over the next couple of days as we move to cloture and adoption of the bill. The bill is in good shape now. We have listened, we have negotiated with some people, accepted some amendments that we thought would not hurt the bill and would strengthen or clarify it. As the Senator from Minnesota knows, a line has to be drawn and some of these amendments take too much out of the bill and would hurt the purpose, which is to better protect the American people.

So I thank the Senator very much for what he has said, and I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I yield to the Senator from Michigan.

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

AMENDMENTS NOS. 3825, 3809, AS MODIFIED, AND 3810

Mr. LEVIN. Madam President, I have a unanimous consent request, and I think I am following a pattern, at least I hope so. If not, I will withdraw. I ask unanimous consent that three amendments be called up and then be set aside so that they are in advance of cloture. I ask unanimous consent that amendment No. 3825 be called up and set aside. I also send to the desk a modified version of amendment No. 3809, which has been approved by the Democratic leader, which I understand the process is the modification and then that modified amendment will be set aside. Also, I ask unanimous consent that amendment No. 3810 be called up and set aside.

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

The amendments are as follows:

AMENDMENT NO. 3825

(Purpose: To permit reviews of criminal records of applicants for private security officer employment)

At the appropriate place, insert the following:

SEC. ___. PRIVATE SECURITY OFFICER EMPLOYMENT AUTHORIZATION ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the ''Private Security Officer Employment Authorization Act of 2004''.

(b) FINDINGS.—Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by, among other things, helping to protect critical infrastructure, including hospitals, manufacturing facilities, defense and aerospace contractors, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, and others;

(3) the 9-11 Commission Report says that ''Private sector preparedness is not a luxury; it is a cost of doing business in the post-9/11 world. It is ignored at a tremendous potential cost in lives, money, and national security'' and endorsed adoption of the American National Standards Institute's standard for private preparedness;

(4) part of improving private sector preparedness is mitigating the risks of terrorist attack on critical infrastructure by ensuring that private security officers who protect those facilities are properly screened to determine their suitability;

(5) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

(6) private security officers and applicants for private security officer positions should be thoroughly screened and trained.

(c) DEFINITIONS.—In this section:

(1) EMPLOYEE.—The term ''employee'' includes both a current employee and an applicant for employment as a private security officer.

(2) AUTHORIZED EMPLOYER.—The term ''authorized employer'' means any person that—

(A) employs private security officers; and

(B) is authorized by regulations promulgated by the Attorney General to request a criminal history record information search of an employee through a State identification bureau pursuant to this section.

(3) PRIVATE SECURITY OFFICER.— The term ''private security officer''—

(A) means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full- or part-time, for consideration, whether armed or unarmed and in uniform or plain clothes (except for services excluded from coverage under this section if the Attorney General determines by regulation that such exclusion would serve the public interest); but

(B) does not include—

(i) employees whose duties are primarily internal audit or credit functions;

(ii) employees of electronic security system companies acting as technicians or monitors; or

(iii) employees whose duties primarily involve the secure movement of prisoners.

(4) SECURITY SERVICES.—The term ''security services'' means acts to protect people or property as defined by regulations promulgated by the Attorney General.

(5) STATE IDENTIFICATION BUREAU.—The term ''State identification bureau'' means the State entity designated by the Attorney General for the submission and receipt of criminal history record information.

(d) CRIMINAL HISTORY RECORD INFORMATION SEARCH.—

(1) IN GENERAL.—

(A) SUBMISSION OF FINGERPRINTS.—An authorized employer may submit to the State identification bureau of a participating State, fingerprints or other means of positive identification, as determined by the Attorney General, of an employee of such employer for purposes of a criminal history record information search pursuant to this section.

(B) EMPLOYEE RIGHTS.—

(i) PERMISSION.—An authorized employer shall obtain written consent from an employee to submit to the State identification bureau of a participating State the request to search the criminal history record information of the employee under this section.

(ii) ACCESS.—An authorized employer shall provide to the employee confidential access to any information relating to the employee received by the authorized employer pursuant to this section.

(C) PROVIDING INFORMATION TO THE STATE IDENTIFICATION BUREAU.—Upon receipt of a request for a criminal history record information search from an authorized employer pursuant to this section, submitted through the State identification bureau of a participating State, the Attorney General shall—

(i) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(ii) promptly provide any resulting identification and criminal history record information to the submitting State identification bureau requesting the information.

(D) USE OF INFORMATION.—

(i) IN GENERAL.—Upon receipt of the criminal history record information from the Attorney General by the State identification bureau, the information shall be used only as provided in clause (ii).

(ii) TERMS.—In the case of—

(I) a participating State that has no State standards for qualification to be a private security officer, the State shall notify an authorized employer as to the fact of whether an employee has been—

(aa) convicted of a felony, an offense involving dishonesty or a false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years; or

(bb) charged with a criminal felony for which there has been no resolution during the preceding 365 days; or

(II) a participating State that has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this section in applying the State standards and shall only notify the employer of the results of the application of the State standards.

(E) FREQUENCY OF REQUESTS.—An authorized employer may request a criminal history record information search for an employee only once every 12 months of continuous employment by that employee unless the authorized employer has good cause to submit additional requests.

(2) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this section, including—

(A) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, destruction of information and audits, and recordkeeping;

(B) standards for qualification as an authorized employer; and

(C) the imposition of reasonable fees necessary for conducting the background checks.

(3) CRIMINAL PENALTIES FOR USE OF INFORMATION.—Whoever knowingly and intentionally uses any information obtained pursuant to this section other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(4) USER FEES.—

(A) IN GENERAL.—The Director of the Federal Bureau of Investigation may—

(i) collect fees to process background checks provided for by this section; and

(ii) establish such fees at a level to include an additional amount to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(B) LIMITATIONS.—Any fee collected under this subsection—

(i) shall, consistent with Public Law 101–515 and Public Law 104–99, be credited to the appropriation to be used for salaries and other expenses incurred through providing the services described in such Public Laws and in subparagraph (A);

(ii) shall be available for expenditure only to pay the costs of such activities and services; and

(iii) shall remain available until expended.

(C) STATE COSTS.—Nothing in this section shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this section.

(5) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this section by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this paragraph.

AMENDMENT NO. 3809, AS MODIFIED

On page 28, between lines 19 and 20, insert the following:

(D) the personnel involved are not military personnel and the funds were not appropriated to military personnel appropriations, except that the Director may make a transfer of such personnel or funds if the Secretary of Defense does not object to such transfer; and

(E) nothing in section 143(i) or 144(f) shall be construed to authorize the National Intelligence Director to specify, or require the head of a department, agency, or element of the United States Government to approve a request for, the transfer, assignment, or detail of military personnel, except that the Director may take such action with regard to military personnel if the Secretary of Defense does not object to such action.

AMENDMENT NO. 3810

(Purpose: To clarify the definition of National Intelligence Program)

On page 7, beginning on line 20, strike ''that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act''.

Mr. LEVIN. I very much thank my dear friend from West Virginia, and I thank the managers.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I rise today to not offer but to talk about an amendment because things are in the works. Therefore, I can only talk, not offer.

The amendment, were it to take place, would be amendment No. 3712. Of course, it is to No. 2845, which is our basic bill. I think it is widely agreed that Congress has an obligation to ensure that the efforts of the 9/11 Commission to improve our system of homeland security is accurately captured by any legislation that we pass out of this body.

Last week, Senators MCCAIN and HUTCHISON offered constructive amendments on aviation security, but I believe my talking points offer the most comprehensive approach to improving aviation security, so I put them forward to my colleagues. I am pleased that Senator MCCAIN was an original cosponsor of my Aviation Security Amendment Act, which I am talking about today as if it were an amendment, which it is not, for the moment anyway.

My idea would be to take needed steps to make certain that Commission transportation security recommendations are reflected in the pending legislation faithfully.

The recommendations of the 9/11 Commission are wide ranging. They build on the work we did in the House-Senate joint inquiry in 2002. I strongly believe that we must reform our Government, our Congress, and our intelligence agencies to meet the threat of terrorism as has been eloquently discussed by the two floor managers on many occasions.

Although the recommendations for transportation security are a small part of the overall report, their importance cannot be understated. They are

sort of the most visible parts of security. I agree with the Commission's report when it states that targeting terrorists' ability to travel is a potent weapon against our efforts to protect against future terrorist attack.

In my position as chairman and now ranking member on the Senate Commerce, Science, and Transportation Committee's Subcommittee on Aviation, I have worked on many of these issues that face Congress after the terrorist attacks of 9/11.

I should point out that the Commerce Committee has looked at these issues and developed other recommendations in the years preceding 9/11. I also want to note that while we need to incorporate legislation consistent with the 9/11 recommendations, the report contains specific criticisms of the FAA prior to 9/11 that I do not believe are justified.

For example, the report criticizes the Administrator of the FAA for being more focused on the delays than on security prior to 9/11, but we all were. We addressed those needs collectively with a new process to expedite airport construction.

Unfortunately, I found it to be one area of the report that failed to put into context the actions of the FAA prior to 9/11 and what the congressional role was during that period.

Additionally, after TWA 800 went down in July 1996, we all know that we spent countless hours trying to develop measures for aviation security. That was well before 9/11 by 5 years. Ultimately, we mandated that more equipment and canine teams be dispatched as quickly as possible, but clearly the events of 9/11 have required an even more comprehensive approach.

I have worked closely with Senators MCCAIN, HOLLINGS, LOTT, and many others over this period to take action to help ensure that the events of 9/11 are not repeated. Congress has passed a number of landmark bills to address critical needs in filling gaps in our aviation security. While the legislation that passed in the days immediately following the terrorist attacks was responsive to the crisis our aviation system faced, these laws primarily addressed the immediate needs we had regarding commercial passenger airline security, including aircraft passenger and baggage screening. I believe we have a much improved aviation security network because of the laws that were adopted. Improving aviation security is a continuous process, an expensive process, and we must continue to make improvements to our aviation security network. I think we all know much more needs to be done.

Over the last 3 years, TSA, the Transportation Security Administration, has had an appropriate opportunity to get up and running. It was awkward at first. They are much better at it now. I, along with my colleagues on the Commerce Committee, have conducted numerous oversight hearings on TSA and aviation security, a number of them in closed session. Because of this oversight and our understanding of the transportation system, we were better able to understand where we had made progress and identify what more work needed to be done about aviation security.

To further address these needs, Senators MCCAIN, HOLLINGS, and myself introduced S. 2393, the Aviation Security Advancement Act, which included measures to tighten air cargo security and bolster other existing programs.

As we know, after the 9/11 Commission was established, they began a complete review of the events surrounding 9/11 and the requirements that would be necessary for a comprehensive strengthening of all of our homeland defense. When this report was released in July, it contained specific recommendations regarding transportation security, along with express concern about cargo and general aviation security. Both cargo and general aviation security have been subjects considered at hearings before the Senate Commerce Committee this year, and I introduced S. 2393 in an effort to make these issues a focus of Congress.

Last week, there was the amendment that I am talking about—not offering but talking about—which would do the following: Standardize the Federal screener workforce to properly address staffing needs and promote more efficient and effective screening at airports; require DHS to consider coordinating aviation-security-related functions to improve efficiency and effectiveness of passenger screening; increase funding for all-cargo aviation security to establish an improved security program and to promote the use of improved technology for cargo screening; provides an additional $450 million to fund priority capital security projects at airports; develops a streamlined baggage screening system by requiring a schedule for the in-line placement of explosive detection systems; it bolsters the Federal Air Marshal Program; advances the development of biometric technology for precise identification of workers and travelers; and improves perimeter security at airports by authorizing more than $20 million for TSA to develop biometric technology and fund a biometric center of excellence.

I believe these changes significantly improved the underlying legislation and have left us with a product that speaks to many of the problems that the 9/11 Commission found and which continue to exist in our airport transportation security network.

As I indicated, this is all in some flux now. It is being worked out with the floor managers. I simply thank my colleagues and the Presiding Officer and the two floor managers for allowing me to speak on what I think would be potentially quite a helpful amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I thank the Senator from West Virginia, Mr. ROCKEFELLER, for talking about this amendment at this point. I know he has not officially offered it yet.

We are talking to him about it. I think this amendment responds to many of the recommendations made by the 9/11 Commission to strengthen aviation security. I very much appreciate the provisions of this amendment. We are trying to work out the authorization level that is included in the bill, but my overall reaction to his proposal is very favorable.

I know it has been reported by the Commerce Committee and cleared by the chairman and the ranking member of that committee. As usual, it reflects the Senator's thoughtful consideration of homeland security issues.

I very much have appreciated his advice throughout this debate, and I am hopeful that shortly we will be able to have him officially offer his amendment, perhaps with a modification, and we would be able to accept it.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Senator COLLINS has spoken exactly for me as well. I look forward to working with the Senator. It is a good amendment. There is one part that doesn't go to the heart of it, and we hope to look over it for a bit more and then I hope before along we can accept the amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I rise first to congratulate the committee on the hard work they have put into this bill, in particular Senator SUSAN COLLINS, who I think has done a wonderful job. This was a very difficult situation. She and Senator LIEBERMAN have led the committee in an admirable way. What I have to say is just what I hope will be seriously considered as the bill moves its way through to final completion by the House and Senate, ultimately to be in a form that can be signed by the President.

I rise to discuss one aspect of the bill concerning privacy and civil liberties. The bill before us has many appropriate suggestions for reforming our intelligence activities. Part of this reform includes the transformation of the Central Intelligence Agency and the enhancement of the human intelligence capability. We have heard over and over again that we must increase our human intelligence. Almost every time we get in a situation where we wonder what is happening in some country—even sometimes when we are engaged in war—we ask, Do we know this? Do we know that? The answers are we should, but we don't because we don't have anyone there. We don't have anyone on the ground. That wasn't always the case, but it has become a growing difficulty.

Actually, I think we should be getting better and better at it. What concerns me is that part of this reform in this bill includes the transformation of the Central Intelligence Agency and its enhancement of human intelligence, as

I said, but this reform in human intelligence is very critical because we must get better at it. But, simultaneously, we must not inhibit it with overreaching privacy and civil liberties provisions that may have a chilling effect on such activities.

Simply put, I believe these provisions send a wrong message to our professional intelligence officers. Clearly, the 9/11 Commission report includes recommendations highlighting the need for adequate supervision of executive branch powers in order to protect civil liberties. As a modern democracy, we cherish individual rights and understand the importance of creating institutions with a clear mandate for protecting those civil rights. However, this bill establishes two officers in the National Intelligence Authority to oversee compliance of privacy policies and civil rights and civil liberties policies.

It also creates no fewer than eight similar officers for each of the executive branch departments and agencies concerned with national security. These officers would be required to recommend privacy and civil liberties policies and to:

periodically investigate and review department, agency, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that [they are] adequately considering privacy and civil liberties in [their] actions.

These officers are created in addition to an inspector general of the National Intelligence Authority. Clearly, insisting on all of these goes well beyond what is necessary and may well hurt our attempt to improve our human intelligence.

Our history of intelligence reform has many examples of sending wrong messages to our intelligence officers. The restrictions and bureaucratic oversight instituted in the past have often hampered the aggressiveness of operations and left our policymakers with less than a complete picture about critical intelligence matters.

The chilling effect that began with the Church hearings in the 1970s, while it did some things that were good—the chilling effect is long remembered. It has had a long, long effect.

The 1995 directive issued by former CIA Director John Deutch, which limited officers from including unsavory individuals, was also something that had enormous chilling effects and caused some difficulty in obtaining the kind of people we needed as the human resources we have been describing.

My concern is that excessive oversight established by this current bill will do the same thing, if not more. It will leave case officers who do human intelligence missions concerned that they cannot do their jobs to the best of their ability without worrying about being disciplined or somebody kind of looking over their shoulder.

Some people have called this reluctance by operations officers, by these officers, ''risk aversion.'' I don't know if that is the right characterization, but certainly we have had difficulties accomplishing certain missions because we could not get enough trained people on the ground in critical places throughout the world.

I am concerned that the oversight provisions of sections 126, 127, and 212 in this bill will continue to hurt us in this area.

Having said that, I believe removing these provisions would create a much better balance between the Government authority needed to protect America and the civil liberties we hold so dear. Removing these sections that create too many oversight positions would remove redundancy while maintaining the Privacy and Civil Liberties Oversight Board that was recommended by the national commission.

Once again, I believe this bill does a very good job of enhancing our intelligence system, but let us not undermine these positive steps before they have had a chance to work.

I yield the floor. 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. ROCKEFELLER. 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. 3903

Mr. ROCKEFELLER. Madam President, I rise today in opposition to amendment No. 3903, offered by Senator TED STEVENS. This amendment strikes the provision in the bill that calls for the disclosure of the aggregate amount of funding requested, authorized, and appropriated for the national intelligence program.

There is one of the fundamental reforms recommended by the 9/11 Commission and one that I have long supported.

The proponents of this amendment have made two central arguments. First, they suggest we are rushing into this decision without fully understanding the implications.

Second, they suggest that revealing the amount of overall spending could somehow damage our national security.

Let us address the first argument, that we are rushing into this decision. I must point out this is not a new debate. The Congress has been considering this particular question for at least a decade. In 1993, the Senate adopted an amendment calling for the disclosure of the aggregate amount of intelligence spending.

Let me repeat that the Senate endorsed the idea 11 years ago.

That effort and a subsequent attempt to make the top line public, which is what we are talking about—the total amount of the intelligence budget—in 1997 had the support of Senators SPECTER, Boren, and DeConcini, all of whom served as chairman of the Senate Intelligence Committee. We had a full and complete debate in 1993, and this issue has been reviewed, debated, and discussed numerous times in the intervening years. The argument that we are being rushed into this decision is an excuse being used to stop this important change.

Regarding the second argument, that disclosing the overall budget will damage our national security, I cannot cite a better source than the Deputy Director of the CIA John McLaughlin who testified last month that this important step would reinforce responsibility and accountability, not only for those receiving the money but for the Congress as well. In addition, Robert Gates and John Deutch, former Directors of Central Intelligence, have said that releasing the number would not damage national security.

Arguing that disclosure of the total spending for national intelligence would compromise our security and provide enemies with useful information about our intelligence programs ignores the reality of the current situation. While the number is in fact classified, it is widely reported in the press. It also was officially declassified for fiscal years 1997 and 1998 by former DCI Tenet.

Some have argued that the total amount is not the problem; it is the budget trends that need to be protected. Again, current practice undermines this argument. Every year when we do the intelligence authorization bill, the chairmen and vice chairmen in both Houses come to the floor and talk about whether we have increased or decreased the budget that year. Often those statements include specific percentage increases. These discussions and trends disclose nothing about the specific intelligence programs being funded.

The idea that our enemies can somehow determine something about our intelligence capability by knowing the total of what we spend is simply not accurate. Year-to-year changes in any specific program will not move the overall total number enough to give an adversary any indication of how that money is being spent.

In other sensitive national security areas, we disclose much more information without doing damage. We currently disclose an enormous amount of detail about our defense budget and military capabilities. The amount of money we spend on personnel, acquisition, and research and development is unclassified. Also available are the amounts for specific weapons systems, such as tanks, aircraft, and missile defense.

Even much of the spending in the defense budget for specific tactical intelligence programs is unclassified currently.

The disclosure of the total of the national intelligence budget is simply not an academic debate. This step is critical to many of the other reforms in

this bill which our floor managers are trying so hard to get done, and to some of the proposed congressional reforms we will be discussing later this week. Without a separate unclassified budget number, the fund for the National Intelligence Program will still need to be included in the Defense Department budget. This arrangement will hinder effective control by the national intelligence director and will restrict our ability to organize in a way to streamline congressional oversight, which is what the 9/11 Commission and our floor managers are seeking in their legislation.

To conclude, it will be virtually impossible to have a separate appropriations for intelligence without the declassified intelligence budget. If we do not take this step and make this number public, we are seriously undermining the reforms in this bill.

I urge my colleagues to oppose the Stevens amendment and support this key recommendation of the 9/11 Commission.

I thank the Presiding Officer and yield the floor.

Ms. COLLINS. Madam President, I thank the Senator from West Virginia for his very eloquent presentation.

As the Senator indicated, the intelligence budget's aggregate number has been made public twice by the DCI. So this is not unprecedented. But if the amendment offered by the Senator from Alaska were adopted, let there be no mistake of what the effect would be. The effect would be that the funding for the National Intelligence Program would still be funded through Department of Defense.

The whole purpose of this bill is to create a national intelligence director with significant authority, and the first and perhaps most significant of those authorities is the control of the budget. The only way you can give the NID true control over the budget is if you have a separate account that the NID controls. And we need to do that by declassifying the top level number.

We did not go as far as the 9/11 Commission recommended. The 9/11 Commission recommended declassifying the top lines of all the agencies' budgets within the National Intelligence Program. We did not adopt that approach. Instead, we are only declassifying the aggregate number for the entire national intelligence budget, a number I note is often estimated and reported in the newspapers today.

But the point I want to make to supplement the remarks of the Senator from West Virginia is if we do not do this, if we adopt the amendment offered by the Senator from Alaska, we will undermine a key reform in the bill because the intelligence budget is so big that if it is not going to be declassified, it has to go through the Department of Defense. There is no other agency or department that is big enough to conceal the total amount of the budget.

This is going to be an important vote which is coming up this afternoon.

Mr. DOMENICI. Madam President, when I delivered my short remarks in reference to the privacy and civil liberties provision, I failed to mention the other provisions in the bill that attempt to provide similar or corresponding type relationships. One is called the privacy and civil liberties oversight board. That is a very different thing within the purview of intelligence activities. It is almost political in nature. It is appointed by the President and confirmed by the Senate, three members of one party and two of the other.

It seems to me a very significant intrusion, perhaps, if one of those institutions will have a very chilling effect.

In addition to all of those I have mentioned, four, that is five; I mentioned six, that is seven; and now we have an eighth, which is an ombudsman, which seems, at least to me, to be a bit of piling on in this bill. You get one, and you think it is OK; someone has another; and someone has another. There is no criticism in that, but that is what it appears to me. We used to call that piling on when we went into conference where somebody seemed to be piling on because they have so many provisions affecting the same thing. But in this case, if that is what it is, it will have serious potential for repercussions that we don't want.

I thank you, Madam President, and the Senate for yielding me this time.

Mr. STEVENS. Madam President, I apologize for not being here earlier. I thank the managers of the bill, Senator COLLINS and Senator LIEBERMAN, and their staffs for the work that has been done over the weekend, which we will be hearing about soon, trying to meet us halfway in terms of some of the objections we have raised to the bill.

We will soon vote on amendment No. 3903, which the Senator from Maine has just discussed, declassification responsibility. This is an enormous step to take mainly because of the absolute lobbying and pressure from two people from the 9/11 Commission. I have talked to other members on the Commission who were not so keen about declassification of the entire intelligence budget other than Mr. Hamilton and Mr. Kean.

Clearly, it is a massive step. From President Truman to President Bush, every President of the United States has said do not declassify the top line of our budget. We have voted in the Senate many times since I have been in the Senate as Members have tried to do this, and we have uniformly turned down such a proposal.

Now it is in a bill for the first time. We must take it out. It requires 51 votes to take out. In the past, it took 51 votes to pass. We are in a different position now than we were before. Very clearly, because of the scope of this bill, we are doing something even more expansive than amendments that came before the Senate before.

Again, I call the attention of the Senators who will vote to the scope of the definition of national intelligence under this bill. It is a sweeping definition.

I ask that page 6, beginning on line 19, be printed in the RECORD.

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

(6) The term ''National Intelligence Program''—

(A)(i) refers to all national intelligence programs, projects, and activities of the elements of the intelligence community;

(ii) includes all programs, projects, and activities (whether or not pertaining to national intelligence) of the National Intelligence Authority, the Central Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, the Office of Intelligence of the Federal Bureau of Investigation, and the Office of Information analysis of the Department of Homeland Security; and

(ii) includes any other program, project, or activity of a department, agency, or element of the United States Government relating to national intelligence unless the National Intelligence Director and the head of the department, agency, or element concerned determine otherwise; but

(B) except as provided in subparagraph (A)(ii), does not refer to any program, project, or activity of the military departments, including any program, project, or activity of the Defense Intelligence Agency that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act, to acquire intelligence principally for the planning and conduct of joint or tactical military operations by the United States Armed Forces.

Mr. STEVENS. My point is this: Included in intelligence are the top secret plans of this country. They are the planning for future devices and concepts that deal with interception of information. They deal with the ability to identify individuals. They deal with so many classified areas that I may be violating some rules by mentioning the two I mentioned.

All the money we put in this bill, hide in the intelligence bill, to stop anyone from knowing about it, has to be disclosed under this direction, to include everything, any program, project, or activity of any one of these agencies.

I plead with Members to think about classification. This is not routine classification of who is an employee of the CIA. That is bad enough, come to think of it. These activities are so far reaching, and with so many agencies, including the defense agency that deals with research activities. It has projects it is working on, which are so far out that may prove to be viable. They are part of the intelligence budget. They are classified. They are down in the black portion of the bill and are kept classified because we do not want anyone to know what we are researching and what we are developing. It would be included in this.

No amendment we ever looked at before would have done that, but because of the definition of intelligence in this bill it becomes all inclusive and there is no alternative.

Sometimes I think maybe I am just not able to communicate totally what I am thinking about this bill. It is far reaching to the point of having the ability to destroy intelligence capability to plan for the future.

There is no question about the right to know everything—except the secrets of the country. Aren't we allowed to

have some secrets? Do we have to disclose a number that encompasses the financing of secret activities, some so classified they are not even top secret; they are code word? You have to be cleared for the word. You have to be totally cleared. And there are very few people cleared for these activities. I don't think there are many people in the Senate who are cleared for code word activities.

Should we tell them what we are spending for code word activities? We do not even tell them the word—but we will have to print in the RECORD now, disclose in the top line of the intelligence budget, all of those activities.

I will speak later about it. Again, I implore the managers of the bill to think twice about this precedent we would be setting, reversing the votes in the Senate—reversing because now it requires 51 votes to take it out. In the past, it was 51 votes to get it passed.

This has shifted the burden from the intelligence people who want to protect the Intelligence Committee to the people who do not understand it, do not wish to really understand it. I am not being accusatory of my two friends. They have worked hard and are trying to understand, but some of us have lived a lifetime in trying to understand it. This amendment has to pass.

If we want to disclose the budget to the extent that it is not classified in terms of top secret or above, that is another matter. We can disclose a portion of the budget that is in the secret category, but when we get to top secret and above—no. If we include that, count me out. I cannot believe we would do that. I hope the Senator will listen to us later.

Mr. BURNS. Will the Senator yield?

Mr. STEVENS. I am delighted to yield.

Mr. BURNS. As I looked at this amendment and thought of making available the information of how much we spend on intelligence—not only are there operations we have to take into consideration, lives of people are on the line. We make them more vulnerable every day in their work, gathering intelligence.

Mr. STEVENS. The Senator is absolutely right.

Mr. BURNS. And I ask the Senator, has anyone determined what it does to the human assets, the people? They are the best we have. Are they willing to work for this agency to get the best intelligence we need?

Mr. STEVENS. The problem is, once we make available this top line they wish to disclose and then start through the budget on what you can find easily, pretty soon you come down to the portion of the budget that is in the classified sector, and then you start to pick it apart. You know what will happen. It will keep getting question after question after question.

But the people who risk their lives, who are foreign nationals, are paid from this budget. We are really going to put in there how much we are paying people around the world to spy for us? Are we naive enough to think we are not paying people? It would be in there. Unless the Senator disagrees with me, there is one little exception: unless someone decides otherwise. I am not sure what that means because it only refers to that one section. It is related to national intelligence.

Now, national intelligence is intelligence that is covered by section 5. It does not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation. It does not say it does not cover counterintelligence or activities of the CIA or the DIA, but it does for the FBI.

I think the problem is, the definitions of these programs are so specific now to this bill. But this one covers the disclosure of the total amount. That is what I object to.

Mr. BURNS. Madam President, I have drawn the conclusion that basically this destroys the network. And we wonder why we do not have human resources on the ground in some areas in the world and, yes, even in our own country. I will tell you, if this is disclosed, this will be one of the main reasons that we will have.

Mr. STEVENS. Let me tell the Senator one thing before I quit. I remember one morning I woke up and the New York Times had a picture of the Predator on the front page, and it disclosed that it was capable of carrying the Hellfire missile. If there was anything that was totally classified at that time, that was it, and there it was out there on the front page. Do you know what. About a week later, we missed several people in Afghanistan on whom we were trying to use the Hellfire missile. They knew it was already there. They knew it was armed by that time. Before that, it had not been armed and before that no one had the capability to arm it. But we developed a way to arm it, and there it was on the front page of the New York Times.

Now, this concept of leakage of the intelligence community's activities starts from the top line. I do not understand why we should reverse the history of this Senate. The Senate has never voted to disclose the intelligence budget—never.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I have great respect for the Senator from Alaska. He has always contributed to our country in so many different ways. I have great respect for his long experience in matters of defense and intelligence. I assure him of this.

He raised the question about whether the Senator from Maine and I understand what we are doing. Let me assure him, we understand. We have spent a lot of time studying this issue. The 9/11 Commission has spent a lot of time studying this issue. We disagree with the amendment of the Senator from Alaska. We have a difference of conclusion about policy, but we understand exactly what we are doing.

What we are doing is saying that the billions of dollars that are spent every year on intelligence is the people's money. Unless there is a national security reason not to tell them what the bottom line is we are spending, they have a right to know. One of the consequences of that is that there will be more accountability.

Acting Director of Central Intelligence John McLaughlin said to our committee:

> I think it would make some sense to declassify the overall number of the foreign intelligence program. It would reenforce responsibility and accountability.

This is nobody who was pulled in out of nowhere to run the CIA. He spent his entire career, more than 30 years, in intelligence.

Mr. STEVENS. Will the Senator yield?

Mr. LIEBERMAN. No. I would like to——

Mr. STEVENS. But you are using foreign intelligence. This is national intelligence. He talked about foreign intelligence.

Mr. LIEBERMAN. Excuse me, he talked about national intelligence before our committee. It is the bottom line, a gross number.

The colloquy between the Senator from Montana and the Senator from Alaska was interesting but bore no relevance whatsoever to the proposal in our bill. Do you think we would make this recommendation if we thought it would compromise the security of anybody in our intelligence community?

Let me ask you this: How would it? It is the bottom line. It is not even the 15 constituent agencies of the intelligence community. This does not compromise anybody's security any more than the Defense Department budget compromises the security of our soldiers, or the DEA budget, which is public, Drug Enforcement Agency, compromises the security of any of our drug enforcement agents, or the FBI budget. People in DEA and FBI are involved in very dangerous work.

Anyway, it is only the bottom line.

The PRESIDING OFFICER. Under the previous order, the hour of 4:15 having arrived, the Senate will proceed to a series of votes on pending amendments, with 2 minutes equally divided for debate prior to each vote. The first amendment is Senator BYRD's amendment, amendment No. 3845.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I want to explain to our colleagues what is going to happen before we proceed. There will be a motion to table the Byrd amendment. There will be 2 minutes equally divided and then a motion to table the Byrd amendment.

We have been able to work out an agreement on Senator WARNER's amendment. That will be the second matter we deal with. He will send a modification to the desk, and it is my hope to be able to adopt that amendment by a voice vote and vitiate the rollcall request.

Then there will be consideration of an amendment from Senator STEVENS having to do with the effective date. Again, we have worked out a compromise on that, working very hard throughout the weekend. I expect Senator STEVENS will propose a modification to his amendment, and that will allow us to clear that amendment by a voice vote.

We then will proceed to the Stevens amendment dealing with classification, which has been debated extensively. That will require a rollcall vote, and I will be moving to table it.

We then will move to another Stevens amendment where, again, I am pleased to report there is another compromise. It has to do with the interagency counterterrorism plans. Again, an amendment will be sent to the desk incorporating the compromise. I believe Senator STEVENS will be offering that. I anticipate being able to accept that on a voice vote.

So I want my colleagues to know that we have made considerable progress in accommodating concerns expressed by the Senator from Virginia and the Senator from Alaska. As a result, I see the need for two rollcall votes out of the five that were ordered. I hope that is how it will unfold.

The PRESIDING OFFICER. Who yields time with regard to the amendment?

Mr. BURNS. Madam President, I say to the managers of the bill, I would like to respond to the ranking member's assessment of why the funds should be disclosed. I ask permission to do that.

The PRESIDING OFFICER. Does the Senator yield time?

Ms. COLLINS. Madam President, I am wondering if perhaps that could be done in the 2 minutes on the Stevens amendment, since we have an awful lot of amendments to get through. I am very hesitant to cut off the Senator from Montana, but would that be acceptable?

Mr. BURNS. That will be fine. We might ask for a little more time.

Ms. COLLINS. OK. Madam President, we would now proceed to 2 minutes of debate equally divided on Senator BYRD's amendment.

The PRESIDING OFFICER. That is correct.

Mr. WARNER. Madam President, seeing the absence of Senator BYRD, I ask the Senator, would you like to proceed to my amendment to take a little time while he comes to the floor?

Ms. COLLINS. Madam President, I think that would be a good idea. I ask unanimous consent that we proceed to Senator WARNER's amendment first while we are waiting for Senator BYRD.

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

Who yields time?

The Senator from Virginia.

Mr. WARNER. Madam President, I now observe the presence of the Senator from West Virginia.

AMENDMENT NO. 3877, AS FURTHER MODIFIED

Madam President, I send to the desk a modification to amendment No. 3877.

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

The amendment, as further modified, is as follows:

On page 40, strike line 18 and all that follows through page 42, line 9, and insert the following:

(b) NID RECOMMENDATION OR CONCURRENCE IN CERTAIN APPOINTMENTS.—With respect to any position as head of an agency, organization, or element within the intelligence community (other than the Director of the Central Intelligence Agency)—

(1) if the appointment to such position is made by the President, any recommendation to the President to nominate or appoint an individual to such position shall be accompanied by the recommendation of the National Intelligence Director with respect to the nomination or appointment of such individual to such position; and

(2) if the appointment to such position is made by the head of the department containing such agency, organization, or element, the Director of the Central Intelligence Agency, or a subordinate official of such department or of the Central Intelligence Agency, no individual may be appointed to such position without the concurrence of the National Intelligence Director.

(c) PRESIDENTIAL AUTHORITY.—This section, and the amendments made by this section, shall apply to the fullest extent consistent with the authority of the President under the Constitution relating to nomination, appointment, and supervision of the unitary executive branch.

On page 42, after line 25, add the following:

(e) CONFORMING AMENDMENTS.—(1) Section 201 of title 10, United States Code, is amended—

(A) by striking subsection (a);

(B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(C) by striking ''Director of Central Intelligence'' each place it appears and inserting ''National Intelligence Director'';

(D) in subsection (a), as so redesignated—

(i) in paragraph (1)—

(I) by striking ''seek'' and inserting ''obtain''; and

(II) by striking the second sentence; and

(ii) in paragraph (2)—

(I) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(II) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) The Director of the Defense Intelligence Agency.''; and

(E) in paragraph (2) of subsection (b), as so redesignated—

(i) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(ii) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) The Director of the Defense Intelligence Agency.''.

(2)(A) The heading of such section is amended by striking ''**consultation and**''.

(B) The table of sections at the beginning of subchapter II of chapter 8 of such title is amended in the item relating to section 201 by striking ''consultation and''.

Mr. WARNER. This is an amendment which strikes a balance between the respective authorities of the newly to be created NID together with the Secretary of Defense and others as it relates to the recommendations to the President for the appointment of Presidential appointees. It has the support of the distinguished managers on both sides. I worked in cooperation with the White House staff in its preparation, and they have expressed strong concurrence.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I thank the distinguished chairman of the Armed Services Committee for working with Senator LIEBERMAN and me on the appointment authority. This is a very important issue. We have struck the right balance in the modification. I urge acceptance of the modification which embodies the compromise we worked on over the weekend.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank Senator WARNER for the initiative and for the reasoning that we have done. We have come up with a result that is a wise and solid balance. We are creating a new position—national intelligence director—but we want that position to work particularly closely with the Secretary of Defense. This compromise says that on the critical national intelligence agencies—NSA, NGA, and NRO—that are now in the Defense Department, whereas the initiative to head that department was previously in the national intelligence director, we are giving it back to the Secretary of Defense but asking for concurrence from the national intelligence director before it goes to the President.

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

Mr. LIEBERMAN. In fact, this amendment broadens the involvement of the national intelligence director in these important nominations.

I thank the Senator for his cooperation. It shows that Senator COLLINS and I are willing to hear and accept a good idea.

Mr. WARNER. Madam President, I note the long hours and hard work of the two managers. We started on this on Thursday, when I first introduced it, and we worked it again on Friday. Those were productive days. Even though we did not have rollcall votes on Friday, much was accomplished, including the resolution of this amendment.

I ask now that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3877, as further modified.

The amendment (No. 3877) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3845

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from West Virginia.

The Senator from Maine.

Ms. COLLINS. Madam President, the amendment of the Senator from West

Virginia would considerably limit the authority of the national intelligence director to move money and people. It would undermine a key reform that is included in this bill, a reform that the 9/11 Commission says is absolutely necessary to empower the NID. Otherwise we are just creating another layer of bureaucracy. We need to make sure that the NID has the authority to marshal the resources, the people, and the funding to counter the biggest threats we face.

The Byrd amendment would actually give the new national intelligence director less authority than the DCI has under current law to move around money and personnel to address urgent needs. Under the Byrd amendment, aggregate transfers from a department or an agency would be limited by a dollar and a percentage amount. There is no such limitation in current law. This amendment represents a step backward from current law. It would severely undermine the reforms. I am going to move that it be tabled. I urge my colleagues to oppose the amendment.

The PRESIDING OFFICER. The Senator from West Virginia has 1 minute.

Mr. BYRD. Madam President, I ask unanimous consent for 2 minutes. I would like to yield to the distinguished Senator, chairman of the Appropriations Committee and President pro tempore of the Senate.

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

Ms. COLLINS. Madam President, I ask unanimous consent for an additional minute on our side, then, as well.

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

The Senator from Alaska.

Mr. STEVENS. Madam President, I believe this is another amendment that is sort of misunderstood. The powers of the national intelligence director under this bill are much broader than the CIA Director's. Under this bill he has the right to move money from any part of the intelligence community to another part without consent of the agency to whom we appropriated money and, really, without regard to the program activities or even the specifications Congress has put on that money.

Take, for instance, reserve funds. Reserve funds are there in the event of emergencies for the specific agency involved. He can go in to take the reserve funds from one agency and move them entirely to another agency without any consent of the agency or the consent of the committees that appropriated the money for that reserve contingency.

The Senator's amendment makes a lot of sense. Those of us who are cosponsors are very serious about our support.

Mr. LEVIN. Mr. President, I support much of what is contained in amendment No. 3845, offered by Senator BYRD. However, I will vote against the amendment because it strikes from the underlying bill section 224(b)(3), a provision included in an amendment I offered during markup of the bill in the Government Affairs Committee. Section 224 requires that the NID, the Director of the NCTC, and the Director of any other intelligence center make intelligence information available upon the request of committees of Congress with jurisdiction over the subject matter to which the information relates, or upon the request of the chairman or ranking member of the House or Senate Intelligence Committees. Too much information and too many documents have been withheld from congressional committees by the CIA. If we are going to prevent a stronger national intelligence direction from becoming a stronger ''yes man'' and stronger political arm of a White House, there must be strong oversight from Congress.

The intention of section 224(b)(3) is to limit the amount of intelligence information that the executive branch can legally withhold from the Congress. The requirement to provide information to Congress exists unless the President asserts a Constitutionally-based privilege. Senator BYRD and I both agree that the Congress should have broad access to intelligence information. I disagree, however, with that part of the Byrd amendment which strikes section 224(b)(3).

Mr. NELSON of Florida. Mr. President, while I agree with the provisions of Senator BYRD's amendment, No. 3845, that seeks to provide greater congressional oversight of the national intelligence authority, my objections to provisions in the amendment that would require the National Intelligence Director to relinquish budget authority make it necessary for me to oppose the amendment and vote in favor of the motion to table the amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, we must not take control of public moneys from the elected representatives of the people and give it to an unelected bureaucrat. The Byrd-Stevens-Inouye-Warner amendment gives the director the flexibility to transfer personnel and appropriations to protect against terrorist attacks but provides a leash with which to rein him in should abuses occur. They may occur. They probably will in time. This is a safeguard.

I say listen to the Constitution of the United States. I am very interested in reform, and I admire the work the committee has done. But we are acting too hastily. We are not given enough time, and we are going to rue the day that we turned this amendment down and failed to leash this unelected bureaucrat. We, the people, stand by the Constitution.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, testimony from former DCIs as well as other experts confirmed the need for stronger authority to transfer and reprogram funds and told us this is key to reform of the intelligence community. The Acting Director of the CIA said it best. He talked about how cumbersome the current system is. He told us you first have to acquire the approval of the agency head, then you have to go to the department secretary, then you have to go to OMB, and then you have to go to Congress. We are keeping the OMB and congressional steps. I want to make that clear. But that process, he told us, typically takes 5 months, and, as he said—and I quote John McLaughlin:

> So you can see that's not very agile to meet the needs of today. My view is that the national intelligence director ought to have the authority to move those funds.

I would also note that other provisions in the bill are opposed by the White House, and the amendment is opposed by the chairman of the Intelligence Committee.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on the motion.

The clerk will call the roll.

Mr. MCCONNELL. I announce that the Senator from Texas (Mr. CORNYN) and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

I further announce that if present and voting the Senator from Oklahoma (Mr. INHOFE) would vote ''yea.''

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 62, nays 29, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—62

Alexander	DeWine	Mikulski
Allard	Dole	Miller
Allen	Durbin	Murray
Bayh	Ensign	Nelson (FL)
Bingaman	Enzi	Nelson (NE)
Bond	Feingold	Nickles
Boxer	Feinstein	Pryor
Breaux	Fitzgerald	Roberts
Brownback	Frist	Rockefeller
Bunning	Graham (SC)	Santorum
Campbell	Grassley	Schumer
Cantwell	Hatch	Sessions
Carper	Hutchison	Shelby
Chambliss	Landrieu	Smith
Clinton	Levin	Snowe
Coleman	Lieberman	Specter
Collins	Lincoln	Sununu
Conrad	Lott	Talent
Craig	Lugar	Voinovich
Crapo	McCain	Wyden
Daschle	McConnell	

NAYS—29

Baucus	Chafee	Dorgan
Bennett	Cochran	Gregg
Biden	Dayton	Hagel
Burns	Dodd	Harkin
Byrd	Domenici	Inouye

Jeffords	Leahy	Stabenow
Johnson	Murkowski	Stevens
Kohl	Reed	Thomas
Kyl	Reid	Warner
Lautenberg	Sarbanes	

NOT VOTING—9

Akaka	Edwards	Inhofe
Cornyn	Graham (FL)	Kennedy
Corzine	Hollings	Kerry

The motion was agreed to.

AMENDMENT NO. 3829, AS MODIFIED

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Stevens amendment No. 3829.

Ms. COLLINS. Mr. President, I am very pleased to inform our colleagues that, after working very closely with Senator STEVENS, Senator LIEBERMAN and I have agreed to a modification of his amendment that is acceptable to us.

The bill originally called for an effective date after enactment of 180 days. The amendment of Senator STEVENS would retain that date but give the President the ability to extend for another 6 months for certain provisions of the bill. That is an acceptable compromise.

I thank the Senator from Alaska for working with the Senator from Connecticut and myself to reach this agreement. I want my colleagues to take note that we have accommodated the Senator's concern in this regard.

Mr. STEVENS. I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 3829), as modified, is as follows:

AMENDMENT NO. 3829 (AS MODIFIED)

On page 133, line 4, strike ''90 days'' and insert ''180 days''.

On page 134, line 4, strike ''180 days'' and insert ''270 days''.

On page 135, line 15, strike ''270 days'' and insert ''1 year''.

On page 140, line 6, strike ''30 days'' and insert ''90 days''.

On page 145, line 12, strike ''1 year'' and insert ''15 months''.

On page 149, line 16, strike ''1 year'' and insert ''15 months''.

On page 150, line 20, strike ''1 year'' and insert ''15 months''.

On page 212, beginning on line 3, strike ''subsection (b), this Act, and the amendments made by this Act,'' and insert ''subsections (b), (c), and (d), titles I through III of this Act, and the amendments made by such titles,''

On page 212, between lines 6 and 7, insert the following:

(b) SPECIFIED EFFECTIVE DATES.—(1) The provisions of section 206 shall take effect as provided in such provisions.

(2) The provisions of sections 211 and 212 shall take effect 90 days after the date of the enactment of this Act.

On page 212, line 7, strike ''(b)'' and all that follows through ''United States'' on line 10 and insert ''(c) EARLIER EFFECTIVE DATE.—In order to safeguard the national security of the United States through rapid implementation of titles I through III of this Act while also ensuring a smooth transition in the implementation of such titles,''.

On page 212, beginning on line 11, strike ''Act (including the amendments made by this Act), or one or more particular provisions of this Act'' and insert ''titles I through III of this Act (including the amendments made by such titles), or one or more particular provisions of such titles''.

On page 212, between lines 16 and 17, insert the following:

(d) DELAYED EFFECTIVE DATE.—(1) Except with respect to a provision specified in subsection (b), the President may extend the effective date of a provision of titles I through III of this Act (including the amendments made by such provision) for any period up to 180 days after the effective date otherwise provided by this section for such provision.

(2) The President may extend the effective date of a provision under paragraph (1) only if the President determines that the extension is necessary to safeguard the national security of the United States and after balancing the need for a smooth transition in the implementation of titles I through III of this Act against the need for a rapid implementation of such titles.

On page 212, line 17, strike ''(c)'' and insert ''(e)''.

On page 212, line 18, strike ''(b)'' and insert ''(c) or (d)''.

On page 212, line 23, strike ''earlier'' and insert ''earlier or delayed''.

On page 212, line 25, strike ''earlier'' and insert ''earlier or delayed''.

Mr. STEVENS. I thank the Senators from Maine and Connecticut for working with us on this amendment. It does stretch out the timeframe and makes much more sense.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Alaska. We have improved this. We have said 180 days for the effective date. If the President decides it is in the national security interest to extend that, he can do that. If he decides he wants to implement it earlier than 180 days in the national security interest, he can do that as well. It is a good compromise. I support it.

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

The amendment (No. 3829), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3903, AS MODIFIED

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Stevens amendment No. 3903.

Mr. STEVENS. Mr. President, could we have order?

Determining classification is the responsibility and duty of the chief executive of the United States, the President, who is also Commander in Chief. Presidents Truman through Bush has determined that the overall intelligence budget top-line figure is, and shall remain, classified, and I believe we should not overrule that judgment.

The foundation of an effective intelligence capability, is secrecy. Secrecy protects not only the information that we collect, but also the brave people that put themselves at risk to do the collection of it. We are an open and a free society that generally abhors secret dealings by our Government. But in the case of intelligence collection and analysis, secrecy, is absolutely necessary.

Some of my colleagues argue that the American people have a right to know how much of their money is being spent to defend their Nation's security through intelligence-gathering operations. I assert today that, through its elected officials, the public interests are being effectively served.

Some argue that disclosing the total budget amount will instill public confidence and enable the American people to know what portion of the Federal budget is dedicated to intelligence activities. This bill recommends that the overall intelligence budget should no longer remain classified. I believe that the total budget figure is of no use to anyone but to those who wish to do us harm.

For example, what do the numbers tell our adversaries or potential adversaries in the world? In any given year, perhaps, not a great deal. But while watching the changes in the budget over time, and using information gathered by their own intelligence activities, sophisticated analysts can indeed learn a great deal.

Trend analysis, as you know, is a technique that our own analysts use to make predictions and to reach conclusions. There are hostile foreign intelligence agencies all over the world that are focused solely on gathering every bit of information that they can about our own intelligence-gathering operations and our capabilities. Their ultimate goal is to exploit weaknesses and to deny access and to deceive our own intelligence collectors. Denial and deception is already a serious concern for the intelligence community, and providing our enemies or potential enemies with any insight as to what we spend on intelligence will only make it worse, not better.

No other nation, friend, or ally, reveals the amount that it spends on intelligence. It would set a terrible, dangerous precedent, because right after the aggregate budget was revealed, that number doesn't say much and so the calls would be quickly for more information.

This is a slippery slope. Reveal the first number and it will be just a matter of minutes before there will be a call to reveal more information.

I want to remind my colleagues that we voted on a similar measure in 1997—the amendment failed by a vote of 56–43. There have also been five votes in the House—all of which have failed. Let us not change our records now.

The President of the United States and every President since Harry Truman has requested that the Senate not declassify the amount our country spends on intelligence. I believe we should listen to what he tells us. I have amended my original amendment to request that only a study be done on this important issue. That the national intelligence director have the time to investigate this important topic and let

him, with the President, decide what the safety needs of our Nation are to be.

Based on the recommendations of our colleagues here in the past, I hope you will accept this change and support this amendment.

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

The Senator from Connecticut.

Mr. LIEBERMAN. I rise respectfully to oppose the amendment of the Senator from Alaska. The 9/11 Commission recommended that we disclose not only the bottom line of what we spend on intelligence but the budgets of each of the 15 constituent agencies.

The Governmental Affairs Committee decided that we could respond and respect the public's right to know by putting out the bottom line number. That means X billion dollars. No details about what goes to what agency or certainly not what goes to what program or what personnel. But we were not ready to order the disclosure of the intelligence agency budget specifically, and we asked the national intelligence director to come back to us with a study.

That is a good balance. The Senator from Alaska would prohibit public disclosures of the bottom line. The public has a right to know at least that. One thing they might conclude from that is that we are not spending enough on intelligence in the war on terrorism as compared to other things we are spending on.

We worked hard on this. It is balanced. It respects the right to know. The families of people lost on 9/11 oppose this amendment, as I do.

I move to table and I ask for the yeas and nays.

Ms. COLLINS. Mr. President, I would also point out that if we do not disclose the top line, the result is the intelligence budget is still funded through the Department of Defense. So if we are trying to give the national intelligence director real budget authority, we have to disclose that top line. We are not disclosing the top line of the CIA, the DIA, the NSA; it is only the aggregate figure for the entire national intelligence budget. Otherwise we are not reforming the process. The funding will have to go through the Department of Defense.

Mr. STEVENS. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 3903), as modified, is as follows:

AMENDMENT NO. 3903 AS MODIFIED

On page 115, strike lines 15 through 25 and insert the following:

(a) STUDY ON DISCLOSURE OF AGGREGATE AMOUNT OF APPROPRIATIONS REQUESTED.—The National Intelligence Director shall conduct a study to assess the advisability of disclosing to the public the aggregate amount of appropriations requested in the budget of the President for each fiscal year for the National Intelligence Program.

On page 116, line 1, strike ''(c)'' and insert ''(b)''.

On page 116, strike lines 21 through 23, and insert the following:

(c) REPORT.—Not later than 180 days after the effective date of this section, the National Intelligence Director shall submit to Congress a report on the results of the studies carried out under subsections (a) and (b).

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Oklahoma (Mr. INHOFE) is necessarily absent.

I further announce that if present and voting the Senator from Oklahoma (Mr. INHOFE) would vote ''aye.''

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The result was announced—yeas 55, nays 37, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—55

Alexander	Durbin	McCain
Baucus	Ensign	Mikulski
Bayh	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Graham (SC)	Pryor
Boxer	Grassley	Reed
Breaux	Gregg	Reid
Cantwell	Hagel	Rockefeller
Carper	Harkin	Santorum
Chafee	Jeffords	Sarbanes
Clinton	Johnson	Schumer
Coleman	Kohl	Snowe
Collins	Landrieu	Specter
Cornyn	Lautenberg	Stabenow
Daschle	Leahy	Sununu
Dayton	Levin	Voinovich
DeWine	Lieberman	Wyden
Dodd	Lincoln	
Dorgan	Lott	

NAYS—37

Allard	Crapo	Murkowski
Allen	Dole	Nelson (NE)
Bennett	Domenici	Nickles
Bond	Enzi	Roberts
Brownback	Fitzgerald	Sessions
Bunning	Frist	Shelby
Burns	Hatch	Smith
Byrd	Hutchison	Stevens
Campbell	Inouye	Talent
Chambliss	Kyl	Thomas
Cochran	Lugar	Warner
Conrad	McConnell	
Craig	Miller	

NOT VOTING—8

Akaka	Graham (FL)	Kennedy
Corzine	Hollings	Kerry
Edwards	Inhofe	

The motion was agreed to.

Mr. STEVENS. Parliamentary inquiry.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Alaska.

Mr. STEVENS. If I give notice of reconsideration of that vote, what happens under the cloture vote as set for tomorrow?

The PRESIDING OFFICER. If the vote is reconsidered, the amendment will be pending.

Mr. STEVENS. I give notice of reconsideration.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I regret seriously I was unable to make my statement in full. I was not notified of this time limit when I left on Friday. I came back and found it. The statement of my amendment there was not a statement of my amendment. It was a statement in opposition to my amendment. I was unable to tell the Senate that the statement of policy of the President of the United States supports this amendment. I think the Senate should reconsider tomorrow and think again about this amendment.

Is there a time limit on me right now?

Mr. LIEBERMAN addressed the Chair.

Mr. STEVENS. Mr. President, I have the floor. Is there a time limit?

The PRESIDING OFFICER. The Chair advises the Senator that he cannot move to reconsider as he did not vote on the prevailing side.

Mr. LIEBERMAN. I move to reconsider the vote. I was on the prevailing side.

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

Mr. STEVENS. Mr. President, I object.

The PRESIDING OFFICER. The question then is on agreeing to the motion to table.

Mr. STEVENS. Mr. President, is that debatable?

The PRESIDING OFFICER. It is not debatable.

The question is on agreeing to the motion to table.

The motion is agreed to.

Mr. STEVENS. I object.

The PRESIDING OFFICER. The motion to reconsider is laid upon the table.

The motion to lay on the table was agreed to.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I call up amendment No. 3830.

Several Senators addressed the Chair.

Mr. STEVENS. I still have the floor, do I not, Mr. President?

AMENDMENT NO. 3826, AS MODIFIED

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Stevens amendment No. 3826, according to the previous order.

The Senator from Maine.

Ms. COLLINS. Mr. President, I believe we have worked out an agreement on Senator STEVENS' amendment No. 3826, as modified, that is acceptable to both sides. I am pleased we have been able to reach a compromise. This amendment would clarify the NCTC Director's role in advising the President and the national intelligence director. It uses language that we worked out carefully during the committee markup with Senator LEVIN and others.

Specifically, the NCTC Director would advise the President and the NID on interagency counterterrorism planning and activities which is consistent with the NCTC Director's responsibility to conduct interagency counterterrorism planning.

I urge adoption of the amendment, as modified.

Mr. STEVENS. Has the amendment been modified, Mr. President?

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

The amendment, as modified, is as follows:

On page 84, beginning on line 8, strike ''joint operations relating to counterterrorism'' and insert ''interagency counterterrorism planning and activities''.

Mr. STEVENS. Mr. President, I will say for the record the Senator from Maine is correct. We have modified this as requested by the committee.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3826, as modified.

The amendment (No. 3826) was agreed to.

Ms. COLLINS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3827

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I call up amendment No. 3830.

The PRESIDING OFFICER. Under the previous order, the next vote is on amendment No. 3827. There will be two minutes of debate evenly divided.

The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that that amendment be temporarily laid aside.

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

Mr. STEVENS. Now what is the regular order, Mr. President?

The PRESIDING OFFICER. There is no order before the Senate.

The Senator from Alaska.

AMENDMENT NO. 3830

Mr. STEVENS. Mr. President, I call up amendment No. 3830.

Mr. LIEBERMAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. There is an objection to calling up the amendment?

Mr. LIEBERMAN. I suggest the absence of a quorum.

Mr. STEVENS. I just want to call it up and set it aside and qualify it for a vote later.

Mr. LIEBERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. It takes unanimous consent to set aside the pending amendment.

Mr. LIEBERMAN. I repeat my objection, and 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. 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.

Mr. LIEBERMAN. Mr. President, I have had a conversation with the Senator from Alaska. I remove my objection to his calling up the amendment.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I renew my request.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. WARNER, and Mr. INOUYE, proposes an amendment numbered 3830.

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

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

The amendment is as follows:

(Purpose: To modify certain provisions relating to the Central Intelligence Agency)

On page 28, beginning on line 16, strike ''of the National Intelligence Director''.

On page 43, beginning on line 1, strike ''**OF THE NATIONAL INTELLIGENCE DIRECTOR**''.

On page 43, beginning on line 5, strike ''of the National Intelligence Director'' and insert ''for the National Intelligence Director and the Director of the Central Intelligence Agency''.

On page 43, beginning on line 17, strike ''of the National Intelligence Director''.

On page 141, between lines 16 and 17, insert the following:

(H) the Director of the Central Intelligence Agency or his designee;

On page 141, line 16, strike ''(H)'' and insert ''(I)''.

On page 141, line 18, strike ''(I)'' and insert ''(J)''.

On page 141, line 21, strike ''(J)'' and insert ''(K)''.

On page 179, beginning on line 21, strike ''and coordination of'' and all that follows through ''elements of'' beginning on line 23 and insert '', and coordinate outside the United States, the collection of national intelligence through human sources by agencies and organizations within''.

On page 194, beginning on line 23, strike ''of the National Intelligence Director''.

Mr. STEVENS. Mr. President, what is the pending amendment that was set aside?

The PRESIDING OFFICER. The pending amendment was No. 3810 by Senator LEVIN which has been set aside.

Mr. STEVENS. Mr. President, am I interfering with a time agreement now by continuing on the floor?

The PRESIDING OFFICER. There is no time.

Mr. STEVENS. Mr. President, I am constrained to say that I am disturbed at the process that has just been used. I was out of town. I left town saying I was willing to work. I come back and find a series of my amendments have a 2-minute time limit. I was not consulted on that at all. I think in view of the haste with which this bill is moving forward, it is very sad. It is going to change this Senator's vote on cloture tomorrow because I am tired of having this bill being pushed so hard.

It is being pushed by a group of people who were part of a commission that went out of existence. They went out and raised a million and a half dollars, and they are lobbying this Senate. They are lobbying hard, principally the two leaders. They are no longer leaders of that Commission, and they are demanding that we act. Are they registered lobbyists? Are they? What right have they to push this Senate so hard?

I think we should take some time and consider what we are doing. If we are not careful, we will destroy the intelligence system we are trying to reorganize. I am in favor of reorganizing it. I said that in the beginning. But this is going too fast, when I am prevented from even reading, perhaps just 1 minute to read a 3-minute statement, and nothing in front of the Senators on our side indicated the President of the United States was in favor of this amendment. I offered it because the statement came from the administration.

I think we should slow down. If we don't slow down, we are going to be around a long time because I remember Senator ALLEN who stretched out a cloture vote once for 3 weeks. I really believe there should be some senatorial courtesy involved when a Senator is trying to oppose a pressure group like this. It is not easy to do. I know that. But I am up to it, I tell you. I am up to it. And people better understand that.

I ask that that amendment be set aside for the purpose of further consideration tomorrow.

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

The Senator from Kansas.

AMENDMENT NO. 3740, AS MODIFIED

Mr. ROBERTS. Mr. President, I ask unanimous consent to set aside the pending amendment, and I call up amendment No. 3740 with a modification which I send to the desk.

The PRESIDING OFFICER. The amendment is already pending.

Mr. ROBERTS. Mr. President, I thank the chairman and ranking member for crafting an amendment with me that embodies several technical and clarifying modifications to their bill. If, in fact, the distinguished Senator and the distinguished ranking member at this time would accept the amendment, it would be highly desirable on the part of this Senator.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the distinguished chairman of the Intelligence Committee for working very closely with us in proposing this amendment which combines portions of several other amendments that he has

introduced. It clarifies that the mission of the national intelligence authority includes eliminating barriers to the coordination of all intelligence activities, including but not limited to counterterrorism. It appropriately ensures that the congressional intelligence committees will receive reports relating to the acquisition authorities of NSA and NGA. It provides that the NID may directly modify budget proposals made by agencies as part of the national intelligence program. I appreciate how closely the chairman has worked with Senator LIEBERMAN and me. I am pleased to support the amendment, and I urge its adoption.

Mr. ROBERTS. I thank the Senators for their assistance.

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

The amendment, as modified, is as follows:

On page 9, line 13, strike ''counterterrorism'' and insert ''intelligence, including counterterrorism,''.

On page 23, line 1, strike ''may require modifications'' and insert ''may modify, or may require modifications,''.

On page 28, line 17, strike ''or'' and insert ''and''.

On page 112, beginning on line 12, strike ''Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives'' and insert ''Select Committee on Intelligence and the Committee on Governmental Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Government Reform of the House of Representatives''.

On page 200, strike lines 5 through 11 and insert the following:

SEC. 307. CONFORMING AMENDMENTS ON RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO NATIONAL INTELLIGENCE PROGRAM.

Section 105(a) of the National Security Act of 1947 (50 U.S.C. 403–5(a)) is amended—

(1) in paragraph (1), by striking ''ensure'' and inserting ''assist the Director in ensuring''; and

(2) in paragraph (2), by striking ''appropriate''.

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

The amendment (No. 3740) was agreed to.

Ms. COLLINS. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERTS. I ask unanimous consent to set aside the pending amendment.

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

AMENDMENTS NOS. 3741, 3744, AND 3751, WITHDRAWN

Mr. ROBERTS. Mr. President, I ask unanimous consent to withdraw from consideration amendment Nos. 3741, 3744, and 3751.

The PRESIDING OFFICER. Without objection, the amendments are withdrawn.

AMENDMENT NO. 3748, AS MODIFIED

Mr. ROBERTS. Mr. President, I ask unanimous consent to set aside the pending amendment, and call up amendment No. 3748, as modified, which I send to the desk.

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

The amendment, as modified, is as follows:

On page 78, line 19, insert ''regular and detailed'' before ''reviews''.

On page 79, strike lines 1 and 2 and insert the following:

political considerations, based upon all sources available to the intelligence community, and performed in a manner consistent with sound analytic methods and tradecraft, including reviews for purposes of determining whether or not—

(A) such product or products state separately, and distinguish between, the intelligence underlying such product or products and the assumptions and judgments of analysts with respect to the intelligence and such product or products;

(B) such product or products describe the quality and reliability of the intelligence underlying such product or products;

(C) such product or products present and explain alternative conclusions, if any, with respect to the intelligence underlying such product or products;

(D) such product or products characterizes the uncertainties, if any, and the confidence in such product or products; and

(E) the analyst or analysts responsible for such product or products had appropriate access to intelligence information from all sources, regardless of the source of the information, the method of collection of the information, the elements of the intelligence community that collected the information, or the location of such collection.

On page 80, line 1, insert ''(A)'' after ''(5)''.

On page 80, line 3, strike '', upon request,''.

On page 80, between lines 5 and 6, insert the following:

(B) The results of the evaluations under paragraph (4) shall also be distributed as appropriate throughout the intelligence community as a method for training intelligence community analysts and promoting the development of sound analytic methods and tradecraft. To ensure the widest possible distribution of the evaluations, the Analytic Review Unit shall, when appropriate, produce evaluations at multiple classification levels.

(6) Upon completion of the evaluations under paragraph (4), the Analytic Review Unit may make such recommendations to the National Intelligence Director and to appropriate heads of the elements of the intelligence community for awards, commendations, additional training, or disciplinary or other actions concerning personnel as the Analytic Review Unit considers appropriate in light of such evaluations. Any recommendation of the Analytic Review Unit under this paragraph shall not be considered binding on the official receiving such recommendation.

On page 80, line 6, strike ''INFORMATION.—'' and insert ''INFORMATION AND PERSONNEL.—(1)''.

On page 80, line 8, insert '', the Analytic Review Unit, and other staff of the Office of the Ombudsman of the National Intelligence Authority'' after ''Authority''.

On page 80 line 10, insert ''operational and'' before ''field reports''.

On page 80, between lines 13 and 14, insert the following:

(2) The Ombudsman, the Analytic Review Unit, and other staff of the Office shall have access to any employee, or any employee of a contractor, of the intelligence community whose testimony is needed for the performance of the duties of the Ombudsman.

Mr. ROBERTS. Mr. President, this amendment ensures that the analytic review unit will be able to perform an important quality control and accountability mechanism for the analytic product of the intelligence community. This is an important function that has not been performed by the intelligence community as well as it should have. I thank the chairman and ranking member for working with me to ensure that this important amendment is adopted.

I yield to the distinguished chairman.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I again thank the distinguished chairman for working very closely with the floor managers on this amendment.

It provides thoughtful clarifications to the establishment of an analytic review unit under the Collins-Lieberman bill. I believe the changes made by this amendment would strengthen the bill. I urge its adoption.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I, too, rise to support the amendment the Senator from Kansas offered. It clarifies and strengthens the bill. I thank him for it and I urge its adoption.

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

The amendment (No. 3748), as modified, was agreed to.

Mr. WARNER. Mr. President, I would like at this time to address the Senate and the managers with regard to two amendments. I want to be cooperative in the procedures that they may have in mind for further amendments. If it is convenient, I would like to move forward. If not, I would like to know at what time would be more convenient for the managers. I think we are making considerable progress.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I very much appreciate the courtesy of the Senator from Virginia. I would like to suggest that we have a brief quorum call so we can try to have some order. We have several requests on both sides of the aisle to proceed on amendments. I need to compare notes with the Democratic manager of the bill.

Mr. WARNER. Mr. President, I certainly want to be cooperative. I hope the Senator will take into consideration that I now have the floor.

Ms. COLLINS. I certainly will. If the Senator wants to proceed—

Mr. WARNER. No. I want to be cooperative. I am perfectly willing to yield the floor for the purpose of a quorum. It is my hope that I will be recognized at such time as the quorum call is to be withdrawn at the discretion of the managers.

Ms. COLLINS. Thank you, Mr. President. That is my intent.

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

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

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

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

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

Mr. CHAMBLISS. I yield the floor 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. DAYTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

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

The PRESIDING OFFICER. The Senate is considering the Intelligence Reform Act.

Mr. DAYTON. Mr. President, I ask unanimous consent that I may be permitted to speak for up to 10 minutes as in morning business.

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

IRAQ'S WMD

Mr. DAYTON. Over the weekend, there was a very alarming report in the New York Times that stated that senior administration officials repeatedly failed to disclose the contrary views of America's leading nuclear scientists about tubes that could be used for either a nuclear weapons program in Iraq or for alternative purposes, such as short-range rockets.

I understand the article is printed in today's RECORD in Senator BYRD's remarks.

The investigative article found:

Senior administration officials . . . sometimes overstated even the most dire intelligence assessments of the tubes, yet minimized or rejected the strong doubts of nuclear experts.

That they had alternative uses.

They worried privately that the nuclear case was weak, but expressed sober certitude in public.

The article goes on to say:

The absence of unconventional weapons in Iraq is now widely seen as evidence of a profound intelligence failure, of an intelligence community blinded by ''group think,'' false assumptions and unreliable human sources.

Yet the tale of the tubes, pieced together through records and interviews with senior intelligence officers, nuclear experts, administration officials and Congressional investigators, reveals a different failure.

Far from ''group think,'' American nuclear and intelligence experts argued bitterly over the tubes. . . .

Precisely how knowledge of the intelligence dispute traveled through the upper reaches of the administration is unclear. Ms. Rice—

The National Security Adviser—

knew about the debate before her Sept. 2002 CNN appearance. . . . President Bush learned of the debate at roughly the same time, a senior administration official said.

The report goes on to document how, even though the 15 different agencies of the Federal Government with responsibility for intelligence gathering and assessment differed on this analysis, according to congressional and intelligence officials, none of them informed senior policymakers in the Congress about the Energy Department's dissent, and the Energy Department contained the nuclear experts most knowledgeable about the probable use of these tubes for another purpose.

Despite this disagreement, despite the uncertainty, Vice President CHENEY in the fall of 2002, in a speech to the Veterans of Foreign Wars on August 26 of that year, stated:

We now know Saddam has resumed his efforts to acquire nuclear weapons. . . .Many of us are convinced that Saddam will acquire nuclear weapons fairly soon. Just how soon we cannot really gauge. Intelligence is an uncertain business, even in the best of circumstances.

The Vice President went on to say:

Armed with an arsenal of these weapons of terror, and seated atop 10 percent of the world's oil reserves, Saddam Hussein could then be expected to seek domination of the entire Middle East, take control of a great portion of the world's energy supplies, directly threaten America's friends throughout the region, and subject the United States or any other nation to nuclear blackmail.

Yet the article goes on to say that neither the Vice President nor Ms. Rice mentioned that the Nation's top nuclear design experts believed overwhelmingly that the tubes were poorly suited for the centrifuges that would be used for nuclear warheads.

The article goes on:

Mr. Cheney, who has a history of criticizing officials who disclose sensitive information, typically refuses to comment when asked about secret intelligence. Yet on this day, with a Gallup poll showing that 58 percent of Americans did not believe President Bush had done enough to explain why the United States should act against Iraq, Mr. CHENEY spoke openly about one of the closest held secrets regarding Iraq. Not only did Mr. CHENEY draw attention to the tubes; he did so with a certitude that could not be found in even the CIA's assessments. On ''Meet the Press,'' Mr. CHENEY said he knew ''for sure'' and ''in fact'' and ''with absolute certainty'' that Mr. Hussein was buying equipment to build a nuclear weapon. ''He has reconstituted his nuclear program,'' Mr. CHENEY said flatly.

Ms. Rice said in a New York Times article today, referencing yesterday's investigative report, that she was aware of the dispute in September 2002 among the different intelligence agencies when she stated in a television interview that the tubes ''are only really suited for nuclear weapons programs.''

I have my own experience of being shown one of those tubes in a briefing conducted by Ms. Rice and CIA Director George Tenet in the White House situation room on December 23, 2002. We were told unequivocally that the tube was intended for Iraq's reconstituted nuclear weapons program. We were given no indication that there was another possible purpose for that tube. We were given no indication that there was serious disagreement among the nuclear experts in the Federal Government about the use of those tubes. We were not given all the facts. We were given one set of facts, the one that supported the position of the President and the Vice President and the one they wanted us to take when we voted on the administration's war resolution just a few days later.

It turns out the information we were given was wrong. One and a half years of subsequent inspections by over 1,400 U.S. weapons inspectors has uncovered no evidence of a reconstituted Iraqi nuclear weapons program under Saddam Hussein. Some 1,300 of those tubes were found to be part of a short-range rocket program which did not represent a threat to our own national security.

The nuclear threat of Iraq was President Bush and Vice President CHENEY's trump card, and they played it to the hilt. They betrayed the trust of the Members of Congress to persuade us to vote for their war resolution. They withheld information we should have had rightfully as Members of this body before making that fateful decision.

We have 138,000 American troops committing their lives, risking their lives, bleeding, fighting, some of them dying, on a daily basis, and we are now told that the administration has any other number of plausible explanations for why they conducted this operation. But the truth is that for many of us, the overwhelming argument being made back in the fall of 2002 when that war resolution was being debated was the supposed nuclear threat of Iraq. And for us to not have been told the truth and all the truth about the facts the administration had before it at the time to me is shameful, disgraceful, and a fundamental violation of the public trust.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are not.

Mr. ALEXANDER. Mr. President, I rise to speak to an amendment that was accepted on Friday.

The PRESIDING OFFICER. The Senator may proceed.

The Senator from Illinois.

Mr. DURBIN. Mr. President, if the Senator from Tennessee will yield for a moment to make a unanimous consent request to follow the Senator from Tennessee.

Mr. WARNER. Reserving the right to object, the Senator was not on the floor. I had the floor and yielded to the managers for the purpose of going into the cloakroom. So I think I have a

right to be recognized when the managers seek recognition, at which time I want to go ahead with my amendments. May I inquire as to the amount of time my distinguished colleagues desire?

Mr. ALEXANDER. I would like to have about 5 minutes, but it does not need to be now.

Mr. WARNER. I am trying to be accommodating.

Mr. DURBIN. Speaking through the Chair, I am happy to follow the Senator from Virginia if the Senator will give some indication of the time sequence. We can propound a unanimous consent request that I follow the Senator from Virginia after he has spoken, if he can give me some indication of how long he will speak.

Mr. WARNER. If it is agreeable to the distinguished Senator, I will follow him and the Senator from Illinois can follow me.

Mr. DURBIN. Will the Senator from Virginia give me a rough indication of how long he might speak?

Mr. WARNER. I will not take an undue period. It is largely in the hands of the managers as to their desire to probe some of the aspects of the amendments. I hope it can be a reasonable period of time, and I hope we will not prolong the Senator's schedule.

Mr. DURBIN. I ask unanimous consent that I follow the Senator from Virginia, after he has spoken to his amendments, to speak in morning business.

Mr. WARNER. I thank my colleague for his usual courtesy.

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

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I say to the Senator from Virginia, if his amendments are ready to be adopted, he can offer them.

Mr. WARNER. No, they are not ready to be adopted.

AMENDMENT NO. 3807

Mr. ALEXANDER. Mr. President, I rise to speak briefly to an amendment that was accepted on Friday. I thank the managers of the bill, the Senator from Maine and the Senator from Connecticut, for doing this and the Senator from Arizona, Mr. MCCAIN, for his work in making it possible.

This has to do with the recommendation of the 9/11 Commission that the Federal Government set standards for the security of personal identification documents such as drivers' licenses to prevent them from being counterfeited and used as identification for terrorists.

As a former Governor, I have always been skeptical of Federal rules that require States to take action that cost States money. As someone who respects civil liberties, I have been reluctant to unnecessarily identify Americans. In fact, as Governor, I vetoed the bill requiring a picture on a driver's license three times because I thought it was an unnecessary imposition on civil liberties. But times have changed. I believe the Senator from Arizona and others did an excellent job of implementing the 9/11 Commission's recommendation that drivers' licenses and other personal identification documents be upgraded so we can prevent terrorists from using them.

My one concern and the concern that the Senator from Arizona recognized was that I do not want to see the Federal Government come up with this good idea, pass it into law, require the States to do it, and then send the bill to the States. We call that an unfunded Federal mandate, and most of us in this body have said we will not do that anymore.

Senators MCCAIN, COLLINS, and LIEBERMAN have worked out an acceptable way, I believe, to deal with that problem. Basically, the amendment that was adopted on Friday will give the Secretary of Transportation 18 months from the passage of the bill to work with State and local officials to come up with a set of minimum standards for driver's licenses. During that negotiation, States will include estimates of the cost of implementing the proposed standards.

After this 18-month period, the rules will be made final. At that point, we will have before us the new requirements for States for these upgraded drivers' licenses and other personal identification documents as well as the costs that we are imposing on the States. At that time, it will be up to us, if we are true to our word about no more unfunded Federal mandates, to appropriate the appropriate amount of money that it would take Tennessee, Montana, New York, and all the other States to pay for this new requirement that we have imposed on the States. That will be something we can debate and discuss at that time.

The State governments will have 2 years from the issuance of the final regulation to implement these standards, but it is our responsibility then, if it is our good idea, if we impose it on the States, to pay for it. I, and I am sure many others in this body, will be here to argue strenuously that we do, and we should.

This is an excellent amendment. I am glad it was accepted on Friday. I appreciate the work of the National Governors Association and the Senators who were involved. This will give the States the time and resources that States need to make the necessary changes to drivers' licenses and other personal identification documents.

I call on my colleagues to keep this moment in mind because 18 months to 2 years from now the bill will come due and the bill should be paid by us, those who impose the rule, and not sent to State governments. Sending the States the bill would be an unfunded Federal mandate, which we have said we will not do.

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

Mr. WARNER. Mr. President, I thank the distinguished Presiding Officer.

I wish to inquire of the manager, is this an appropriate time to move forward?

Ms. COLLINS. Mr. President, I suggest that the Senator from Virginia go ahead and present his amendments.

AMENDMENTS NOS. 3874 AND 3875, EN BLOC

Mr. WARNER. I send to the desk two amendments which I will address. They are companion amendments, but I felt it was necessary to do it in two different amendments. One is 3874 and one is 3875. Copies are at the desk, but for the convenience of the clerk I will send up additional copies.

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

The amendments are as follows:

AMENDMENT NO. 3874

(Purpose: To provide for the treatment of programs, projects, and activities within the Joint Military Intelligence Program and Tactical Intelligence and Related Activities programs as of the date of the enactment of the Act)

On page 211, after line 22, add the following:

SEC. 337. RETENTION OF CURRENT PROGRAMS, PROJECTS, AND ACTIVITIES WITHIN JOINT MILITARY INTELLIGENCE PROGRAM AND TACTICAL INTELLIGENCE AND RELATED ACTIVITIES PROGRAMS PENDING REVIEW.

(a) RETENTION WITHIN CURRENT PROGRAMS.—Notwithstanding any other provision of law, all programs, projects, and activities contained within the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities program as of the date of the enactment of this Act shall remain within such programs until a thorough review of such programs is completed.

(b) REMOVAL FROM CURRENT PROGRAMS.—A program, project, or activity referred to in subsection (a) may be removed from the Joint Military Intelligence Program or the Tactical Intelligence and Related Activities programs only if agreed to by the National Intelligence Director and the Secretary of Defense.

AMENDMENT NO. 3875

(Purpose: To clarify the definition of National Intelligence Program)

On page 6, strike line 24 and all that follows through page 7, line 2, and insert the following:

(ii) includes all programs, projects, and activities of the National Foreign Intelligence Program as of the date of the enactment of this Act, including the Central Intelligence Agency, the

Mr. WARNER. I have heard reference made to the fact that this bill leaves intact the manner in which we deal with the TIARA programs and the JMIP; that is, the Joint Military Intelligence Program. I would like to read from page 412 of the 9/11 Commission. The Commission states as follows:

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

My question to the distinguished managers, if they desire to reply, is, Is it their position—and I believe they have so stated, but I wish to give them this opportunity—that the recommendation of the Commission that

they remain at the Department of Defense, is it the understanding of Senators in their bill that is now before the Senate that that comports with that objective?

May I read it again?

Ms. COLLINS. Yes, please do.

Mr. WARNER. Yes, I thank the Senator. Page 412 of the Commission report:

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

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, if I could respond through the Chair to the inquiry of the Senator from Virginia, the bill makes very clear that any intelligence assets that are principally for joint military operations or for tactical intelligence stay within the Department of Defense.

Now, there may be national intelligence assets that are now included within the Joint Military Intelligence Program that could be transferred to the national intelligence program. The tactical assets are clearly just under the control of the Secretary of Defense, but some of the JMIP assets are national, so that is why the bill is worded as it is with the word ''principally.''

Mr. WARNER. I thank my distinguished colleague.

I would like to now go to the bill and specifically draw the managers' attention to pages 6 and 7. The bill reads:

The term ''National Intelligence Program''—

And that is what the distinguished manager was addressing—

(A)(i) refers to all national intelligence programs, projects, and activities of the elements of the intelligence community; (ii) includes all programs, projects, and activities (whether or not pertaining to national intelligence) of the National Intelligence Authority, the Central Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office . . .

Now, therein is the problem that the Senator from Virginia has. What is the meaning of ''whether or not pertaining to national intelligence''? Because the title says this is the definition of national intelligence. (A)(i) basically gives that, and then (ii) seems to extend the definition to include programs that are not now part of the national intelligence program; that is, ''whether or not pertaining.'' I find that of considerable concern.

The purpose of the amendment is to clarify that form because having had considerable experience when I worked in the Department and the years that I have been privileged to be on the Armed Services Committee—and I have to be very careful as I speak because these are so highly classified, but I will just give generally a picture of my concern.

Right now, the JMIP literally contracts extensively with the Geospatial-Intelligence Agency, the NGA, as it is referred to. For example, the Department of Defense puts in the JMIP budget, through the budgeting process, a block of money. It can then go and contract with these several what we call combat agencies, because they have all the assets—the technical people to do the work. So they sign the contract for a program and that program is absolutely essential to the functioning of, in many instances, the TIARA program, but in many instances the JMIP. And it is essential. The JMIP cannot function unless that particular program for which it has contracted with the NGA is fulfilled.

As I read this amendment—let's call it program X—program X could be transferred under the language ''whether or not pertaining to National intelligence,'' and it goes into the NGA, and then, frankly, the NID might make a decision that, wait a minute, we have to get a very expensive overhead system and we have to go down into the various budgets of the different combat agencies and scrape up some money.

So they come down and they say JMIP says they need the money, but I think we have to prioritize. We are going to take the money and we are going to put it toward the overhead system and it will not be used—for example, this is one of the main functions of the National Geospatial Agency—to make maps. As a matter of fact, when I first came to the Senate it was the old mapping agency. Now it has been combined several times through a number of job descriptions.

But that could be lost. Suddenly we are controverting the recommendation of the 9/11 Commission, that everything in the TIARA and the JMIP is going to be left untouched.

That is the problem I see. I think we have to take a good look at this amendment because my amendment eliminates that language—that is one of the two amendments—it eliminates it in such a way that we redefine that paragraph 1. On page 6, the one I read from, strike so-and-so and put this language in, that is:

The term ''National Intelligence Program''—

(ii) includes all programs, projects, and activities of the National Foreign Intelligence Program as of the date of enactment of this Act, including the Central Intelligence Agency—

And then it goes on to read:

the National Security Agency, the National Geospatial. . . .

All I have done is keep in place the recommendation of the Commission. The very words I have heard the distinguished managers say on the floor a number of times—and I have it back in the previous Records, in which she has represented to this body in the course of the four or five days we have been debating that we are not touching TIARA and we are not touching the JMIP.

There is my problem. I believe this fixes it.

AMENDMENT NO. 3874

The next amendment addresses what the distinguished managers said a few minutes ago. There could come a time where it is the judgment of the NID that some of these programs should no longer be under the jurisdiction of the JMIP, and therefore my other amendment kicks in. It reads as follows:

Removal From Current Programs. A program, project, or activity referred to in subsection (a) may be removed from the Joint Military Intelligence Program or the Tactical Intelligence and Related Activities programs only if agreed to by the National Intelligence Director and the Secretary of Defense.

So the two of them could make adjustments in the future. But right now, we have a number of programs in JMIP which are being performed by the combat agencies and I think it would not be in our best interests to dislodge those programs now. In the future, if the two heads agree, this is the statutory authority to do it.

I feel very strongly about these amendments. So much so I will ask for votes on them if we are not able to—I don't say that in the way of anything other than expressing my sincerity in these amendments, but I hope you could possibly accept them. If you cannot, I feel obligated to ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I would point out that the amendment of the distinguished Senator would require that the Secretary of Defense agree to the movement of any asset from the JMIP or TIARA budget to the National Intelligence Program budget.

I want to make sure my colleagues realize that the White House opposes giving the Secretary of Defense a veto over what can be moved from JMIP or TIARA to the new National Intelligence Program. I apologize for talking in acronyms in describing this.

As you know, the tactical intelligence programs are the TIARA programs that are run by the various services within the Department of Defense. The JMIP is the Joint Military Intelligence Programs.

I note we have tried to strike a delicate balance in this bill. We decided, and so I joined the Senator from Virginia, to defeat an amendment that would have moved the NSA, the NGA, the NRO out of the purview and daily supervision of the Secretary of Defense. We were cognizant that the NSA and the NGA provide direct support to the warfighter.

The underlying legislation, however, does strike a delicate balance. We give the national intelligence director control over the budgets, the tasking of national assets, and certain personnel authorities, while leaving those agencies under the day-to-day supervision of the Secretary of Defense. I think that is the right balance.

Keep in mind, when we talked to the head of the NSA, the three-star General who runs that agency, he told us

that he has more contact with the CIA than he does the Secretary of Defense; that he is providing national intelligence everyday beyond the needs of the Pentagon. That is not in any way to lessen the important role he is providing to our warfighters, to the combat commanders, to the Secretary of Defense. But these are national assets. Indeed, while I can't disclose the amounts of the budgets or the exact percentages because they are classified, the majority of the budgets for these agencies are already in the National Foreign Intelligence Program budget.

I understand the point of the Senator from Virginia. As always, I am happy to try to work with him. I know Senator LEVIN has some amendments in this area that may bring further clarity. But I am concerned about the scope of his amendments.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, replying to my distinguished colleague, let's use the example of maps. They are absolutely essential to the troops. They can't operate without maps.

The only existing entity of the Federal Government that can make maps is the NGA. Right now, the JMIP, which is the Joint Military Intelligence Program, is acting on behalf of all the services—the Army, Navy, Air Force, and Marine Corps. They all desperately need maps. They have this contract which they pay for out of this budget to have the maps made. But the way your bill is drawn, it seems to me that they could stop making the maps for the military because they think that the dollars are better needed for overhead systems. There sits the Secretary almost powerless unless he runs right up to the President and says: Wait a minute. And you can't have him going to the President on all of the dozens of contracts that the JMIP has with the various contract agencies.

I ask a question. The 9/11 Commission explicitly said don't do this. I thought I understood the manager to say: Well, we are not doing it. I have about four or five references where on the floor the manager said we are not touching TIARA or JMIP; those programs remain under the budget of the Secretary of Defense.

With no intention to do other than what is right, we have a vague situation that we cannot let remain and jeopardize the maps. It is the clearest thing I know that is understandable by everybody in this Chamber—the need for those maps for our soldiers, our naval personnel on the high seas, those flying the aircraft. You cannot limit the ability of the Secretary of Defense to adequately provide those maps.

I say to my distinguished colleague, my colleague has a statute which puts in question the ability to control the very thing my colleague said time and time again she was not going to touch.

Ms. COLLINS. Mr. President, first let me clarify that we did what the 9/11 Commission recommended with regard to these agencies. We did not sever their connection to the Secretary of Defense. The Senator from Virginia is well aware of that. He is well aware that I opposed attempts to sever the connection with the Secretary of Defense. The Senator from Virginia is well aware that the Secretary of Defense would continue to have day-to-day line authority supervision over these agencies.

The second point I make is there is nothing in this bill that would in any way hinder the ability of the NGA to provide much needed maps for our troops. That is just not going to happen. The satellites that are used to produce these maps for the military are also used for surveillance of international terrorism or compliance with proliferation treaties. They are used to look at camps in Afghanistan. These are national assets that are used by multiple agencies, and the bill reflects that.

That is why the majority of the budgets for these agencies are already part of the National Foreign Intelligence Program—what we would rename as the National Intelligence Program. The majority of the budget finances are already part of not JMIP, not TIARA, but what is known as NFIP. That would not in any way hinder the ability of these agencies to meet their obligations to the Department of Defense and to our warfighters.

Mr. WARNER. Mr. President, in response to my colleague, I am not touching the satellites. I agree. Everything she said is absolutely correct. We are not touching the satellites. But we are concerned about things such as the mundane maps which are about 80 percent used by the tactical forces, maybe 20 percent distributed elsewhere in the Government for other purposes. But that is the heart and soul of tactical intelligence. It is desperately needed. You simply have to let those moneys that the Secretary of Defense allocates by contract to the NGA to do the maps be untouched. They cannot be seized in a sweep-up or a reprioritization.

We just had an amendment which was rejected about the reprogramming authority. You have extensive reprogramming authority. But time and time again, I have heard the Senator from Connecticut say we are not going to touch TIARA, we are not going to touch the JMIP. Yet, if I could draw the attention of my colleague from Connecticut to page 6 of the bill, the language is very clear. It says:

> The term ''national intelligence program'' includes all programs, projects and activities whether or not pertaining to national intelligence.

So you are going beyond national intelligence. You are grabbing the responsibilities of the TIARA Program and the JMIP. There is the language.

Mr. LIEBERMAN. Mr. President, responding to my friend from Virginia, the intention here is to give the national intelligence director budgetary authority over the national intelligence programs. That would not include TIARA. It might include, as has been illuminated in a colloquy between the Senator from Virginia and the Senator from Maine, some programs that are currently in JMIP, the Joint Military Intelligence Program.

For the sake of reasonable organization, we wanted to take the full budgets of those national intelligence agencies—NSA, National Geospatial, and NRO. But what I want to say is that there is some indication that, for instance, a substantial percentage of one of those agency budgets is currently in JMIP. We expect that they will continue to work for the military and its joint programs. But for the sake of decent organization and clear lines of authority, the judgment made by our committee was to say that all of the budgets of those three national intelligence agencies within the national intelligence program will go on budget under the national intelligence director and to leave it. There is going to be some overlap on what is now JMIP. The bill encourages the Secretary of Defense and the national intelligence director to work out those areas of overlap.

Mr. WARNER. Mr. President, I thank my colleague. He precisely came to my point.

Mr. LIEBERMAN. That was not my intention.

Mr. WARNER. Roughly about 30 percent of the NGA budget is derivative of the JMIP budget. One of the pending amendments of the Senator has this provision in it. He said the programs may be moved. My language does that. It says: A program, project, or activity referred to in subsection (a) may be removed from the JMIP or the tactical intelligence but only if agreed to by the national intelligence director and the Secretary of Defense.

So they have the concurrence of the two principals, and then move it but leave in place now those programs such that the budgets remain until they make a joint decision to move them.

I used the example of maps. You cannot cut off the flow of maps back to the troops, the sailors, and the airmen. Yet those maps are made by the NGA.

Mr. LIEBERMAN. The Senator is right. He is correct, obviously. It is clearly not the intention of the bill to do that. The fact is the work of the National Geospatial Agency which we are describing here that produces image intelligence which is so critical to the military is also, as the Senator knows, increasingly critical to the Department of Homeland Security, even the Department of State.

Mr. WARNER. I concur.

Mr. LIEBERMAN. That is why we want to put the budget of the National Geospatial-Intelligence Agency in the national intelligence program. These are national intelligence assets.

Clearly, the call of the military for the services of those assets will be a

priority of the agency wherever that budget authority is.

Mr. WARNER. Mr. President, I thank the Senator for that reassurance. But the language now transfers that program, if we look at the parenthetical on page 6, and includes all programs, projects, and activities, whether pertaining to national intelligence or not, which means you grabbed it all and moved it.

That may be to the advantage of our national intelligence system, our tactical system, some date in the future, but do not do it now until we have had some measure of experience.

The Senator from Virginia has provided for the removal of those programs with the concurrence of the two principals. You cannot take away from the Secretary of Defense. He is, under title 10, required to provide for the men and women of the Armed Forces their basic needs. Nothing is more basic than the simple maps, and 80 percent of that cost of producing those maps comes out of JMIP.

I plead with the Senator, leave it for the moment. As we go through the progression and implementation of this, it seems to me the NID and Department of Defense can work it out if for some reason there is concurrence of viewpoints. This is crippling the Secretary of Defense in fulfilling his missions under title 10 where he is required by law, enacted by this Senate over a period of many years, to keep those troops supplied with what they need.

Mr. LIEBERMAN. Mr. President, of course, we do not intend nor do I think we do in any sense cripple the Secretary of Defense. We make a judgment that some of these programs are national intelligence programs. They ought to be in the budget control of the national intelligence director. We enumerate which programs—TIARA, the so-called tactical military programs—off the table. That is with the Secretary of Defense. That provides intelligence to single services or some of the joint programs.

This is a difference of opinion. It is true that because we want to give some credibility to this national intelligence director with these national assets as he serves the entire community, including, most of all, the President of the United States, we are recommending those budgets of those three agencies go to the national intelligence director. Then the negotiation begins with the Secretary of Defense. That is a change.

I assure the Senator there is no intention in any way to contravene or to diminish the capacity of the Secretary of Defense to fulfill his title 10 statutory requirements. He will work it out with the national intelligence director.

Mr. WARNER. Mr. President, if I understood my colleague, all the TIARA and JMIP budgets are off the table. Did the Senator just say that?

Mr. LIEBERMAN. Not quite.

Mr. WARNER. It is the ''not quite.''

Mr. LIEBERMAN. If I confused the Senator, I apologize.

Mr. WARNER. You did not confuse this old fox; he is listening. But the others may not be able to follow these nuances.

Mr. LIEBERMAN. The TIARA budget is totally within the control of the Secretary of Defense.

Mr. WARNER. Splendid. Leave it there.

Mr. LIEBERMAN. With the Joint Military Intelligence Program, it is not so clear. That is where there will be, if it is part of a national intelligence program, the budget authority will be with the national intelligence director. But the No. 1 customer is going to be the Department of Defense.

We are talking almost as if these are people in different governments. They are going to work this out as they do every day.

I will read testimony from General Hayden, the head of the National Security Agency, before the House, August 18. He says:

> An empowered national intelligence director with direct authority over the national intelligence agencies should not be viewed as diminishing our ability or willingness to fulfill our responsibilities as a combat support agency.

General Hayden is a very respected head of one of those agencies—speaking, in fact, for all of them later on—saying to have a national intelligence director with budget authority is not going to diminish our ability or commitment to the combat support agencies.

Then he goes on to talk about how he has forward deployed hundreds of people with our U.S. military command, and there is no way that the creation of a national intelligence director, he says, will alter that commitment to the military.

We are trying to create some budgetary clear lines to the national intelligence director, not contravening the title 10 responsibilities of the Secretary of Defense.

Mr. WARNER. Mr. President, would the Senator look at page 412 of the 9/11 Report, please.

Let me read it:

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

In testimony before your committee, the 9/11 Commissioners have repeatedly stated that some portions, as the Senator said, of JMIP, might ultimately need to be moved to the national intelligence program but only after a thorough review.

The humble Senator from Virginia is just trying to keep the programs in place until as that wise old Commission said, ''ultimately'' you may review them and consider moving them.

Mr. LIEBERMAN. I respond to my friend who may be humble but is a very distinguished, nonetheless, expert on these matters, and I appreciate the Senator is so informed about the contents of the Commission report.

Interestingly, we communicated with the 9/11 Commission about this particular part of our bill, and they changed their position. Their position developed. I represent that as my best understanding, but I urge the Senator overnight to check with the staff and members of the Commission. I represent that they support our proposal for budgetary authority for the national intelligence director as contained in the bill Senator COLLINS and I have put before the Senate that the Senator's amendment would alter.

Mr. WARNER. I bring to the attention of the managers something they are already aware of, but I think it is important it be incorporated in the debate. I draw the Senators' attention to the September 28, 2004, Statement of Administration Policy, which is in the RECORD in many places, the guidance that was sent to you and your distinguished colleague, the chairman, Senator COLLINS. It says in the fourth paragraph:

> The administration opposes the Committee's attempt to define in statute the programs that should be included in the National Intelligence Program; the Administration believes that further review is required. The Administration also believes that the Committee's bill provisions relating to the NID's role in the acquisition in major systems needs further study.

There is a clear statement of policy by the White House on the precise point that is in these two amendments.

I say to my colleague, if the Senator has a reply to this, I am happy to hear it; otherwise, I ask for the yeas and nays and then I will fight on.

Mr. LIEBERMAN. Yes, indeed. I respectfully disagree. I will share something because we have been talking about the National Geospatial-Intelligence Agency.

GEN James Clapper spoke before us and gave some very strong views that support to military programs would not be compromised in any way by creation of a strong national intelligence director with budget and other authorities over his agency.

So this is a gentleman, a very distinguished general, who is in charge of the exact agency we are talking about, who said to us directly that he was confident the support of his agency to the military would not be compromised in any way by a national intelligence director with budget authority over his agency.

It was quite interesting. He described in some detail, as the Senator has spoken to, the direct support the National Geospatial Agency is giving to military operations in the nine combatant commands and increasingly to levels far below the traditional boundaries of those commands to their subordinate units.

In fact, as he said, national agencies—this where it is hard to draw real hard lines—national agencies are more and more providing what might on another occasion be called tactical support. When our warfighters need imagery support, General Clapper said

they get it from the NGA employees who are often right out there with them on the ground alongside their commanders. What struck me is he said to us that is the way things work now in the real world, and that nothing in the legislation we have put before the Senate, Senator COLLINS and I, would change that. I think that is a very strong statement from the head of the agency that I know the Senator is concerned about.

Mr. WARNER. Mr. President, if I might reply, I was privileged to know General Clapper very well. I think you will find he was not with the NGA, but he was Director of the DIA, when he used to come before the Armed Services Committee. He is with the NGA now.

Mr. LIEBERMAN. He is now.

Mr. WARNER. I just point out to you, I will have to go back and look at his testimony, but I know he fully understands the need to keep intact the Secretary of Defense's absolute authority to control those matters which are essential to the fulfillment of his title 10 responsibilities.

I say to you most respectfully, this, in my judgment, is sufficiently vague as to put that in jeopardy. But I have taken generously of the time of the managers, so at this time I ask for the yeas and nays on both amendments that are pending.

The PRESIDING OFFICER. Is there an objection to it being in order to order the yeas and nays with one show of hands?

Mr. WARNER. Mr. President, I will do it singularly if there is a technical problem. Why don't I do it singularly. First I ask for the yeas and nays on amendment No. 3875.

The PRESIDING OFFICER. The Senator has the right to seek the yeas and nays on amendment No. 3874, which is the currently pending amendment.

Mr. WARNER. I thank the Presiding Officer. I ask for the yeas and nays on amendment No. 3874.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Fine. Mr. President, I ask unanimous consent that the amendment be laid aside.

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

Mr. WARNER. Mr. President, I call up amendment No. 3875 and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. I thank the Presiding Officer and thank the managers of the bill.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the managers will allow the setting aside of the pending amendments and allow me to call up three amendments that are at the desk that Senator LEAHY has asked me to offer on his behalf.

Ms. COLLINS. Reserving the right to object, I am unaware of what these three amendments are. We have a lot of requests for other amendments to be brought up. I wonder if the Senator would withhold so that I could talk with him about what the three amendments are. Senator DURBIN was actually next in line.

Mr. REID. Well, that is fine. But I thought we were going to allow amendments to be offered. If we are going to pick and choose what amendments are going to be offered, I will object to all of them, because Senator LEAHY has the right to offer his amendments if anybody else does. I will be happy to withhold for a short time. I withdraw my request.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding I have a unanimous consent agreement to speak next as in morning business, but since the chairman of this committee and ranking member have been on the floor all day on this bill, I would withhold my opportunity to speak if they have any pending business on this bill that they want to take care of at this point.

I say to the Senators, I know you want to stay for my speech, but I am sure you would like to take care of the bill before us and pending amendments, and I do not want to stand in your way.

So at this point, Mr. President, if I can speak through you and ask the chairman of the committee if she has any pending business at this point related directly to the bill. If the Senator from Maine could inform me.

Ms. COLLINS. Mr. President, I do not yet know the answer to the question raised by the Senator from Illinois. It is very thoughtful of him. I offer to withhold. I was going to debate a little bit further with Senator WARNER, but perhaps we have covered that to death and should wait until tomorrow to conclude our comments.

I ask through the Chair, could the Senator tell me how long he wishes to speak?

Mr. DURBIN. In the neighborhood of 15 to 20 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, during the time in the quorum, we have been able to speak with the managers of the bill. I now ask unanimous consent that the pending amendments be set aside.

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

AMENDMENTS NOS. 3913, 3915, AND 3916 EN BLOC

Mr. REID. Mr. President, I call up en bloc amendments Nos. 3913, 3915, and 3916 on behalf of Senator LEAHY.

The PRESIDING OFFICER. The amendments are considered pending.

The amendments are as follows:

AMENDMENT NO. 3913

(Purpose: To address enforcement of certain subpoenas)

On page 159, strike lines 19 through 25 and insert the following:

''(2) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(D), either the Board or the Attorney General of the United States may seek an order to require such person to produce the evidence required by such subpoena from the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found.''.

AMENDMENT NO. 3915

(Purpose: To establish criteria for placing individuals on the consolidated screening watch list of the Terrorist Screening Center, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. TERRORIST SCREENING CENTER.

(a) CRITERIA FOR WATCH LIST.—The Secretary of Homeland Security shall report to Congress 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 certainty and level of threat that the individual poses, and the consequences that apply to the person if located. To the greatest extent consistent with the protection of 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 consolidated screening watch list 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 Privacy and Civil Liberties Oversight Board 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, and the Committee on Transportation and Infrastructure 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. The Comptroller General of the United States shall cooperate with the Privacy and Civil Liberties Board in the preparation of the report. To the greatest extent consistent with the protection of 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.

AMENDMENT NO. 3916

(Purpose: To strengthen civil liberties protections, and for other purposes)

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 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 under subsection (f) unless—

(1) the guidelines and requirements under subsection (e) are submitted to Congress; and

(2) the Privacy and Civil Liberties Oversight Board submits to Congress an assessment of whether those guidelines and requirements incorporate the necessary architectural, operational, technological, and procedural safeguards to protect privacy and civil liberties.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding that, pursuant to the unanimous consent agreement, I am to be recognized to speak in morning business.

The PRESIDING OFFICER. The Senator is correct.

WAR IN IRAQ

Mr. DURBIN. Mr. President, I understand that an article printed in the New York Times yesterday, October 3, relative to the war in Iraq and the intelligence leading up to it, was printed in the RECORD earlier today in Senator BYRD's remarks.

Mr. President, it was about 2 years ago that we faced a critical decision on the floor of the Senate. It was a vote that most Members of the Senate, certainly Members of the House, will never forget. It is rare in your legislative career that you are asked to vote to go to war, and that is exactly what occurred in this Chamber in October of 2002. It has happened two or three times in my congressional career.

Each time it has been a matter of grave concern. Each Member of the Senate and the House want to make certain that they use their best judgment, that they get it right. Because if we embark on a war, it goes without saying that some of the bravest and best Americans we serve are going to risk their lives and some will lose their lives. That was what faced us in October of 2002.

The final vote was 77 Members in favor of the use of force resolution to go to war in Iraq and 23 in opposition. Of the 23 Senators voting in opposition—1 Republican, Senator CHAFEE of Rhode Island—22 were Democrats. I was included in that number of 22 Democrats.

I remember the vote. It was late at night. When we finally adjourned and left, each of us felt a heavy weight on our shoulders. We knew that decision in this room by 100 Americans would lead to a war and others would die, many others would be injured as a result. Each Member of the Senate, I am certain, tried to make the right choice and the right decision based on the information they had and their conscience.

Now today, some 2 years later, we step back from that moment and reflect on it, because it was a critical moment in the history of our democracy.

When we vote to go to war, a war in this case which President Bush asked us to support, we have to do it based on facts and evidence given to us. It is rare that any one of us has any personal knowledge of the circumstances that lead up to the possibility of war. We rely on people who serve our Government—our military leaders, our intelligence experts, people in the field of diplomacy. We ask them to give us information so we can make the right decision, and that is the position we found ourselves in in October of 2002.

Today we reflect on the information given to the Congress and the American people before this historic and momentous decision to go to war in Iraq. As we view this information, we cannot help but believe that we were deceived. We were misled. We were given the wrong information before that invasion. Many of the things said to us on the floor of the Senate, much of the information given to us by the administration that led to that decision to go to war in Iraq today, 2 years later, we know was wrong. It was just wrong.

Think back about that debate and what led up to it. In the few short weeks when it became abundantly clear that we would face that decision, we had heard about Iraq for years. We remembered their invasion of Kuwait, the Persian Gulf War where, under General Schwarzkopf, our Army liberated the people of Kuwait, driving the Iraqis back into their homeland.

We knew who Saddam Hussein was. We knew the kind of thug, brutal dictator that he had been in his own country. We remembered that wasting war that he had with Iran where thousands of innocent people were killed. We knew exactly what we were dealing with in Saddam Hussein. He was not a new character for me in my congressional career, nor for most Americans.

But prior to the invasion of Iraq we were told that it had more to do with other issues. It wasn't just the fact that he was an evil dictator; it was the fact that he was a threat to the people of his own nation, to the region, and to the United States. That is what we heard from the Bush administration in support of the invasion of Iraq.

You will remember the debate very well. How often we heard from the President and others that Saddam Hussein had weapons of mass destruction that would be used to harm America, that he had unmanned aerial vehicles which he could launch against other nations in the Middle East, against Israel, even against the United States.

We were told that he was somehow linked with al-Qaida and Osama bin Laden, the perpetrators of the disgraceful and barbaric acts of September 11, 2001. Those were the facts given to us.

We know in those cases and in so many others that those facts were wrong—just plain wrong. The American people were misled. They were told there was a threat against this country that did not exist. The question which faces us today and one which goes to the heart of our democracy is whether the people who made those statements knew they were misleading the American people.

That is a very serious charge. It may be the most serious charge in a democracy—that any leader in Congress or in the executive branch of the Government deliberately misled the American people into believing there was a threat, into believing that a war was necessary, and into making a decision that was based on wrong information. That debate has raged ever since.

When we invaded Iraq and found no weapons of mass destruction, when we found no evidence of these chemical and biological stockpiles, these arsenals of weapons, poised and ready to strike us, the American people and many Members of Congress had to stop and think: if that key element in the war against Iraq was wrong, if we were misled about that fact, what other facts were we misled about?

This New York Times article, which has been put into the RECORD for all to read, addresses one particular element. Most everyone who remembers that debate—I remember so many parts of it—will recall how much time we spent asking ourselves whether Iraq was in a position where it had nuclear weapons or the capacity to build them. Time and again, this debate focused on one piece of tangible evidence: aluminum tubes, aluminum tubes which might or could have been used in the production of nuclear weapons.

You will remember the references to them. They were made by virtually every member of the Bush administration—the President, the Vice President, the Secretary of Defense, the Secretary of State, the Director of the Central Intelligence Agency. Each one of them made some reference to these aluminum tubes and the fact that they were proof-positive evidence of the nuclear weapons that could threaten us from Iraq. This New York Times piece has taken the time to go through the history of these aluminum tubes. What they have found is indeed troubling. What they found is abundantly clear, that the administration deliberately disregarded the facts and findings of the Department of Energy and other key intelligence agencies and, as a result, misled the American people about Iraq's nuclear program—the single most important justification for the war.

Now, a President—any President—must always take whatever actions are

necessary to protect America. But the true test of leadership is telling the truth to the American people about the world, tell them of our threats based on reality, based on truth, based on facts. That is the hard work of the Presidency.

In this case, the President did not do that. In his State of the Union Address, and in many other statements, we were told things that were, frankly, not true. Even today, after we have investigated Iraq, after we have sent thousands of inspectors to look for the evidence that we were told would be there, after we have come up empty-handed for a year and a half, even today, when National Security Adviser Condoleezza Rice was asked on public television whether she would concede that the statements of the administration misled the American public, she would not do so.

I say this: If Dr. Condoleezza Rice knows of any credible evidence to support the argument that Iraq was using those aluminum tubes to build nuclear weapons, she owes it to the American people and to her President to step forward and say so. The New York Times, in its lengthy investigation, produced evidence to the contrary. Yet Dr. Rice refuses to even acknowledge it.

We should never give any country veto power over America's security. But we have to be honest with the American people about what we need to be safe. This New York Times article details how the administration spoke with such great certainty to the American people about Saddam's nuclear program, at a time when they knew privately that the evidence was highly questionable. In fact, this article shows that top members of the administration repeatedly made statements that any fair analysis of the facts on our intelligence would have informed them were wrong.

Specifically, in September of 2002, before the vote to go to war, Vice President CHENEY said the United States had ''irrefutable evidence'' of Iraq's nuclear program, based on Iraq's possession of thousands of tubes made of high-strength aluminum. In September 2002—the same month—Condoleezza Rice said: ''We do know that he [Saddam Hussein] is actively pursuing a nuclear weapon.'' She went on to say that it was based on the aluminum tubes that were ''only suited for a nuclear weapons program.'' She said, ''We don't want the smoking gun to be a mushroom cloud.''

Can you think of a more provocative statement from the National Security Adviser to the President about the threat of Iraq to the United States, that we might face a mushroom cloud; that we, in fact, would be the victims of a nuclear attack because Saddam Hussein had these weapons? Those were the words of Dr. Rice. Those were words that we know now were not backed up with facts and evidence.

In October 2002, President Bush said in Cincinnati:

> Iraq has attempted to purchase high-strength aluminum tubes and other equipment needed for gas centrifuges, used to enrich uranium for nuclear weapons.

In fact, by the time the President made that statement, this administration was clearly divided from within as to whether that statement was true. I know because I sit on the Intelligence Committee. I know because I sat through days of hearings, where representatives of the Department of Energy and the Central Intelligence Agency clearly disagreed about whether those tubes were proof positive of Saddam Hussein's nuclear weaponry program.

Let's concede the obvious. There was a time when Saddam Hussein was building nuclear weapons back in the early 1990s. We were right to be vigilant and to find out whether he had renewed that program and it was a threat to the region and the United States. The only thing we could find was some evidence that Iraq had purchased these aluminum tubes from Hong Kong. And then we were fortunate to be able to intercept a shipment of these tubes in Jordan and to take a close look at them.

There was a fellow in the Central Intelligence Agency, working for that agency, an analyst, who was building the case that these tubes were proof positive that Saddam Hussein was back in the business of nuclear weapons.

The Senate Intelligence Committee that I serve on took a look at his analysis. Their conclusion was troubling because they concluded that his facts were wrong, his conclusions were wrong; that he was involved in groupthink, in their words, and a holy war within this administration to prove that these tubes were related to nuclear weapons.

They wanted to prove—the CIA did—through this analyst that these tubes were part of a secret high-risk venture to build a nuclear bomb. But they kept running into a problem: Within the same Bush administration, the Department of Energy disputed their conclusions. I heard those arguments, most of America did not. One of the reasons I voted against the use of force resolution was, in my mind, it clearly was not established that Saddam Hussein had nuclear weapons which he would use against the United States.

In June 2001, we seized a shipment of these aluminum tubes. We sent our very best expert to investigate whether they could be used for nuclear weapons, and those who looked at them came back and said, first, in size and materials—this is August of 2001—the tubes were very different from those Iraq had used in centrifuge prototypes before. In fact, the team could find no centrifuge machines deployed in a functioning environment that used such narrow tubes. They believed that the conclusion was unlikely that these tubes were going to be used.

In the months after September 11, 2001, the Bush administration devised a strategy to fight al-Qaida. Vice President CHENEY became deeply involved in reviewing the intelligence evidence. He became a self-appointed examiner of the worst case scenarios involving Iraq. He had the background. He had been Chief of Staff of President Ford and Secretary of Defense for first President Bush. He knew all the intelligence agencies and what they did.

So he was not simply passing when it came to this whole question. He read of an allegation that Iraq was importing yellow cake uranium concentrate from Niger in Africa. He went on to conclude in a statement made on CNN that based on what he had read, Vice President CHENEY said Saddam Hussein is actively pursuing nuclear weapons at this time. But, in fact, there was a debate raging within this administration as to whether that was true.

Over and over the reports from the CIA were disputed by other agencies. The tubes just did not have the necessary thickness to be part of a nuclear weapons program. So we find ourselves in a situation where statements were being made by the Vice President and by others which could not be verified based on the facts within the same administration.

The Senate Intelligence Committee issued a 511-page report on this effort, and they concluded that the CIA analyst involved was so determined to prove his theory on this aluminum tube that he twisted test results, ignored factual discrepancies, and ignored dissenting views.

We know how this ended. It ended with the American people and many Members of Congress convinced that these aluminum tubes were being used for nuclear weapons. For some Members of the Senate, there was no choice; they had to use this evidence to build a case to go to war in Iraq. Statements were made by Vice President CHENEY on August 26, 2002, at the VFW convention in Nashville. Despite the dispute going on within his own administration, the Vice President said:

> The case of Saddam Hussein, a sworn enemy of our country, requires candid appraisal of the facts.

Mr. CHENEY went on to say:

> We now know—

And this is August of 2002—

> We now know Saddam has resumed his efforts to acquire nuclear weapons.

On the thinnest evidence, on the disputed aluminum tubes, Vice President CHENEY made the strongest possible case he could make that the nuclear weapons program in Iraq was underway. He conjured these images of an Iraq of nuclear weapons and the threat they posed to the world while members of his own administration disputed his conclusions.

Again, President Bush, Mr. Tenet, and others made these cases over and over again about the aluminum tubes. Mr. CHENEY went on ''Meet the Press'' on September 8, 2002, and confirmed when asked that the tubes were the

most alarming evidence behind the administration's view that Iraq had resumed its nuclear weapons programs. He said the tubes had ''raised our level of concern.''

The same day, Dr. Rice went on CNN and said that the aluminum tubes ''are only really suited for nuclear weapons programs.'' She made that statement at a time when the President's own Department of Energy had reached an opposite conclusion. She said these tubes ''are only really suited for nuclear weapons programs'' when, in fact, that was not the case.

What we have learned here in the course of this investigation, what we have learned from all of the investigations that followed after our invasion of Iraq, what we have learned now that the 9/11 Commission, the bipartisan Commission, has had a chance to look closely at the evidence is that in this case and in so many others, we were misled. The American people were given wrong information and bad information about the situation in Iraq. It was not just flawed intelligence; it was not just a failure of the intelligence agencies; it was a failure of the leaders in the Bush administration to honestly portray the facts, to tell the American people that there was suspicion of a nuclear weapons program but an honest dispute as to whether it existed. Why didn't they portray it that way? Because we would never have gone to war if they had told us that fact, if they had given us the evidence straight, if they had told us about disputes within this administration which were unresolved.

There was a debate last Thursday night between the two leading candidates, the President and Senator KERRY, about foreign policy and about Iraq. Time and again, President Bush said that his was a difficult job, and I do not dispute that for a moment. He talked about all the hard work that was necessary to protect America, and I do not doubt there is hard work. But I will tell you this: part of that hard work has to include taking an honest look at the evidence given to you as the Commander in Chief, being willing to say that if there is a dispute about evidence so basic as these aluminum tubes and the nuclear weapon program of Iraq, that no President should step forward and mislead the American people.

That dispute was ongoing within the Bush administration, and yet clear statements were made by the President, the Vice President, and leading members of the Cabinet that a nuclear weapons program existed when, in fact, it did not.

I hope my colleagues and others will review this evidence, understand the challenges we face, and I hope they will also come to the same conclusion that I have, and that is that whatever we face in terms of threats in the future, whoever that President might be, I am certain he will be committed to the security of America, but he also must be committed to the values of America—the values of honesty, openness, and candor, even when the facts do not support original conclusions.

In some cases, Senator KERRY has been criticized because he changed his position. In this case, the Bush administration took a position on nuclear weapons in Iraq that was wrong, that history and the evidence has proven was wrong. They refused to acknowledge the facts and evidence that came out to dispute it. They stuck with their story even when it was wrong, and now today we have serious questions as to the reasoning and the case made before our invasion of Iraq.

Mr. President, I yield the floor in morning business. I would like to ask the Presiding Officer—I do not see either the chairman of the Governmental Affairs Committee or the ranking member in the Chamber. I have a pending amendment to the bill. I am not going to even suggest to offer it since the chairman is not on the Senate floor, but I will at some later time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, the Senator from Illinois is very eloquent in the position he takes, and he argues pretty aggressively in this political season one point of view on the question of nuclear weaponry and how the Senate was briefed.

He said one thing that is true. I was not a member of the Intelligence Committee, but as a Senator, we received repeated briefings on the weapons of mass destruction issue, and in the briefings we received, all Members of the Senate, and that includes the Democratic nominee for the Presidency, a Member of this body, Senator KERRY, the issue of what those tubes were for was discussed and both sides of it were presented. It was left to the Senators, I guess, to decide how they would call the question.

I felt as if the weight of the evidence indicated to me that Saddam Hussein was doing what he had done before, that this was just one of the weapons of mass destruction he was desirous of having, he was desirous of possessing and that he wanted to use to threaten his neighbors, his own people, and to improve his threat standing in the neighborhood in which his country existed. In other words, he was clearly desirous of that, else why would he not agree to a full inspection to prove what he did with the remains of his nuclear program that we know he had previously? Else why would he not show what he had done with the chemical weapons we know he used against his own people? And we all heard those briefings.

I know the Presiding Officer was there in those briefings. We heard them, and we knew the issues involved. We debated it on the floor of this Senate for months and months and we discussed all those issues and we had to make a decision about whether or not to allow Saddam Hussein to remain in violation of 16 U.N. resolutions.

We said we could not continue in this way. They fired at airplanes on a regular basis as they enforced the U.N. no-fly zone over Iraq, and we voted on it.

After having all of those issues discussed, after having received the intelligence with both sides of this question discussed before the Senators, Senator KERRY, as referred to by the Senator from Illinois—he referred to him in his campaign—voted to allow the President to make one final effort with Saddam Hussein and authorized him to commence hostilities if that did not succeed.

Those last discussions did not succeed and we made one more effort. They did not succeed and we went to war as every Member of this body knew when we cast that vote. This body was not misled and Senator DURBIN was not misled because he heard the same briefings as he has told us, and neither was Senator KERRY when he cast his vote in favor of allowing this war to proceed.

I think it is critical for leadership in America that if an American makes a commitment and a decision on an issue as important as that to keep the commitment and not flip-flop on it next week, not change their mind next week and go back and try to find some excuse to blame the President who is leading troops in the field and make complaints on the floor of this Senate and in press conferences, statements which make it more difficult for us to be successful.

We know what the challenge is, and we as a nation have made a commitment. This Senate, by a three-fourths plus vote, voted to allow this war to begin. We knew it was going to happen if Saddam Hussein did not back down and admit what he was doing and allow inspectors to come in and demonstrate clearly that he did not have these weapons of mass destruction. We received intensive briefings on that subject. We cast our votes and God gave us the ability to make a clear decision. We ought to stand by that decision, and we are going to stand by it.

There are some who want to cut and run, bob and weave, flip and flop, but the American people will not and this Senate is not. We are going to stand firm and we are going to be successful in Iraq because it is the right thing to do.

Those people have suffered greatly but progress has been made and will continue to be made. We are going to train the military, get them up to speed, and get them equipped. As we have seen in Samara when that happens and they work with the American military, progress, success can and will occur. This is a longrun solution.

We have had so much success in Afghanistan where it is so wonderful to see over 10 million people registered to vote there, and 40 percent of them are women. To say that we cannot make progress in this area of the world is a mistake.

Yes, it is tough. Yes, it is difficult. Yes, a significant but small number want to disrupt everything that has gone on and to make sure that democracy cannot take hold and a good and decent government will not be established to allow the Iraqi people to use their capabilities and work ethic to allow them to be successful, which is important for us. I just would make that response.

I see Senator COLLINS is in the Chamber. I was going to make a statement on a separate issue, but if the Senator needs the floor for matters important to the bill, I would be glad to yield.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Alabama. I do have two brief matters to deal with and then I would be glad to figure out where our order is.

I ask unanimous consent that the Senator from Arizona, Mr. MCCAIN, be added as a cosponsor to the underlying bill, S. 2845.

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

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendments be set aside so I may call up two amendments on behalf of the majority leader.

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

AMENDMENTS NOS. 3895, AS MODIFIED, AND 3896, EN BLOC

Ms. COLLINS. Mr. President, I call up amendments Nos. 3895 and 3896, and further I send a modification to No. 3895 to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is modified. Both amendments will now be pending.

The amendments are as follows:

AMENDMENT NO. 3985

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

SEC. 144. NATIONAL COUNTERPROLIFERATION CENTER.

(a) NATIONAL COUNTERPROLIFERATION CENTER.—(1) Not later than one year after 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 deter, prevent, halt, and rollback the pursuit, acquisition, development, and trafficking of weapons of mass destruction, related materials and technologies, and their delivery systems to terrorists, terrorist organizations, other non-state 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 programs, operations, and activities.

(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 (including law enforcement, economic, diplomatic, intelligence, and military 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 develop multilateral and United States Government counterproliferation plans, which plans shall—

(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 plans, 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, the National Security Council, and the National Intelligence Director, the Director of the National Counterproliferation Center shall—

(1) serve as the principal adviser to the President and the National Intelligence Director on intelligence and operations relating to counterproliferation;

(2) provide unified strategic direction for the counterproliferation efforts of the United States Government and for the effective integration and deconfliction of counterproliferation intelligence collection, analysis, 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) in accordance with subsection (f), concur in, or 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) serve as the principal representative of the United States Government to multilateral and bilateral organizations, forums, events, and activities related to counterproliferation;

(6) 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

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

(f) ROLE OF DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in the most senior position of such nonmilitary operating entities of the United States Government having principal missions relating to counterproliferation as the President may designate, the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the Director of the National Counterproliferation Center before appointing an individual to fill the vacancy or recommending to the President an individual for nomination to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may fill the vacancy or make the recommendation to the President (as the case may be) without the concurrence of the Director, but shall notify the President that the Director does not concur in the appointment or recommendation (as the case may be).

(2) The President shall notify Congress of the designation of an operating entity of the United States Government under paragraph (1) not later than 30 days after the date of such designation.

(g) 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 collection and 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, or by foreign governments.

(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, and by friendly foreign governments;

(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, independent 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.

(h) 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 developing counterproliferation plans, as described in subsection (d)(3).

(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 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 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).

(i) 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 other non-Department of Defense 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.

(j) 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.

(k) 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) 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.

AMENDMENT NO. 3896

(Purpose: To include certain additional Members of Congress among the congressional intelligence committees and for certain other purposes)

On page 8, strike lines 3 and 4 and insert the following:

(A) the Select Committee on Intelligence of the Senate;

(B) the Permanent Select Committee on Intelligence of the House of Representatives;

(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(D) the Majority Leader and the Minority Leader of the Senate.

On page 172, beginning on line 24, strike ''the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives,'' and insert ''the committees and Members of Congress specified in subsection (c),''.

On page 173, beginning on line 17, strike ''the Select Committee on Intelligence of the

Senate, the Permanent Select Committee on Intelligence of the House of Representatives,'' and insert ''the committees and Members of Congress specified in subsection (c),''.

On page 174, beginning on line 7, strike ''Representatives'' and all that follows through line 13 and insert ''Representatives, the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives, and the Majority Leader and the Minority Leader of the Senate. Upon making a report covered by this paragraph—

''(A) the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such a committee shall notify the other of the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such committee of such request;

''(B) the Speaker of the House of Representatives and the Majority Leader of the House of Representatives or the Minority Leader of the House of Representatives shall notify the other or others, as the case may be, of such request; and

''(C) the Majority Leader and Minority Leader of the Senate shall notify the other of such request.

On page 174, between lines 22 and 23, insert the following:

(c) COMMITTEES AND MEMBERS OF CONGRESS.—The committees and Members of Congress specified in this subsection are—

(1) the Select Committee on Intelligence of the Senate;

(2) the Permanent Select Committee on Intelligence of the House of Representatives;

(3) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(4) the Majority Leader and the Minority Leader of the Senate.

On page 176, between lines 3 and 4, insert the following:

(iii) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives;

(iv) the Majority Leader and the Minority Leader of the Senate;

On page 176, line 4, strike ''(ii)'' and insert ''(v)''.

On page 176, line 7, strike ''(iii)'' and insert ''(vi)''.

On page 200, between lines 4 and 5, insert the following:

SEC. 307. MODIFICATION OF DEFINITION OF CONGRESSIONAL INTELLIGENCE COMMITTEES UNDER NATIONAL SECURITY ACT OF 1947.

(a) IN GENERAL.—Paragraph (7) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended to read as follows:

''(7) The term 'congressional intelligence committees' means—

''(A) the Select Committee on Intelligence of the Senate;

''(B) the Permanent Select Committee on Intelligence of the House of Representatives;

''(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

''(D) the Majority Leader and the Minority Leader of the Senate.''.

(b) FUNDING OF INTELLIGENCE ACTIVITIES.—Paragraph (2) of section 504(e) of that Act (50 U.S.C. 414(e)) is amended to read as follows:

''(2) the term 'appropriate congressional committees' means—

''(A) the Select Committee on Intelligence and the Committee on Appropriations of the Senate;

''(B) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives;

''(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

''(D) the Majority Leader and the Minority Leader of the Senate;''.

On page 200, line 5, strike ''**307.**'' and insert ''**308.**''.

On page 200, line 12, strike ''**308.**'' and insert ''**309.**''.

On page 200, line 19, strike ''**309.**'' and insert ''**310.**''.

On page 201, line 11, strike ''**310.**'' and insert ''**311.**''.

On page 203, line 9, strike ''**311.**'' and insert ''**312.**''.

On page 204, line 1, strike ''**312.**'' and insert ''**313.**''.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent that the pending amendments be set aside so I can offer an amendment for Senator DURBIN.

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

AMENDMENT NO. 3923

Mr. REID. I call up amendment No. 3923.

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

The amendment is as follows:

AMENDMENT NO. 3923

(Purpose: To ensure the balance of privacy and civil liberties)

On page 154, strike lines 1 through 3 and insert the following:

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and

On page 155, line 6 strike beginning with ''has'' through line 9 and insert the following: ''has established—

''(i) that the need for the power is balanced with the need to protect privacy and civil liberties;''.

On page 166, strike lines 4 through 6 and insert the following: ''element has established—

''(i) that the need for the power is balanced with the need to protect privacy and civil liberties;''.

The PRESIDING OFFICER. The amendment is pending.

Mr. REID. I ask that it now be set aside.

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

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. SESSIONS. 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. 3871

Mr. SESSIONS. Mr. President, I rise to speak in support of an amendment previously offered, No. 3871, and to share some thoughts about what I believe to be a critical issue facing us in terms of security for this country.

One thing this legislation we are discussing today could do better is it could more effectively help deal with weaknesses that exist in our system today. We are moving blocks around at headquarters and creating responsibilities. Some of that may be good and some of that may not, but what I have not seen enough of is focus on what really is a problem and a weakness in our system and proposals that will actually fix that and make it stronger.

We know, for example, that lack of human intelligence over decades since I guess the Church Committee has left us far too few intelligence officers around the world. We know that we have far too few translators who can translate foreign languages that may involve people who have connections to terrorism. Those are things we know are problems, and I am afraid we do not do enough about it.

This is a matter that I think is critically important that is a problem generally recognized by people today in this country who give it much thought. It is simply this: That if a police officer in any town in America were to stop an individual he or she believes to be here illegally, I would suggest that most Americans do not know what will happen at that point. As a former Federal prosecutor and Attorney General of Alabama, I travel the State and frequently meet with local law officers, sheriffs and police officers, and I ask them what they do when they discover someone who has been in this country illegally.

The answer is, they let them go. They used to call the Immigration and Naturalization Service and they would tell them that if there were not at least 15 people in this group illegally they would not bother to come and even pick up this individual. As a result of that and a few court rulings that, in my view, are not persuasive, are not binding, the mentality has developed among State and local law enforcement that they do not have any role in enforcing our immigration laws, and they do not do it.

I raise this simply because it used the same language I have used before. This is an article from, I believe, a Portsmouth, New Hampshire, paper. It involves the Kittery, ME, police chief. The first line of the article says, ''This country is facing a tremendous security issue when it comes to illegal aliens.''

The chief of police sent that strong message after his department detained a Colombian citizen and a Bulgarian citizen. Both were found to be in the country after their visas had expired—illegally:

. . . but the police were told by Immigration and Naturalization Service agents, to release them.

''They just let them go,'' the Chief said.

That is what happens in America today. That is reality. Anyone who suggests that our police are able to participate effectively in apprehending people who are here illegally does not know what is happening in the real world. We have 650,000 State and local police officers in America—sheriff deputies, police officers, State troopers,

and the like. But there are only 2,000 Interior enforcement officers for the Department of Immigration—ICE, they now call it; only 2,000 in the whole country.

So, to tell our local people we don't want your help in this is unwise. It is a serious flaw in our system and I propose that we fix it.

I understand the way we are proceeding here that this amendment is probably not germane. Therefore, if it is not germane, with cloture probably we will not get a vote on it. But it is something I wanted to share with the Members of this Senate.

We have Senator CORNYN, Senator ENSIGN, Senator CHAMBLISS—who chairs the Immigration Subcommittee in Judiciary—and Senator MILLER from Georgia. They have signed onto this amendment. Senator INHOFE, I see just came in, is a signer and supporter of this amendment. It is common sense. It is plain common sense. What we are doing now is wrong. I am very concerned about it.

In addition to the fact that they are told not to participate in the apprehension or detention or holding of someone who is here illegally, even more bizarre is the fact that we now have 400,000 alien absconders in this country. That is 400,000 people who were determined to be in this country illegally, by one forum or another, by administrative ruling or court determination, and have been issued final orders of deportation, but are still at large. What do you think would normally happen if that occurred, if someone is found here illegally and determined so by an administrative or court proceeding? You would think they would be asked to leave. They would be deported.

What happens is they are released on bail pending a final order of deportation and 80 percent of those never come back. They don't show up for their deportation hearing. They abscond.

Mr. President, 86,000 of those are criminal felons; of that 400,000 who absconded, 86,000 are criminal felons who came to this country with permission to live here and work here according to the rules and regulations. They have been convicted of a felony and they have been ordered deported, but they abscond and they are out there—criminals, many of whom are threats. Fifteen thousand of these 86,000 have been determined to be of ''national security interest,'' and 3,000 come from state sponsors of terrorism.

We know that three of the 9/11 hijackers had contact with State and local police during routine traffic stops prior to 9/11. Hijacker Mohammed Atta, believed to have piloted American Airlines flight 77 into the World Trade Center's north tower, was stopped twice by police in Florida. Hijacker Ziad S. Jarrah was stopped for speeding by Maryland State police 2 days before 9/11. Hani Hanjour, who was on the flight that crashed into the Pentagon, was stopped for speeding by police in Arlington, VA.

Right now, if a State or local officer stops one of these 400,000 absconders, they have no real way of knowing the person has been ordered removed from the country by an immigration court. Do you understand that? The key thing here is that people need to understand how the system works. Let's say a Mohammad Atta had been arrested for reckless driving or DUI, that he was in violation of his immigration laws and was ordered deported, and that he absconded back into the country and he is stopped in Maryland or Alabama or Maine by a local police officer. What would happen? If he had committed larceny and had a warrant out for his arrest from Maine, I will tell you what would happen if he is stopped in Alabama. The police officer will run the National Crime Information Computer check. It will come out that there is a warrant out for his or her arrest for larceny in Maine, and he will be held and turned over to the Maine authorities to be prosecuted.

What happens if a person is one of the 400,000 alien absconders? That information is not being put in the NCIC database, so it is not available to the police officers who make a check. They can't determine whether this is a danger to America.

This is what our amendment would do. It would simply clarify the authority of State and local police, that they have a voluntary role in their local role that requires information, and it requires information such as revoked visas and final orders of deportation be listed in the NCIC so the State and local officers can have access to it in the course of their routine duties. It does not say people have to go out and start looking for illegal aliens, but if they apprehend somebody, they run the NCIC check and see whether there is a final order of deportation in the system.

Action by state and local police is totally voluntary. There has been some concern that similar legislation would require the local police to participate in enforcing immigration laws, which I personally think most should—or at least they ought to. But this amendment would not require any action by state and local officers. It also has no link to any funding they are currently receiving.

The amendment goes a step further to clarify the voluntary nature of this amendment it includes language saying that nothing would require the State and local officers to report the immigration status of witnesses of crimes or victims of crimes. Some say if you do that, people will not come forward and report a crime; if they are a victim, they will not come forward and report if they are a witness. This amendment does not require any of that.

Let me briefly conclude. I could say much more about this. But the 9/11 Commission dealt with this issue. They recognize the ''growing role''—that is a quote in the 9/11 Commission report—of our State and local law enforcement agencies in the area of immigration law enforcement, and for effective cooperation of all levels of immigration law enforcement—Federal, State, and local.

They also noted this challenge. On page 383 of the 9/11 report:

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

We ought to listen to that. It is a threat to our country, that the people who are here illegally remain here without being apprehended. They say there is a growing role for State and local law enforcement in this area. That is why we have offered this language. That is why, even before 9/11, I recognized the problem would be crucial for this country.

I am very frustrated but we need to step up to the plate and make sure every local and State law enforcement officer knows what their authority is; that the Federal ICE people will come and retrieve people who are here illegally; that people who have absconded after a valid order of deportation and a warrant for their arrest has been issued. That ought to be in the NCIC for an immigration offense just as much as a petty larceny offense or a DUI offense. That is not the way it is today.

We have to confront this issue. In one fell sweep we could add 600,000-plus law officers—the eyes and ears of America on the streets of every city and town in America. We could add them to the effort to make this country secure. We could add them as eyes and ears with the ability to identify and arrest people who have warrants out for them, who may be 1 of 3,000 from countries that harbor terrorism.

I thank the Chair. I believe we need to continue to work on this. I intend to do so. We ought to have a vote on this, if possible. If not, we will just keep coming back at it.

AMENDMENTS NO. 3850, NO. 3851, NO. 3855, NO. 3856, AND NO. 3872

I ask unanimous consent that the pending amendment be set aside, and on behalf of Senator GRASSLEY, I would like to call up en bloc five amendments that are filed at the desk. I call up amendments No. 3850, No. 3851, No. 3855, No. 3856, and No. 3872, and I ask unanimous consent that the amendments be set aside.

The PRESIDING OFFICER. Is there objection?

Mr. LIEBERMAN. Objection is made.

I ask the Senator from Alabama if he could indicate what the amendments are.

Mr. SESSIONS. I thank Senator LIEBERMAN. This was a request from Senator GRASSLEY, and I called these amendments up and then asked that they be set aside.

Mr. LIEBERMAN. I thank the Senator.

I remove my objection.

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

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 3566

Mr. SPECTER. Mr. President, I have filed amendment No. 3866, which would prohibit racial profiling with the relevant section as follows:

The term ''racial profiling'' means the practice of law enforcement agents relying to any degree on race, ethnicity, religion or national origin in selecting which individuals to subject to routine or spontaneous investigatory activities or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure except where there is trustworthy information relevant to the locality and timeframe that links persons of a particular race, ethnicity, religion or national origin to an identified criminal incident or scheme.

The amendment further defines routine or spontaneous investigative activities to include interviews, traffic stops, pedestrian stops, frisks, and other types of body searches, consensual or nonconsensual searches of the person and possessions, including vehicles, pedestrians, entrants into the United States that are more extensive than those customarily carried out, immigration-related workplace investigations, or other types of enforcement encounters as compiled by the Federal Bureau of Investigation or the Bureau of Statistics.

As evident from these definitions, a number of these items would relate to the kinds of activities of national intelligence, the immigration-related workplace investigations, inspections and interviews of interest to United States.

This amendment tracks very closely the provisions of the Department of Justice guidance regarding use of race by Federal law enforcement agencies promulgated in June of 2003 which says in relevant part, ''in making routine or spontaneous law enforcement decisions, such as ordinary traffic stops, Federal law enforcement officers may not use race or ethnicity to any degree except that officers may rely on race or ethnicity in a specific subject description.''

I understand the managers are not prepared to have another vote this evening.

But for the RECORD I ask unanimous consent that the pending amendment be set aside and the amendment No. 3866 be taken up for consideration.

Mr. REID. Mr. President, reserving the right to object, I understand the legal prowess of the Senator from Pennsylvania when there is a legal issue. I know the good intentions he has in regard to this most important subject matter and to what the amendment relates. But on behalf of the authorizers, I think this matter should be discussed at the Judiciary Committee level in some detail, and it has not. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, I have sought to offer this amendment for most of the afternoon. I offered two amendments last week. I know how difficult it is to manage a bill.

I, again, compliment the distinguished chairman, Senator COLLINS, and the distinguished ranking member, Senator LIEBERMAN, for their work.

As soon as the bill was called to the floor last week, I came to the floor and offered two amendments to cooperate with the managers. I was awaiting the time to offer this amendment.

The problem which is posed procedurally is that cloture will be filed tomorrow. If cloture is invoked, this amendment will not satisfy the germaneness requirements which is the reason I have offered it this evening. But in light of the objection to set aside the pending amendment so debate and a vote can occur on this amendment, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Pennsylvania. He is a very valued and constructive member of our committee in considering this legislation. He was dealing in this amendment with a problem that ought to be dealt with, but, unfortunately, because of the moment we have reached on this bill where effectively unanimous consent is necessary to take up a matter for a vote and objection has been heard on both sides, that will not be possible.

I thank him. I thank him for getting the process going last week and, as he said, coming over early and submitting two amendments which helped to clarify the matters this bill contains. There will be another day for this amendment, I am sure.

Once again, I thank him for his real leadership in pursuit of reform of our national intelligence assets.

I yield the floor.

Ms. COLLINS. Mr. President, I join the Senator from Connecticut and the Senator from Nevada in their compliments of the Senator of the Commonwealth of Pennsylvania. I do very much appreciate that he was so willing to come forward early last week and offer the first amendments. I regret that objection on both sides of the aisle prevent us from accommodating him this evening.

Mr. SPECTER. Mr. President, I thank my colleagues for their gracious comments and pick up on what Senator LIEBERMAN said. This amendment will return. There will be a day for its due consideration and I think enactment by this body.

I yield the floor.

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

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

Mr. INHOFE. Mr. President, I ask unanimous consent I be recognized to speak as in morning business.

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

GRANT DOLLARS AT EPA

Mr. INHOFE. Mr. President, I rise today to shed some light on a subject that is very important to me in my oversight duties as the chairman of the Environment and Public Works Committee. Earlier this year, the Environment and Public Works Committee held an oversight hearing where the committee heard testimony from the General Accounting Office and the EPA inspector general regarding a 10-year history of numerous problems with the management of grant dollars at the Environmental Protection Agency.

Some of the problems included EPA not requiring grant recipients to demonstrate real environmental benefits for grants, EPA not requiring competition in its grants awards, and a general lack of oversight of EPA grant officers and recipients. The EPA inspector general released an audit only 2 days before the hearing, finding that a particular nonprofit guaranty had violated the Lobbying Disclosure Act, and with nearly $5 million of EPA grant funding.

Members may recall, because I talked about it at that time, that it was the Consumer Federation of America, which is a 501(c)(4), that had been a recipient of discretionary grants from the EPA. That is a 501(c)(4) as in lobbying organization. They support candidates. It is strictly against the law.

Over the last few months, my staff has done considerable research into the EPA grant and confirmed many of the problems and also found the EPA has a long history of awarding grant dollars without competition to some well-known nonprofit environmental groups that regularly engage in political activity. My staff has compiled some of these findings in this 30-page report to the chairman.

In examining how the environmental groups receive and spend their Federal dollars, it became apparent they receive funding from numerous sources, including large foundations. Within these organizations, political and grassroots efforts quickly became difficult to differentiate the sources of their funding and how they spend them. Therefore, I instructed my staff to examine the funding and expenditure records of the organizations. That has resulted in a second report which is the focus of my remarks today.

My staff has compiled this information into a 15-page report for the chairman to provide some preliminary examples describing five of the most widely politically active environmental groups, the description of their activity, the foundations that provide the financial support for these groups, and the interconnected web among all those organizations.

Interestingly, these environmental groups are all tax-exempt, IRS-registered 501(c)(3) charitable organizations, meaning contributions to these groups are tax deductible. These groups profess to be the greatest stewards of the environment and solicit contributions from a variety of sources by that claim. But they demonstrate more interest in giving apocalyptic environmental scenarios to raise money for raw political purposes rather than working together to improve the environment for America.

We have money from foundations, individuals, and government grants going into environmental groups, and then they turn around and put these out to the 501(c)(3), 527 organizations and 501(c)(4), these are political organizations. All these nonprofit groups are also closely associated and fund their affiliated 501(c)(4) lobbying organizations and the 527 political organizations.

This report could not be more timely as the Washington Post, as recently as September 27 of this year, published an article demonstrating that IRS 501(c)(3), 501(c)(4), and 527 organizations are all engaged in political activity this election cycle with expenditures designed to circumvent the prohibitions in the bipartisan campaign Reform Act of 2002, otherwise known as McCain-Feingold.

This article quoted a Federal Election Commission official stating:

> In the wake of the ban on party-raised soft money, evidence is mounting that money is slithering through on other routes as organizations maintain various accounts, tripping over each other, shifting money between 501(c)(3)'s, (c)(4)'s, and 527's. . . . It's big money.

Why is this important? Because the environment is important to all Americans. Despite what we hear from the groups in their attack advertisements against President Bush and the Republican candidates across the Nation, our air is cleaner, water more drinkable, and our forests are becoming healthier.

Keep in mind this is over a period of time when we have almost doubled the amount of miles that are driven, and our population is dramatically increasing. Yet things are cleaner than they were before.

For instance, over the last 30 years we have cut air pollution in half. Why, then, are some extremists spending millions upon millions to hijack the conservation movement? It seems to me that it is more important to the leadership of these groups to turn their once laudable movement into a political machine by sending out their bipartisan snake oil, salesmen, and misleading the American public regarding their purely politically partisan agenda under the guise of environmental protection.

Our Nation's father of conservation, Teddy Roosevelt, said:

> To waste, to destroy, our natural resources, to skin and exhaust the land instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought by right to hand down to them amplified and developed.

These words ring true today, but unfortunately it is clear that the environmentalist movement is deaf to them. What we find now is the fleecing of the American public's pocketbooks by the environmental movement for their political use. What we find now is exhausting litigation, instigation of false claims, misleading science, and scare tactics to fool Americans into believing disastrous environmental scenarios that are untrue.

Pay close attention to the webs of this incestuous activity of these environmentalists groups and their financial benefactors. Environmental organizations have become experts at duplicitous activity, skirting laws up to the edge of illegality, and burying their political activities under the guise of nonprofit environmental improvement.

Chart No. 2 demonstrates the interconnection environmental family affair with nonprofits and their benefactors. As we can see, six organizations at the bottom of the chart are all either 527 groups or 501(c)(4)s. These are political organizations. Money that comes up here—for example, the Heinz Foundation, goes to the various organizations and ultimately gets to the Environmental Accounting Fund, the Save the Environment Organization, Action Fund, Sierra Club Votes, Defenders of Wildlife, Environment 2004. These are all either 501(c)(4)s or 527 organizations.

The LCV calls itself the political voice of the national environmental movement, and much of its grants from even its 501(c)(3) organizations go to fund voter mobilization and education drives. In each election cycle, LCV endorses congressional candidates and since 1996 has published a ''dirty dozen'' list. They brag about the dirty dozen list that has been very effective, but the LCV mostly singles out only Republican candidates.

What we are talking about is the money that is channeled from 501(c)(3) organizations is going to defeat Republican candidates.

Mr. President, let me provide some examples. So far this year, the LCV has released a ''Dirty Dozen'' list of eight congressional candidates—seven Republicans and one Democrat. For the first time ever, it includes the President and Vice President. I cannot forget that LCV has, of course, endorsed the junior Senator from Massachusetts for President, the earliest endorsement of a Presidential contender in its 34-year history.

The LCV's 527 organization last reported to have raised over $3.3 million in the 2004 election cycle. This is chart No. 3: $3.3 million. It has also joined with Environment2004, another 527 political organization directed by former Clinton administration EPA staffers purchasing air time to run ads against the President.

Interestingly, not all candidates appreciate LCV's help.

I recently read where the senior Senator from South Dakota requested the LCV not air advertisements in the South Dakota Senate contest this year and even characterized outside organization advertisements as ''often too negative, too personal, and lack any real substance.''

However, LCV has a long history of political involvement. This is chart No. 4. In 1996, LCV spent a total of $1.5 million in ads trying to defeat its ''Dirty Dozen'' list of targets of 11 Republicans and 1 Democrat.

In 1998, LCV spent $2.3 million targeting its ''Dirty Dozen'' list of 12 Republican candidates and 1 Democratic candidate.

In 2000, the LCV spent a total of $4 million, again targeting 11 Republicans and 1 Democrat on its ''Dirty Dozen'' list. And I cannot forget, in 2000 the LCV also endorsed Al Gore for President.

In 2002, the LCV once again targeted 11 Republican congressional candidates and 1 Democrat.

I see a partisan pattern that is well developed here. LCV spent hundreds of thousands of dollars in congressional contests against Republican candidates. However, the strongest effort seems to have been focused on Senator ALLARD. The LCV claims to have budgeted a total of $700,000 for that race alone and hired a campaign staff of 12 to coordinate phone banks and precinct walks in addition to running television and radio advertisements. Altogether, LCV is reported to have spent $1.5 million in independent expenditures during the 2002 election cycle. Of that total amount, LCV spent $1.313 million benefiting Democratic candidates while only spending $136,000 for Republican candidates.

Another example is the Sierra Club. The Sierra Club describes itself as ''America's oldest, largest and most influential grassroots environmental organization.'' Sierra Club is also an IRS-registered, tax-exempt, nonprofit 501(c)(3) foundation. Here we go again. The Sierra Club Foundation is closely affiliated with its Sierra Club 501(c)(4) and section 527 political organizations. In fact, the Washington Post detailed the interconnected organizations of the Sierra Club in an article it featured last Monday. This is what the Post printed:

> Perhaps no one better illustrates the host of interlocking roles than Carl Pope, one of the most influential operatives on the Democratic side in the 2004 election. As executive director of the Sierra Club, a major 501(c)(4) environmental lobby, Pope also controls the Sierra Club Voter Education Fund, a 527. The Voter Education Fund 527 has raised $3.4 million this election cycle, with $2.4 million of that amount coming from the Sierra Club. A third group, the Sierra Club PAC, has since 1980 given $3.9 million to Democratic candidates and $173,602 to GOP candidates.

The Sierra Club is consistently critical of the Bush environmental record and sometimes others as well. The Sierra Club even accused me of trying to

raise the levels of mercury pollution. The Sierra Club's 527 political organization reports to have raised over $6.8 million for the 2004 election cycle alone, with a goal of over $8 million by the end of the month.

Like the LCV, the Sierra Club has a history of involvement in politics. In the year 2000 Presidential contest, the Sierra Club spent several hundred thousand dollars in advertisements attacking President Bush. And in the 2002 election cycle, the Sierra Club endorsed 184 Democratic incumbents and challengers and endorsed 10 Republican candidates—184 Democrats and 10 Republicans. Not surprisingly, the Sierra Club is heavily involved in the 2004 political cycle. The Sierra Club began spending early in the 2004 Presidential contest and has made a series of endorsements this year. Of course, the Sierra Club has endorsed the junior Senator from Massachusetts for President, and it has endorsed 16 Democratic Senate incumbents and challengers and no Republican candidates—16 Democrats, no Republicans. In races for the House of Representatives, the Sierra Club has endorsed 114 Democratic incumbents and challengers and has endorsed 7 Republican candidates.

Let me use one more example briefly—the Natural Resources Defense Council. The NRDC is also an IRS-registered, tax-exempt, nonprofit 501(c)(3) receiving $55 million in tax-deductible contributions—these are tax-deductible contributions; no money going into the Treasury—in just the last year running bogus ads like this one on this chart claiming President Bush is rolling back a mercury regulation that never existed. This is an outrageous lie. I do not remember how much this ad cost, but if you look, this was a full-page ad run in the New York Times. Down here it says:

Yes, I want to join the Natural Resources Defense Council and help thwart President Bush's plan to weaken controls on toxic mercury.

There are already controls on toxic mercury. This is an outrageous lie. How can you lower something that does not exist? The truth is, President Bush's Clear Skies legislative proposal, which I support, is the biggest emissions reduction plan ever proposed by any American President. Over 14 years, it would reduce emissions from powerplants of nitrogen oxides, sulfur dioxide, and mercury emissions from powerplants by 70 percent. Let's be sure and understand that the NRDC deliberately lied in this ad because you cannot roll back standards that do not exist.

The NRDC is affiliated with the NRDC Action Fund, a 501(c)(4) organization—here we go again—and the Environmental Accountability Fund, its section 527 political organization. The NRDC describes itself as ''the nation's most effective environmental action organization,'' and has a long history of political activity.

The NRDC has joined this year with LCV and the Sierra Club to air television and radio ads and hire campaign staffs to work against President Bush in several States, including New Mexico, Florida, Arizona, and Nevada. Overall, the Environmental Accountability Fund, NRDC's 527 organization, last reported to have raised nearly $1 million in the 2004 election cycle.

Well, that is three of the culprits. The report outlines two others in depth—Greenpeace and Environmental Defense—and shows similar patterns of partisan fundraising and spending, such as this Greenpeace ad that equates President Bush's conservation policies to the Texas chainsaw massacre—a disgusting comparison, especially considering that historic healthy forest legislation was proposed and passed by this administration. It is sad that many of these groups would rather watch our forests burn and our watersheds become destroyed rather than employ 21st century forest management technology to improve forest health.

But misleading and scaring the American people during a Presidential election year, I guess, is more important to them than true forest health.

501(c)(3)s, 501(c)(4)s, political action committees, and 527 political organizations—it is all tangled up in a web. Back to that chart we used, chart No. 2, you can see how convoluted it is.

But the money all ends up down here being used for political purposes, millions upon millions of dollars going for partisan political activity while these groups attempt to maintain a nonpartisan cloak and justification that they are helping our environment. But these funds do not just come from scared mothers and others furiously writing checks because these groups have lied to them and told them that eating fish will kill their children. Our research has found that much of the funding these groups receive comes from independent foundations and trusts which also claim to be nonpartisan.

Let's take a look now at some of these nonpartisan institutions and how their money finds its way to this intricately growing web. The Heinz foundations are a few of the largest contributors to these nonprofit environmental organizations. And, of course, Mrs. Teresa Heinz Kerry is either a chairperson of the board of trustees or a member of the board of trustees of each one of these foundations.

In fact, Mrs. Heinz Kerry is the head of the $1.2 billion Heinz Foundation Endowment.

Since 1998, these foundations have contributed nearly $3 million to the Sierra Club, LCV, the NRDC, and Environmental Defense. Each foundation is also a large contributor to the Tides Center and the Tides Foundation, contributing over $6 million since 1998. The Tides organization has in turn also contributed over $1.4 million to the Sierra Club, Greenpeace, and the NRDC over the same period of time.

Another major supporter is the Turner Foundation, founded in 1990 by Ted Turner, who is chairman of the foundation board of trustees. The Turner Foundation sponsors the work of its special projects which include the Partnership Project, comprised of 20 national environmental groups. Since 1998, the Turner Foundation has contributed over $6.4 million to the Partnership Project. Individually, the Turner Foundation has contributed more than $20 million to the LCV since 1998; over $2.6 million to the NRDC; over $1 million to the Sierra Club; and nearly $2 million to Environmental Defense, Earth Justice, and Greenpeace.

Finally, another large supporter is the Pew Charitable Trust. You can follow the lines of the money there. It claims it is an independent nonprofit serving to inform the public on key issues. Two of the Pew's environmental priorities include global warming and wilderness protection. Pew has contributed $17.4 million to Clear the Air Campaign since 1999, with which it publishes materials such as this claiming that the Bush plan means more pollution. Again, another impossible lie because you can't roll back mercury standards that don't exist.

Perhaps wilderness protection is where the Pew shows its true colors. It has joined with the Heritage Force Campaign, the Natural Resource Defense Council, Environmental Defense, and the Sierra Club in a campaign characterizing the President's conservation policies as ''Crazy George's National Forest Give-a-Way.'' Once again, it is silly scare ads like this. For them, it is only about politics, not about true forest management.

We should be more scared of this tangled web of political financing and the fact that there is no way to tell where taxpayer funded grants and private dollars cross. These are the grants we started out talking about. It is also convoluted where advocacy funding and political funding intermingle and even if environmental groups really spend any money actually improving the environment.

Since 1998, Pew Foundation has contributed several million dollars to various environmental organizations. These contributions have included nearly $18 million to Earth Justice; over $3 million to NRDC; over $3.7 million to Environmental Defense. Pew has also contributed $32.6 million to the Tides Center and Foundation over the same period. The Tides organization has contributed over $1.4 million to the Sierra Club, Greenpeace, NRDC, among others, since 1998.

This does not even represent all of the political involvement of environmental extremists. These groups have established an unquestionable record of partisanship and demonstrated a slithering flow of money among themselves and from their financial benefactors.

Today's environmental groups are simply Democratic political machines

raising millions of dollars in contributions and spending millions in expenditures each year for the purpose of raising more money to pursue their agenda. Especially in this election year, the American voters should see these groups and their many affiliated organizations as they are—the newest insidious conspiracy of political action committees and perhaps the newest multimillion dollar manipulation of Federal election laws.

I ask unanimous consent that the reports be printed in the RECORD.

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

POLITICAL ACTIVITY OF ENVIRONMENTAL GROUPS AND THEIR SUPPORTING FOUNDATIONS

QUESTIONABLY NON-PARTISAN

Following the League of Conservation Voters' endorsement of Senator John Kerry for President, The Hill, a Capitol Hill publication, published an article featuring the financial connection between the League of Conservation Voters and Heinz family foundations. The article further featured the connections between the League of Conservation Voters and other well-known environmental groups such as the Natural Resources Defense Council and Environmental Defense and their financial links to Heinz family foundations as well. The Hill article cited specific contributions such as a $56,000 contribution in 2003 to the Natural Resources Defense Council from a Heinz family foundation and three $200,000 contributions from two Heinz family foundations from 2001 to 2003 to Environmental Defense. The article revealed that Ms. Teresa Heinz Kerry is the chairperson or board member on each Heinz family foundation, and since 2000, the Heinz foundations have given nearly $1 million to the League of Conservation Voters, members of its board, and the groups those board members represent.

Groups such as the League of Conservation Voters, the Natural Resources Defense Council, and Environmental Defense represent themselves as organizations concerned about the protection of the environment. They are all tax exempt Internal Revenue Service (IRS) registered 501(c)(3) organizations often associated with 501(c)(4), 527 political organizations, or other affiliated organizations. However, as recently as September 27, 2004, the Washington Post published an article demonstrating that IRS designated 501(c)(3), 501(c)(4), and 527 organizations are all engaged in political activity this election year with expenditures potentially designed to circumvent the prohibitions in the Bipartisan Campaign Reform Act of 2002, otherwise known as McCain-Feingold. The article quoted a former Federal Election Commission official stating.

''In the wake of the ban on party-raised soft money, evidence is mounting that money is slithering through on other routes as organizations maintain various accounts, tripping over each other, shifting money between 501(c)(3)'s, (c)(4)'s, and 527's. . . . It's big money, and the pendulum has swung too far in their direction.''

This report for the Chairman provides preliminary examples describing five of the most widely politically active environmental groups with a description of their activity and the foundations that provide the financial support for those groups.

ENVIRONMENTAL ORGANIZATIONS

League of conservation voters

Beginning with the League of Conservation Voters (LCV) provides an appropriate beginning because the LCV board of directors is comprised of various representatives from a number of other environmental groups. Among those sitting on either the LCV board of directors, LCV political advisory committee, or the LCV political committee are leaders in the following organizations:

—Natural Resources Defense Council
—Environmental Defense
—Sierra Club
—Earthjustice Legal Defense Fund
—The Wilderness Society
—Trust for Public Lands
—Defenders of Wildlife
—U.S. Public Interest Research Group
—National Wildlife Federation
—Environmental Working Group

The LCV is an IRS registered 501(c)(4) organization affiliated with the LCV Education Fund, a 501(c)(3) organization. The LCV is also affiliated with a LCV political action committee, a section 527 organization, and another 501(c)(4) organization, the LCV Accountability Project. The LCV describes its affiliates as the ''LCV family of organizations'' and describes its work as ''the political voice of the national environmental movement and the only organization devoted full-time to shaping a pro-environment Congress and White House.'' Since 1996, a symbol of the political activity of the LCV has been the Dirty Dozen list it publishes each election year. The LCV represents that it has defeated 28 of 49 candidates targeted by its Dirty Dozen campaigns since 1996. Citing two examples from the 2000 election year, the LCV contends on its Web site,

''How much impact can LCV campaigns make on national policy? In 2000, two of the most dangerous anti-environmentalists in the U.S. Senate—Spencer Abraham of Michigan and Slade Gorton of Washington—were defeated by less than 1% following major LCV campaigns. In a Congress closely divided on the environment, these LCV victories can make all the difference.''

Senators Abraham of Michigan and Slade Gorton of Washington were both Republicans running for reelection in 2000. In fact, in 1996, the LCV spent a total of $1.5 million dollars sending 254,000 direct mail pieces and airing 9,000 television and radio advertisements attempting to defeat its Dirty Dozen list of eleven Republican congressional candidates and one Democrat congressional candidate.

In 1998, the LCV Dirty Dozen list targeted twelve Republican congressional candidates and one Democrat congressional candidate for defeat—spending a total of $2.3 million. The LCV spent in many cases over $200,000 per congressional race—airing television and radio advertisements and sending direct mail pieces. In the Nevada Senate race, LCV aired a total of 661 individual television airings against the Republican candidate. LCV spent up to $420,000 in the Wisconsin Senate race against the Republican candidate.

In 2000, the LCV spent a total of $4 million—again targeting eleven Republican congressional candidates and one Democrat congressional candidate on its Dirty Dozen list. The LCV spent up to $444,000 in the Washington Senate race, $520,000 in the Virginia Senate race, and $705,000 in the Michigan Senate race, all in an effort to defeat Republican candidates. However, the LCV also reported spending $52,000 to attempt to defeat Congressman Traficant of Ohio for re-election, the only Democrat on the LCV Dirty Dozen for 2000. Additionally, in May of 2000, the LCV endorsed Al Gore for President.

In 2002, the LCV again targeted eleven Republican congressional candidates and one Democrat congressional candidate with television and radio advertisements including a television advertisement in the South Dakota Senate race implying that the Republican candidate's environmental positions were bought by campaign contributions. The LCV sent thousands of direct mail pieces including 100,000 pieces mailed in the Georgia Senate race and 75,000 pieces sent in the New Hampshire Senate race—both against Republican candidates. The LCV also joined other organizations and spent a total of $570,000 against the New Hampshire Republican Senate candidate. However, the strongest effort seems to have been focused on the Colorado Senate contest. The LCV budgeted a total of $700,000 for this race against incumbent Republican Senator Wayne Allard. The LCV hired a campaign staff of twelve against Senator Allard to coordinate phone banks and precinct walks in addition to running television and radio advertisements that LCV claims reached sixty-seven percent of the state. altogether, the LCV is reported to have spent $1,449,951 in independent expenditures during the 2002 election cycle. Of that total amount, LCV spent $1,313,041 benefitting Democrat candidates while only spending $136,910 for Republican candidates.

Although the LCV has yet to release its completed Dirty Dozen list for the 2004 campaign year at the time of this report, it has released a Dirty Dozen list of eight Congressional candidates, seven Republicans and one Democrat. For the first time it has included the President and Vice President on its Dirty Dozen list. The LCV has endorsed forty-two candidates in Congressional elections in addition to endorsing Senator John Kerry for President. In fact, the LCV's endorsement of Senator Kerry is the earliest endorsement of a Presidential contender in the thirty-four year history of the LCV. Of the forty-two candidates endorsed by the LCV at the time of this report, thirty-one are Democrat candidates, and ten Republicans are candidates.

As in previous election cycles, the LCV is active this year airing political advertisements—already spending $100,000 to elect a Democrat candidate in a Kentucky congressional special election this year. The LCV is also reported to have already spent hundreds of thousands of dollars on Senator John Kerry's Presidential campaign including joining with Environment2004, a 527 political organization, purchasing air time in Florida and Washington, D.C. At the time of this report, Environment2004 last reported to have raised over $600,000 in the 2004 election cycle. The LCV's 527 organization last reported to have raised over $3.3 million in the 2004 election cycle.

However not all candidates appreciate LCV's help. The senior senator from South Dakota is reported to have specifically written LCV characterizing outside organization advertisements, like those aired by LCV, as ''often too negative, too personal, and lack any real substance.'' He further requested that the LCV not air advertisements in the South Dakota Senate contest this year.

Natural Resources Defense Council

The Natural Resources Defense Council (NRDC) is an IRS registered 501(c)(3) tax exempt organization affiliated with the NRDC Action Fund, a 501(c)(4) organization. The NRDC is also affiliated with the Environmental Accountability Fund, a section 527 political organization. The NRDC's mission statement is to ''safeguard the Earth: its people, its plants and animals and the natural systems on which all life depends;'' additionally, the NRDC describes itself as ''the nation's most effective environmental action organization.

Since the beginning of the Bush Administration, the NRDC has compiled a ''Bush Record'' on its Web site characterizing the Bush Administration as, ''in catering to industries that put America's health and natural heritage at risk, threatens to do more

damage to our environmental protections than any other in U.S. history.

The NRDC has a long history of political activity. As early as 1982, NRDC spent a record $2.5 million with other environmental organizations on congressional and gubernatorial races to ''oust Reagan supporters. The NRDC is also involved in this year's Presidential race joining with LCV and the Sierra Club to work against President Bush in the state of New Mexico which has been characterized as a ''battleground state'' this year. The Albuquerque Journal reports that NRDC has already aired television and radio advertisements against the Bush Administration's environmental record joining the LCV and Sierra Club working to hire their own campaign staffs against the Bush candidacy. The NRDC's Environmental Accountability Fund, a 527 political organization, is sponsoring political advertisements against President Bush throughout New Mexico and other ''battle ground states'' including Florida, Arizona, and Nevada. Overall, at the time of this report, this 527 organization has raised nearly $1 million in the 2004 election cycle.

The NRDC 501(c)(3) organization, however, is also nationally politically involved joining earlier this year with Moveon.org, another section 527 political organization, purchasing advertisements in the New York Times accusing the Bush Administration of weakening regulations on drinking water and air quality while soliciting contributions for the NRDC 501(c)(3) affiliate.

Sierra Club

The Sierra Club describes itself as ''America's oldest, largest and most influential grassroots environmental organization.'' With a reported membership of 700,000, the Sierra Club is represented by a 501(c)(4) organization, a section 527 political organization, and the 501(c)(3) Sierra Club Foundation. In a September 27, 2004 article on the interconnectedness of IRS designated 501(c)(3), 501(c)(4), and 527 organizations this election year, the Washington Post featured the Sierra Club as the prime example of this web writing the following:

''Perhaps no one better illustrates the host of interlocking roles than Carl Pope, one of the most influential operatives on the Democratic side in the 2004 election. As executive direct of the Sierra Club, a major 501c(4) environmental lobby, Pope also controls the Sierra Club Voter Education Fund, a 527. The Voter Education Fund 527 has raised $3.4 million this election cycle, with $2.4 million of that amount coming from the Sierra Club. A third group, the Sierra Club PAC, has since 1980 given $3.9 million to Democratic candidates and $173,602 to GOP candidates.

''These activities just touch the surface of Pope's political involvement. In 2002–03, Pope helped found two major 527 groups: America Votes, which was raised $1.9 million to coordinate the election activities of 32 liberal groups, and America Coming Together (ACT), which has a goal of raising more than $100 million to mobilize voters to cast ballots against Bush. Finally, Pope is treasurer of a new 501c(3) foundation, America's Families United, which reportedly has $15 million to distribute to voter mobilization groups.

'' 'I am in this as deeply as I am,' Pope said, 'because I think this country is in real peril.' ''

The Sierra Club is consistently critical of the Bush Administration and it compiles a ''Sierra Club RAW newsletter'' featuring ''The Uncooked Facts of the Bush Assault on the Environment'' with regular criticisms of the Bush Administration evironmental record and sometimes expanding its criticisms to other officials as well. For instance in its June 23, 2004 edition, the Sierra Club accused Senator Inhofe of attempting to raise ''levels of mercury pollution'' claiming the following: ''But wait—there's more. The Bush administration's weak air proposals were not weak enough, it seems, for Senator James Inhofe, the chairman of the Environment and Public Works Committee. Inhofe tried to raise the 'acceptable' levels of mercury pollution. . . .''

Like NRDC's ''Bush Record,'' the Sierra Club has its own ''W Watch'' where it features articles critical of the Bush Administration on environmental issues to judicial nominations. Sierra Club affiliated organizations such as Earthjustice, which began as the Sierra Club Legal Defense Fund, is also highly critical of the Bush Administration and is regularly engaged in legal actions against the federal government. In fact, in its most recent IRS filings, Earthjustice describes eighty-six legal actions on a variety of environmental related issues. Earthjustice also publishes its own political information. It issued its ''Paybacks'' report shortly before the 2002 elections that made such explicit claims as, ''the Bush Administration is weakening environmental laws in particular to help those industries that paid to put it in office.''

Like other environmental groups, the Sierra Club has a history of involvement in political campaigns. In the 2000 Presidential contest, the Sierra Club spent several hundred thousand dollars in advertisements attacking Candidate George W. Bush's campaign throughout the country including what is reported as the largest expenditure of a third party on Spanish language advertisements. In the 2002 election cycle, the Sierra Club is reported to have spent $265,772 in independent expenditures all for Democratic candidates and making no independent expenditures for Republican candidates. Additionally, in the 2002 Senate races, the Sierra Club endorsed nineteen Democrat incumbents and challengers and endorsed no Republican candidates. In the 2002 races for the U.S. House of Representatives, the Sierra Club endorsed one hundred sixty-five Democrat incumbents and challengers and endorsed ten Republican candidates.

Like previous election years, the Sierra Club is heavily involved in the 2004 political cycle. The Sierra Club began spending early in the 2004 Presidential contest and is reported to have spent at least $350,000 as early as late 2003 in advertisements against President Bush throughout the country including in New Hampshire, Michigan, Wisconsin, Pennsylvania, Florida, Nevada, and Nebraska. The Sierra Club has made a series of endorsements in this year's political contests, and like LCV, the Sierra Club has endorsed Senator John Kerry for President. In Senate races, the Sierra Club has endorsed sixteen Democrat Senate incumbents and challengers and no Republican candidates. In races for the U.S. House of Representatives, the Sierra Club has endorsed one hundred fourteen Democrat incumbents and challengers and has endorsed seven Republican candidates. At the time of this report, the Sierra Club's 527 political organization claims to have raised over $6.8 million for the 2004 election cycle alone.

Greenpeace

Greenpeace USA describes itself as ''the leading independent campaigning organization that uses non-violent direct action and creative communication to expose global environmental problems and to promote solutions that are essential to a green and peaceful future.'' It claims 250,000 members in the United States and 2.5 million members around the world. Greenpeace USA is represented by Greenpeace, Inc., a section 501(c)(4) organization and the Greenpeace Fund Inc., a section 501(c)(3) organization.

Greenpeace USA and its affiliate organizations through Greenpeace International have received attention for many years more through demonstrations than through political endorsements. Press reports that have described some of Greenpeace USA's demonstrations have included activists rapelling down skyscrapers, occupying abandoned oil rigs, intervening in whale hunts with inflatable rafts, and illegally boarding ships while at sea, among other demonstrations that often result in arrests and criminal convictions for Greenpeace activists. In fact, on Earth Day 2001, Greenpeace USA founder John Passacantado was arrested with the founder of the Rainforest Action Network for locking themselves to a gate during a protest blockading the entrance to the Environmental Protection Agency.

Although, Greenpeace may be better known for its demonstrations, its political views may be clear as it has characterized President Bush as the ''toxic Texan,'' and hung a banner from a water tower near the President's ranch in Texas that read the same. Greenpeace has devoted much of its Web site toward criticism of the Bush Administration equating the Administration's environmental and conservation policies to the ''Texas chainsaw massacre.''

Environmental Defense

Environmental Defense describes itself as ''fighting to protect human health, restore the oceans and ecosystems, and curb global warming.'' Environmental Defense is represented by two organizations: Environmental Defense, Inc., a 501(c)(3) organization and the Environmental Defense Action Fund, Inc., a 501(c)(4) organization.

Environmental Defense represents its work in a number of issue campaigns for instance, increased air regulations, increased regulation of ocean industries, strengthening Endangered Species Act and adding additional listings, and reversing global warming. Environmental Defense is involved with various other environmental organizations such as the Sierra Club on many other ''campaigns'' as well. All ''campaigns'' are featured on its Web site or its Action!Network Web site.

Environmental Defense is regularly associated with other politically involved environmental organizations as well such as NRDC, Greenpeace, and LCV, among others, and its board of directors not only includes the wife of the Democratic Presidential nominee but also includes former Clinton Administration officials involved in their own environmental organizations regularly critical of the Bush Administration.

FOUNDATIONS

The following are three of the foundations that regularly contribute to the five environmental organizations referenced in this report, among others.

Pew Charitable Trusts

The Pew Charitable Trusts (Pew) are comprised of seven separate trusts and reports it is an ''independent non-profit'' serving to ''inform the public on key issues and trends, as a highly credible source of independent, non-partisan research and polling information and that its environmental priorities include global warming, protecting ocean life, and wilderness protection.'' In two of those priorities in particular, global warming and wilderness protection, Pew has joined and supported other organizations and campaigns.

In 1998, Pew created the Pew Center on Global Climate Change. The Pew Center reports, ''the growing scientific consensus is that this warming is largely the result of emissions of carbon dioxide and other greenhouse gases from human activities including industrial processes, fossil fuel combustion,

and changes in land use, such as deforestation.'' Pew also sponsors the work of the Clear the air Campaign with a $3.4 million grant in 1999, $4.3 million grant in 2000, nearly $5 million grant in 2001, and $4.7 million grant in 2003 with which it published its Dirty Air, Dirty Power report in June 2004 claiming, on the first page of the publication, that coal burning power plants ''make people sick and shorten the lives of thousands each year'' and further claiming that ''President Bush has allowed polluters to rewrite clean air rules.''

Concerning wilderness protection, Pew endorses the Heritage Forests Campaign also highly critical of the Bush Administration conservation policies, and, joining with the Natural Resources Defense Council, Environmental Defense, the Sierra Club, characterize the President's conservation policies as ''Crazy George's National Forest Give-away, Every Tree Must Go.''

Since 1998, Pew has contributed several million dollars to various environmental organizations. These contributions have included nearly $18 million to Earthjustice, over $3 million to NRDC, and over $3.7 million to Environmental Defense. Pew has also contributed $32.6 million to the Tides Center and foundation over the same period. The Tides organization has contributed over $1.4 million to the Sierra Club and affiliates, Greenpeace and affiliates, the NRDC, and the Environmental Working Group since 1998.

Turner Foundation

The Turner Foundation describes itself as ''a private, independent family foundation committed to preventing damage to the natural systems—water, air, and land—on which all life depends.'' It was founded in 1990 by Ted Turner who is Chairman of the Foundation Board of Trustees. The Turner Foundation makes grants ''in the areas of the environment and population.'' The Foundation is especially involved in the issues of global warming and overpopulation, and supports the work of its ''special projects'' which include the Partnership Project which is comprised of twenty national environmental groups. The Turner Foundation's other special projects include the League of Conservation Voters Education Fund, the NARAL Foundation, and Planned Parenthood Federation of America.

Since 1998, the Turner Foundation has contributed over $6.4 million to the Partnership Project that is comprised of the League of Conservation Voters, Sierra Club, Earthjustice, Environmental Defense, Natural Resources Defense council, and Greenpeace among others. Individually, the Turner Foundation has contributed more than $20 million to the LCV since 1998, over $2.6 million to the NRDC, over $1 million to the Sierra Club, nearly $2 million to the National Wildlife Federation, and nearly $2 million to Environmental Defense, Earthjustice, Greenpeace, and the Environmental Working Group.

Heinz foundations

The Heinz foundations are comprised of several different foundations, some established for specific purposes. Of the Heinz family affiliated foundations, the largest contributors to environmental organizations are the Howard Heinz Endowment, Vira I. Heinz Endowment, and Heinz Family Foundation.

Ms. Teresa Heinz Kerry is either chairperson of the board of trustees or member of the board of trustees on each foundation. Ms. Heinz Kerry is the head of the $1.2 billion Heinz Foundation endowment. Since 1998, these foundations have contributed nearly $3 million to Environmental Defense, the Sierra Club, the LCV, and the NRDC. Each foundation is also a large contributor to the Tides Center and Tides Foundation and affiliates contributing over $6 million since 1998. The Tides organization has in turn also contributed over $1.4 million to the Sierra Club and affiliates, Greenpeace and affiliates, the NRDC, and the Environment Working Group over that same period.

CONCLUSION

This report does not represent the totality of environmental groups engaged in political activity in this election year or prior election years. It does not even represent all the actions taken by the environmental groups that are highlighted in this report each election year. However, this report provides examples of some of the actions taken by these groups and clearly questions any claims these groups make concerning being ''nonpartisan.'' These group shave clearly established a record of partisanship and clearly demonstrated each election cycle that they simply have an agenda to work together against Republican candidates and work to elect Democrat candidates. Additionally, these groups are, in large part, annually financed by foundations consistently supporting those groups' partisan efforts and in some cases directly involved in partisan criticisms of the Bush Administration. Moreover, these groups' activities demonstrate the concern expressed in the Washington Post article regarding political money this election year—money ''slithering through on other routes as organizations maintain various accounts, tripping over each other, shifting money between 501(c)(3)'s, (c)(4)'s, and 527's.''

Today's environmental groups are simply political machines reporting millions in contributions and expenditures each year for the purpose of raising more money to pursue their agenda. Especially in this election year, the American voter should see these groups and their many affiliate organizations as they are—the newest insidious conspiracy of political action committees and perhaps the newest multi-million dollar manipulation of federal election laws.

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 dispensed with.

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

Ms. COLLINS. Mr. President, let me commend you for your leadership in presiding this evening. I realize it has been a very long evening and the Senator has been in the Chair for a long time.

AMENDMENTS NOS. 3722, AS MODIFIED, 3757, AS MODIFIED, 3762, AS MODIFIED, 3778, AS MODIFIED, 3814, 3818, 3825, 3832, 3833, AS MODIFIED, 3836, 3841, 3859, AS MODIFIED, 3860, 3867, AS MODIFIED, 3901, 3910, AS MODIFIED, 3923 EN BLOC

Ms. COLLINS. Mr. President, I have a series of amendments that have been cleared on both sides of the aisle. I ask unanimous consent that the list of amendments that I send to the desk be agreed to with the modifications agreed to where indicated.

The PRESIDING OFFICER. Is there objection?

Mr. LIEBERMAN. No objection.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 3722

(Purpose: To facilitate the utilization of United States commercial remote sensing space capabilities for filling imagery and geospatial information requirements)

At the end of subtitle A of title II, add the following:

SEC. ___. USE OF UNITED STATES COMMERCIAL REMOTE SENSING SPACE CAPABILITIES FOR IMAGERY AND GEOSPATIAL INFORMATION REQUIREMENTS.

(a) IN GENERAL.—The National Intelligence Director shall take actions to ensure, to the extent practicable, the utilization of United States commercial remote sensing space capabilities to fulfill the imagery and geospatial information requirements of the intelligence community.

(b) PROCEDURES FOR UTILIZATION.—The National Intelligence Director may prescribe procedures for the purpose of meeting the requirement in subsection (a).

(c) DEFINITIONS.—In this section, the terms ''imagery'' and ''geospatial information'' have the meanings given such terms in section 467 of title 10, United States Code.

AMENDMENT NO. 3757

(Purpose: To require the Secretary of Homeland Security to report to the Congress on the technological capabilities and equipment to Transportation Security Administration field offices)

At the appropriate place, insert the following:

SEC. . TSA FIELD OFFICE INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS REPORT.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to the Congress, which may be transmitted in classified and redacted formats, setting forth—

(1) a descriptive list of each administrative and airport site of the Transportation Security Administration, including its location, staffing, and facilities;

(2) an analysis of the information technology and telecommunications capabilities, equipment, and support available at each such site, including—

(A) whether the site has access to broadband telecommunications;

(B) whether the site has the ability to access Transportation Security Administration databases directly;

(C) the means available to the site for communicating and sharing information and other data on a real time basis with the Transportation Security Administration's national, regional, and State offices as well as with other Transportation Security Administration sites;

(D) the means available to the site for communicating with other Federal, State, and local government sites with transportation security related responsibilities; and

(E) whether and to what extent computers in the site are linked through a local area network or otherwise, and whether the information technology resources available to the site are adequate to enable it to carry out its functions and purposes; and

(3) an assessment of current and future needs of the Transportation Security Administration to provide adequate information technology and telecommunications facilities, equipment, and support to its sites, and an estimate of the costs of meeting those needs.

AMENDMENT NO. 3762

(Purpose: To improve information sharing by the national intelligence centers)

On page 97, line 10, insert before the period the following: '', including through the establishment of mechanisms for the sharing

of information and analysis among and between national intelligence centers having adjacent or significantly interrelated geographic regions or functional areas of intelligence responsibility''.

AMENDMENT NO. 3778

(Purpose: To improve the management of the personnel of the National Intelligence Authority)

On page 113, between lines 17 and 18, insert the following:

(b) TERMINATION OF EMPLOYEES.—(1) Notwithstanding any other provision of law, the National Intelligence Director may, in the discretion of the Director, terminate the employment of any officer or employee of the National Intelligence Authority whenever the Director considers the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

(2) Any termination of employment of an officer or employee under paragraph (1) shall not affect the right of the officer or employee to seek or accept employment in any other department, agency, or element of the United States Government if declared eligible for such employment by the Office of Personnel Management.

On page 113, line 18, strike ''(b) RIGHTS AND PROTECTIONS'' and insert ''(c) OTHER RIGHTS AND PROTECTIONS''.

On page 113, after line 24, add the following:

(d) REGULATIONS.—The National Intelligence Director shall prescribe regulations on the application of the authorities, rights, and protections in and made applicable by subsections (a), (b), and (c), to the personnel of the National Intelligence Authority.

AMENDMENT NO. 3814

(Purpose: To provide the sense of Congress that United States foreign assistance should be provided to South Asia, Southeast Asia, West Africa, the Horn of Africa, North and North Central Africa, the Arabian peninsula, Central and Eastern Europe, and South America to prevent the establishment of terrorist sanctuaries)

On page ____, between lines ____ and ____, insert the following:

(2) regions of specific concern where United States foreign assistance should be targeted to assist governments in efforts to prevent the use of such regions as terrorist sanctuaries are South Asia, Southeast Asia, West Africa, the Horn of Africa, North and North Central Africa, the Arabian peninsula, Central and Eastern Europe, and South America;

AMENDMENT NO. 3818, AS MODIFIED

At the appropriate place, insert:

SEC. ____. NATIONWIDE INTEROPERABLE COMMUNICATIONS NETWORK.

(a) IN GENERAL.—Within one year of enactment, the Secretary of Homeland Security, in coordination with the Federal Communications Commission and the National Telecommunications and Information Administration, shall complete a study assessing potential technical and operational standards and protocols for a nationwide interoperable communications network (referred to in this section as the ''Network'') that may be used by Federal, State, and local governmental and non-governmental public safety, homeland security, and other first responder personnel. The assessment shall be consistent with the SAFECOM national strategy as developed by the public safety community in cooperation with SAFECOM and the DHS Interoperability Office. The Secretary shall report the results of the study to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Governmental Affairs, the House of Representatives Committee on Energy and Commerce, and the House of Representatives Select Committee on Homeland Security.

(b) CONSULTATION AND USE OF COMMERCIAL TECHNOLOGIES.—In assessing standards and protocols pursuant to paragraph (a), the Secretary of Homeland Security shall—

(1) seek input from representatives of the user communities regarding the operation and administration of the Network; and

(2) consider use of commercial wireless technologies to the greatest extent practicable.

AMENDMENT NO. 3825

(Purpose: To permit reviews of criminal records of applicants for private security officer employment)

At the appropriate place, insert the following:

SEC. ____. PRIVATE SECURITY OFFICER EMPLOYMENT AUTHORIZATION ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the ''Private Security Officer Employment Authorization Act of 2004''.

(b) FINDINGS.—Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by, among other things, helping to protect critical infrastructure, including hospitals, manufacturing facilities, defense and aerospace contractors, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, and others;

(3) the 9-11 Commission Report says that ''Private sector preparedness is not a luxury; it is a cost of doing business in the post-9/11 world. It is ignored at a tremendous potential cost in lives, money, and national security'' and endorsed adoption of the American National Standards Institute's standard for private preparedness;

(4) part of improving private sector preparedness is mitigating the risks of terrorist attack on critical infrastructure by ensuring that private security officers who protect those facilities are properly screened to determine their suitability;

(5) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

(6) private security officers and applicants for private security officer positions should be thoroughly screened and trained.

(c) DEFINITIONS.—In this section:

(1) EMPLOYEE.—The term ''employee'' includes both a current employee and an applicant for employment as a private security officer.

(2) AUTHORIZED EMPLOYER.—The term ''authorized employer'' means any person that—

(A) employs private security officers; and

(B) is authorized by regulations promulgated by the Attorney General to request a criminal history record information search of an employee through a State identification bureau pursuant to this section.

(3) PRIVATE SECURITY OFFICER.— The term ''private security officer''—

(A) means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full- or part-time, for consideration, whether armed or unarmed and in uniform or plain clothes (except for services excluded from coverage under this section if the Attorney General determines by regulation that such exclusion would serve the public interest); but

(B) does not include—

(i) employees whose duties are primarily internal audit or credit functions;

(ii) employees of electronic security system companies acting as technicians or monitors; or

(iii) employees whose duties primarily involve the secure movement of prisoners.

(4) SECURITY SERVICES.—The term ''security services'' means acts to protect people or property as defined by regulations promulgated by the Attorney General.

(5) STATE IDENTIFICATION BUREAU.—The term ''State identification bureau'' means the State entity designated by the Attorney General for the submission and receipt of criminal history record information.

(d) CRIMINAL HISTORY RECORD INFORMATION SEARCH.—

(1) IN GENERAL.—

(A) SUBMISSION OF FINGERPRINTS.—An authorized employer may submit to the State identification bureau of a participating State, fingerprints or other means of positive identification, as determined by the Attorney General, of an employee of such employer for purposes of a criminal history record information search pursuant to this section.

(B) EMPLOYEE RIGHTS.—

(i) PERMISSION.—An authorized employer shall obtain written consent from an employee to submit to the State identification bureau of a participating State the request to search the criminal history record information of the employee under this section.

(ii) ACCESS.—An authorized employer shall provide to the employee confidential access to any information relating to the employee received by the authorized employer pursuant to this section.

(C) PROVIDING INFORMATION TO THE STATE IDENTIFICATION BUREAU.—Upon receipt of a request for a criminal history record information search from an authorized employer pursuant to this section, submitted through the State identification bureau of a participating State, the Attorney General shall—

(i) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(ii) promptly provide any resulting identification and criminal history record information to the submitting State identification bureau requesting the information.

(D) USE OF INFORMATION.—

(i) IN GENERAL.—Upon receipt of the criminal history record information from the Attorney General by the State identification bureau, the information shall be used only as provided in clause (ii).

(ii) TERMS.—In the case of—

(I) a participating State that has no State standards for qualification to be a private security officer, the State shall notify an authorized employer as to the fact of whether an employee has been—

(aa) convicted of a felony, an offense involving dishonesty or a false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years; or

(bb) charged with a criminal felony for which there has been no resolution during the preceding 365 days; or

(II) a participating State that has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this section in applying the State standards and shall only notify the employer of the results of the application of the State standards.

(E) FREQUENCY OF REQUESTS.—An authorized employer may request a criminal history record information search for an employee only once every 12 months of continuous employment by that employee unless the authorized employer has good cause to submit additional requests.

(2) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the

Attorney General shall issue such final or interim final regulations as may be necessary to carry out this section, including—

(A) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, destruction of information and audits, and recordkeeping;

(B) standards for qualification as an authorized employer; and

(C) the imposition of reasonable fees necessary for conducting the background checks.

(3) CRIMINAL PENALTIES FOR USE OF INFORMATION.—Whoever knowingly and intentionally uses any information obtained pursuant to this section other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(4) USER FEES.—

(A) IN GENERAL.—The Director of the Federal Bureau of Investigation may—

(i) collect fees to process background checks provided for by this section; and

(ii) establish such fees at a level to include an additional amount to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(B) LIMITATIONS.—Any fee collected under this subsection—

(i) shall, consistent with Public Law 101–515 and Public Law 104–99, be credited to the appropriation to be used for salaries and other expenses incurred through providing the services described in such Public Laws and in subparagraph (A);

(ii) shall be available for expenditure only to pay the costs of such activities and services; and

(iii) shall remain available until expended.

(C) STATE COSTS.—Nothing in this section shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this section.

(5) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this section by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this paragraph.

AMENDMENT NO. 3832

At the appropriate place, insert the following:

SEC. . COMMUNICATIONS INTEROPERABILITY.

(a) DEFINITION.—As used in this section, the term ''equipment interoperability'' means the devices that support the ability of public safety service and support providers to talk with each other via voice and data on demand, in real time, when needed, and when authorized.

(b) NATIONAL GUIDELINES FOR EQUIPMENT INTEROPERABILITY.—Not later than one year after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Federal Communications Commission and the National Telecommunications and Information Administration, and other appropriate representatives of Federal, State, and local government and first responders, shall adopt, by regulation, national goals and guideline for equipment interoperability and related issues that—

(1) set short-term, mid-term, and long-term means and minimum equipment performance guidelines for Federal agencies, States, and local governments;

(2) recognize—

(A) the value, life cycle, and technical capabilities of existing communications infrastructure;

(B) the need for cross-border interoperability between States and nations;

(C) the unique needs of small, rural communities; and

(D) the interoperability needs for daily operations and catastrophic events.

(c) NATIONAL EQUIPMENT INTEROPERABILITY IMPLEMENTATION PLAN.—

(1) DEVELOPMENT.—Not later than 180 days of the completion of the development of goals and guidelines under subsection (b), the Secretary of Homeland Security shall develop an implementation plan that—

(A) outlines the responsibilities of the Department of Homeland Security; and

(B) focuses on providing technical and financial assistance to States and local governments for interoperability planning and implementation.

(2) EXECUTION.—The Secretary shall execute the plan developed under this subsection as soon as practicable.

(3) REPORTS.—

(A) INITIAL REPORT.—Upon the completion of the plan under subsection (c), the Secretary shall submit a report that describes such plan to—

(i) the Committee on Governmental Affairs of the Senate;

(ii) the Committee on Environment and Public Works of the Senate;

(iii) the Committee on Commerce, Science, and Transportation of the Senate;

(iv) the Select Committee on Homeland Security of the House of Representatives; and

(v) the Committee on Energy and Commerce of the House of Representatives.

(B) ANNUAL REPORT.—Not later than 1 year after the submission of the report under subparagraph (A), and annually thereafter, the Secretary shall submit a report to the committees referred to in subparagraph (A) that describes the progress made in implementing the plan developed under this subsection.

(d) INTERNATIONAL INTEROPERABILITY.—Not later than 1 year after the date of enactment of this Act, the President shall establish a mechanism for coordinating cross-border interoperability issues between—

(1) the United States and Canada; and

(2) the United States and Mexico.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009—

(1) such sums as may be necessary to carry out subsection (b);

(2) such sums as may be necessary to carry out subsection (c); and

(3) such sums as may be necessary to carry out subsection (d).

AMENDMENT NO. 3833, AS MODIFIED

(Purpose: To require a report on the implementation of recommendations of the Defense Science Board on preventing and defending against clandestine nuclear attack)

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

SEC. 207. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF DEFENSE SCIENCE BOARD ON PREVENTING AND DEFENDING AGAINST CLANDESTINE NUCLEAR ATTACK.

(a) FINDING.—Congress finds that the June 2004 report of the Defense Science Board Task Force on Preventing and Defending Against Clandestine Nuclear Attack—

(1) found that it would be easy for adversaries to introduce and detonate a nuclear explosive clandestinely in the United States;

(2) found that clandestine nuclear attack and defense against such attack should be treated as an emerging aspect of strategic warfare and that those matters warrant national and Department of Defense attention; and

(3) called for a serious national commitment to a multidepartment program to create a multi-element, layered, global, civil/military complex of systems and capabilities that can greatly reduce the likelihood of a successful clandestine attack, achieving levels of protection effective enough to warrant the effort.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Energy, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the actions proposed to be taken to address the recommendations of the Defense Science Board Task Force on Preventing and Defending Against Clandestine Nuclear Attack.

AMENDMENT NO. 3836

(Purpose: To authorize the Secretary of Homeland Security to award grants to improve first responder communications systems)

At the appropriate place, insert the following:

SEC. ___. COMMUNICATION SYSTEM GRANTS.

(a) IN GENERAL.—The Secretary of Homeland Security may award grants, on a competitive basis, to States, local governments, local law enforcement agencies, and local fire departments to—

(1) improve communication systems to allow for real time, interoperable communication between State and local first responders; or

(2) purchase communication systems that allow for real time, interoperable communication between State and local first responders.

(b) APPLICATION.—Any State, local government, local law enforcement agency, or local fire department desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums necessary for each of the fiscal years 2005 through 2009 to carry out the provisions of this section.

AMENDMENT NO. 3859

On page 94, between lines 14 and 15, insert the following:

(3) There may be established under this subsection one or more national intelligence centers having intelligence responsibility for the following:

(A) The nuclear terrorism threats confronting the United States.

(B) The chemical terrorism threats confronting the United States.

(C) The biological terrorism threats confronting the United States.

On page 94, line 15, strike ''(3)'' and insert ''(4)''.

AMENDMENT NO. 3860

(Purpose: To improve the working relationship between the intelligence community and the National Infrastructure Simulation and Analysis Center)

At the appropriate place, insert the following:

SEC. ___. INTELLIGENCE COMMUNITY USE OF NISAC CAPABILITIES.

The National Intelligence Director shall establish a formal relationship, including information sharing, between the intelligence community and the National Infrastructure Simulation and Analysis Center. Through this relationship, the intelligence community shall take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center, particularly vulnerability and consequence analysis, for real time response to reported threats and long term planning for projected threats.

AMENDMENT NO. 3867, AS MODIFIED

At the appropriate place, insert the following:

SEC. ___. TERRORISM FINANCING.

(a) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the President, acting through the Secretary of the Treasury, shall submit to Congress a report evaluating the current state of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness and efficiency of current United States governmental efforts and methods to detect, track, disrupt, and stop terrorist financing;

(B) the relationship between terrorist financing and money laundering, including how the laundering of proceeds related to illegal narcotics or foreign political corruption may contribute to terrorism or terrorist financing;

(C) the nature, effectiveness, and efficiency of current efforts to coordinate intelligence and agency operations within the United States Government to detect, track, disrupt, and stop terrorist financing, including identifying who, if anyone, has primary responsibility for developing priorities, assigning tasks to agencies, and monitoring the implementation of policy and operations;

(D) the effectiveness and efficiency of efforts to protect the critical infrastructure of the United States financial system, and ways to improve the effectiveness of financial institutions;

(E) ways to improve multilateral and international governmental cooperation on terrorist financing, including the adequacy of agency coordination within the United States related to participating in international cooperative efforts and implementing international treaties and compacts; and

(F) ways to improve the setting of priorities and coordination of United States efforts to detect, track, disrupt, and stop terrorist financing, including recommendations for changes in executive branch organization or procedures, legislative reforms, additional resources, or use of appropriated funds.

(b) POSTEMPLOYMENT RESTRICTION FOR CERTAIN BANK AND THRIFT EXAMINERS.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

''(k) ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF FINANCIAL INSTITUTIONS.—

''(1) IN GENERAL.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (6) of this subsection shall apply to any person who—

''(A) was an officer or employee (including any special Government employee) of a Federal banking agency or a Federal reserve bank;

''(B) served 2 or more months during the final 12 months of his or her employment with such agency or entity as the senior examiner (or a functionally equivalent position) of a depository institution or depository institution holding company with continuing, broad responsibility for the examination (or inspection) of that depository institution or depository institution holding company on behalf of the relevant agency or Federal reserve bank; and

''(C) within 1 year after the termination date of his or her service or employment with such agency or entity, knowingly accepts compensation as an employee, officer, director, or consultant from—

''(i) such depository institution, any depository institution holding company that controls such depository institution, or any other company that controls such depository institution; or

''(ii) such depository institution holding company or any depository institution that is controlled by such depository institution holding company.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) the term 'depository institution' includes an uninsured branch or agency of a foreign bank, if such branch or agency is located in any State; and

''(B) the term 'depository institution holding company' includes any foreign bank or company described in section 8(a) of the International Banking Act of 1978.

''(3) RULES OF CONSTRUCTION.—For purposes of this subsection, a foreign bank shall be deemed to control any branch or agency of the foreign bank, and a person shall be deemed to act as a consultant for a depository institution, depository institution holding company, or other company, only if such person directly works on matters for, or on behalf of, such depository institution, depository institution holding company, or other company.

''(4) REGULATIONS.—

''(A) IN GENERAL.—Each Federal banking agency shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

''(B) CONSULTATION REQUIRED.—The Federal banking agencies shall consult with each other for the purpose of assuring that the rules and regulations issued by the agencies under subparagraph (A) are, to the extent possible, consistent and comparable and practicable, taking into account any differences in the supervisory programs utilized by the agencies for the supervision of depository institutions and depository institution holding companies.

''(5) WAIVER.—

''(A) AGENCY AUTHORITY.—A Federal banking agency may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of that agency, and the Board of Governors of the Federal Reserve System may grant a waiver of the restriction imposed by this subsection to any officer or employee of a Federal reserve bank, if the head of such agency certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the relevant Federal banking agency.

''(B) DEFINITION.—For purposes of this paragraph, the head of an agency is—

''(i) the Comptroller of the Currency, in the case of the Office of the Comptroller of the Currency;

''(ii) the Chairman of the Board of Governors of the Federal Reserve System, in the case of the Board of Governors of the Federal Reserve System;

''(iii) the Chairperson of the Board of Directors, in the case of the Corporation; and

''(iv) the Director of the Office of Thrift Supervision, in the case of the Office of Thrift Supervision.

''(6) PENALTIES.—

''(A) IN GENERAL.—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever a Federal banking agency determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with a depository institution, depository institution holding company, or other company for which such agency serves as the appropriate Federal banking agency, the agency shall impose upon such person one or more of the following penalties:

''(i) INDUSTRY-WIDE PROHIBITION ORDER.—The Federal banking agency shall serve a written notice or order in accordance with and subject to the provisions of section 8(e)(4) for written notices or orders under paragraphs (1) or (2) of section 8(e), upon such person of the intention of the agency—

''(I) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the depository institution, depository institution holding company, or other company for a period of up to 5 years; and

''(II) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured depository institution for a period of up to 5 years.

''(ii) CIVIL MONETARY FINE.—The Federal banking agency may, in an administrative proceeding or civil action in an appropriate United States district court, impose on such person a civil monetary penalty of not more than $250,000. In lieu of an action by the Federal banking agency under this clause, the Attorney General of the United States may bring a civil action under this clause in the appropriate United States district court. Any administrative proceeding under this clause shall be conducted in accordance with section 8(i).

''(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under subparagraph (A)(i) shall be subject to paragraphs (6) and (7) of section 8(e) in the same manner and to the same extent as a person subject to an order issued under such section.

''(C) DEFINITIONS.—Solely for purposes of this paragraph, the 'appropriate Federal banking agency' for a company that is not a depository institution or depository institution holding company shall be the Federal banking agency on whose behalf the person described in paragraph (1) performed the functions described in paragraph (1)(B).''.

(c) POSTEMPLOYMENT RESTRICTION FOR CERTAIN CREDIT UNION EXAMINERS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following:

''(w) ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF INSURED CREDIT UNIONS.—

''(1) IN GENERAL.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (5) of this subsection shall apply to any person who—

''(A) was an officer or employee (including any special Government employee) of the Administration;

''(B) served 2 or more months during the final 12 months of his or her employment with the Administration as the senior examiner (or a functionally equivalent position) of an insured credit union with continuing, broad responsibility for the examination (or inspection) of that insured credit union on behalf of the Administration; and

''(C) within 1 year after the termination date of his or her service or employment with the Administration, knowingly accepts compensation as an employee, officer, director, or consultant from such insured credit union.

''(2) RULE OF CONSTRUCTION.—For purposes of this subsection, a person shall be deemed to act as a consultant for an insured credit union only if such person directly works on matters for, or on behalf of, such insured credit union.

''(3) REGULATIONS.—

''(A) IN GENERAL.—The Board shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

''(B) CONSULTATION.—In prescribing rules or regulations under this paragraph, the Board shall, to the extent it deems necessary, consult with the Federal banking

agencies (as defined in section 3 of the Federal Deposit Insurance Act) on regulations issued by such agencies in carrying out section 10(k) of the Federal Deposit Insurance Act.

''(4) WAIVER.—

''(A) AGENCY AUTHORITY.—The Board may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of the Administration if the Chairman certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the Administration.

''(5) PENALTIES.—

''(A) IN GENERAL.—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever the Board determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with an insured credit union, the Board shall impose upon such person one or more of the following penalties:

''(i) INDUSTRY-WIDE PROHIBITION ORDER.—The Board shall serve a written notice or order in accordance with and subject to the provisions of subsection (g)(4) for written notices or orders under paragraphs (1) or (2) of subsection (g), upon such person of the intention of the Board—

''(I) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the insured credit union for a period of up to 5 years; and

''(II) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured credit union for a period of up to 5 years.

''(ii) CIVIL MONETARY FINE.—The Board may, in an administrative proceeding or civil action in an appropriate United States district court, impose on such person a civil monetary penalty of not more than $250,000. In lieu of an action by the Board under this clause, the Attorney General of the United States may bring a civil action under this clause in the appropriate United States district court. Any administrative proceeding under this clause shall be conducted in accordance with subsection (k).

''(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under this subparagraph (A)(i) shall be subject to paragraphs (5) and (7) of subsection (g) in the same manner and to the same extent as a person subject to an order issued under subsection (g).''.

(d) EFFECTIVE DATE.—Notwithstanding section 341, subsection (a) shall become effective on the date of enactment of this Act, and the amendments made by subsections (b) and (c) shall become effective at the end of the 12-month period beginning on the date of enactment of this Act, whether or not final regulations are issued in accordance with the amendments made by this section as of that date of enactment.

(e) REPEAL OF DUPLICATIVE PROVISION.—Section ___16(c) of this Act, entitled ''REPORT ON TERRORIST FINANCING'' is repealed, and shall have no force or effect, effective on the date of enactment of this Act.

AMENDMENT NO. 3901

(Purpose: To require certain overdue reports relating to maritime security to be transmitted to the Congress within 90 days, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. DEADLINE FOR COMPLETION OF CERTAIN PLANS, REPORTS, AND ASSESSMENTS.

(a) STRATEGIC PLAN REPORTS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Congress—

(1) a report on the status of the National Maritime Transportation Security Plan required by section 70103(a) of title 46, United States Code, which may be submitted in classified and redacted format;

(2) a comprehensive program management plan that identifies specific tasks to be completed and deadlines for completion for the transportation security card program under section 70105 of title 46, United States Code that incorporates best practices for communicating, coordinating, and collaborating with the relevant stakeholders to resolve relevant issues, such as background checks;

(3) a report on the status of negotiations under section 103 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70111 note);

(4) the report required by section 107(b) of the Maritime Transportation Security Act of 2002 (33 U.S.C. 1226 note); and

(5) a report on the status of the development of the system and program mandated by section 111 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70116 note).

(b) OTHER REPORTS.—Within 90 days after the date of enactment of this Act—

(1) the Secretary of Homeland Security shall transmit to the Congress—

(A) a report on the establishment of the National Maritime Security Advisory Committee appointed under section 70112 of title 46, United States Code; and

(B) a report on the status of the program established under section 70116 of title 46, United States Code, to evaluate and certify security systems of international intermodal transportation;

(2) the Secretary of Transportation shall transmit to the Congress the annual report required by section 905 of the International Maritime and Port Security Act (46 U.S.C. App. 1802) that includes information that should have been included in the last preceding annual report that was due under that section; and

(3) the Commandant of the United States Coast Guard shall transmit to Congress the report required by section 110(b) of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note).

(d) EFFECTIVE DATE.—Notwithstanding any other provision of this Act, this section takes effect on the date of enactment of this Act.

AMENDMENT NO. 3910

At the appropriate place, insert the following:

SEC. ___. REPORT ON INTERNATIONAL AIR CARGO THREATS.

(a) REPORT.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of Defense and the Administrator of the Federal Aviation Administration, shall submit a report to the Committee on Commerce, Science, and Transportation and the Committee on Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure and the Select Committee on Homeland Security of the House of Representatives that contains the following:

(1) A description of the current procedures in place to address the threat of an inbound all-cargo aircraft from outside the United States that intelligence sources indicate could carry explosive, incendiary, chemical, biological or nuclear devices.

(2) An analysis of the potential for establishing secure facilities along established international aviation routes for the purposes of diverting and securing aircraft described in paragraph (1).

(b) REPORT FORMAT.—The Secretary may submit all, or part, of the report required by this section in classified and redacted form if the Secretary determines that it is appropriate or necessary.

AMENDMENT NO. 3923

(Purpose: To ensure the balance of privacy and civil liberties)

On page 154, strike lines 1 through 3 and insert the following:

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and

On page 155, line 6 strike beginning with ''has'' through line 9 and insert the following: ''has established—

''(i) that the need for the power is balanced with the need to protect privacy and civil liberties;''.

On page 166, strike lines 4 through 6 and insert the following: ''element has established—

''(i) that the need for the power is balanced with the need to protect privacy and civil liberties;''.

AMENDMENT NO. 3867

Mr. LEVIN. Mr. President, I thank the managers of the intelligence reform bill, S. 2845, for accepting an amendment offered by myself and Senator COLEMAN on the issue of terrorist financing. This amendment, amendment No. 3867, was developed in coordination with Senators COLLINS and LIEBERMAN of the Governmental Affairs Committee and Senators SHELBY and SARBANES of the Banking Committee. I thank each of my colleagues for their guidance and assistance which has enabled us to fashion a good amendment with bipartisan support and offer it to the bill today.

This amendment is the result of an extensive investigation by the Permanent Subcommittee on Investigations, initiated at my request, into money laundering allegations involving Riggs Bank, a nationally chartered bank located right here in the Nation's Capital. Our investigation found a bank which routinely allowed highly questionable transactions with few questions asked. Some of these transactions involved millions of dollars in cash or suspicious wire transfers; others have raised serious concerns about possible terrorist financing.

We live in a post-9/11 world. After the attack on America, we strengthened our antimoney laundering laws, in part, because Osama bin Laden boasted that his modern new recruits knew the ''cracks'' in ''Western financial systems'' like they knew the ''lines in their hands.'' That chilling statement helped fuel a new effort to strengthen our defenses against terrorists, corrupt dictators, and others who would use our financial systems against us. Part of that effort was Congress' enactment of the PATRIOT Act which, in title III, strengthened U.S. laws to stop money laundering, foreign corruption, and terrorist financing.

Even before the PATRIOT Act, we had laws and regulations to stop money laundering. In fact, since 1987, the Office of the Comptroller of the

Currency, OCC, has required nationally chartered banks to establish antimoney laundering programs to ensure the banking system is not misused by criminals. The PATRIOT Act was intended to build on that existing foundation to further strengthen our defenses against money launderers.

Our investigation found that Riggs Bank ignored its antimoney laundering obligations before the PATRIOT Act, and continued to ignore them afterward. We found that the bank didn't get serious in part because, in the past, when bank regulators pointed out problems with Riggs' antimoney laundering controls, if the bank promised to do better, the regulators let it go. The regulators tolerated the bank's weak antimoney laundering program, continued to accept excuses when deficiencies were not corrected, and continued to hold off on tough enforcement measures.

We were particularly surprised to learn that the OCC examiner-in-charge who oversaw Riggs Bank for 4 years, from 1998 to 2002, appeared to function at times as more of an advocate for the bank than an arms-length regulator. The investigation found, for example, that in 2001, the examiner-in-charge advised more senior OCC personnel against taking a formal enforcement action against Riggs for its lax antimoney laundering program, because the bank had promised to do better. In 2002, after subordinate examiners had uncovered troubling transactions and bank accounts involving Augusto Pinochet, the former President of Chile, and actions by Riggs to hide those accounts from the OCC for 2 years, the examiner-in-charge ordered the examination materials not to be included in the OCC's electronic database, even though such materials are normally placed in that database. The examination materials were instead saved in paper form, making it much more difficult for subsequent examiners to learn about the Pinochet examination. About a month after giving this order, that same Examiner-in-Charge was offered a job at Riggs. He later retired from the OCC and 3 days after retiring, took a senior position with Riggs.

These actions—advising against a formal enforcement action, suppressing the Pinochet examination materials, and accepting a job offer at the bank he regulated, among others—raise serious conflict of interest concerns. Federal bank examiners are our first line of defense against money laundering and terrorist financing at U.S. banks, and we can't allow their independence to be undermined by the lure of a job at the banks they oversee.

The 9/11 Commission report notes the important role that stopping terrorist financing plays in our counterterrorism efforts. It explicitly recommends that U.S. antiterrorist financing programs remain ''front and center in U.S. counterterrorism efforts.'' Subcommittee hearings and a report released by my staff in July of this year support that recommendation and offer a detailed legislative record demonstrating the need for new measures to further strengthen federal oversight of the antimoney laundering programs at our financial institutions.

The Levin-Coleman amendment would strengthen U.S. anti-terrorist financing efforts in two ways. First, it would require the President, through the Treasury Secretary, to take a hard look at the current state of U.S. efforts to combat terrorist financing and issue a report in 6 months with recommendations for reforms. One of the most important issues to be addressed is improving our process for setting priorities and coordinating U.S. agency efforts to detect, track, disrupt, and stop terrorist financing. It is far from clear today, when it comes to combating terrorist financing, what U.S. agency official, if any, has primary responsibility for developing priorities, assigning tasks to agencies, and monitoring the implementation of policy and operations.

Secondly, the amendment would impose a 1-year cooling off period before a senior Federal examiner may take a job with a financial institution that he or she was responsible for overseeing. This cooling off period is similar to one already in place for Federal procurement officials under 41 U.S. 423(d). Members of Congress, Congressional staff, and many other Federal employees already operate under cooling off periods, which have been in place for years and have had a beneficial effect. Our amendment would apply a new cooling off period to senior federal bank examiners like the OCC examiner who oversaw Riggs.

John D. Hawke, Jr., U.S. Comptroller of the Currency and head of the OCC, which served as the primary regulator of Riggs, has expressed strong support for legislation imposing a 1-year cooling off period for senior Federal examiners, stating in a memorandum to OCC staff that ''when an OCC examiner, with no break in continuity, takes employment with a bank he or she has been supervising, there are inevitably questions that will be asked and suspicions raised.'' He apparently wanted to impose a cooling off period on OCC examiners 4 years ago but was advised that he lacked the statutory authority to do so. The report released by my subcommittee staff in July also recommends enacting a 1-year cooling off period for bank examiners. Similar legislation, introduced in the House of Representatives by Rep. LUIS GUTIERREZ, D–Ill., and Rep. SUE KELLY, R–NY, was recently approved by the House Financial Services Committee for inclusion in the House intelligence reform bill.

The Levin-Coleman amendment would close the revolving door and eliminate potential and actual conflicts of interest for our federal examiners. It would also provide a fresh look at our country's antiterrorist financing efforts. I thank my colleagues on both sides of the aisle for supporting this amendment.

A brief section-by-section explanation of the amendment follows.

Subsection (a) directs the Treasury Department to prepare a report within 6 months evaluating the current state of U.S. efforts to curtail the international financing of terrorism. The report is required to address the effectiveness and efficiency of current Federal programs to detect, track, disrupt, and stop terrorist financing; the relationship between terrorist financing and money laundering; the nature, effectiveness and efficiency of current efforts to coordinate intelligence and agency operations related to terrorist financing, including identifying which agency official, if any, has primary responsibility to develop priorities, assign tasks to agencies and monitor the implementation of policy and operations related to terrorism; the effectiveness and efficiency of efforts to protect the critical infrastructure of the U.S. financial system; ways to improve the effectiveness of financial institutions; ways to improve multilateral and international governmental cooperation on terrorist financing; and recommendations for reforms.

Subsection (b) imposes a 1-year cooling off period on senior examiners at the OCC, Federal Reserve Banks, Federal Deposit Insurance Corporation, Office of Thrift Supervision, and National Credit Union Administration before a senior examiner can take a job at a financial institution that he or she oversaw. The subsection does so by establishing a new subsection (k) in the statutes applicable to these agencies.

The new subsection (k) contains language that was drawn from two sets of postemployment provisions now in the federal code, the provisions in section 207 of title 18 applicable to a variety of senior federal employees and the provisions in section 423(d) of title 41 applicable to senior Federal procurement officials. For example, the new subsection (k) draws on the ''knowing'' standard used in the section 207 provisions, and the ''compensation'' language that appears in section 423(d).

The new subsection (k) is intended to apply only to senior examiners who have a meaningful relationship with a financial institution, such as an examiner-in-charge or a senior examiner with dedicated responsibility to oversee a particular institution. It is not intended to apply to less senior examiners who may examine or inspect dozens of financial institutions in a single year without developing a sustained relationship with any one institution. It is also not intended to apply to persons holding supervisory positions that do not involve routine interactions with an institution for purposes of examining or inspecting the institution's books or operations. The provision may apply to more than one senior examiner at the same financial institution, and is not limited to examiners with an

office at the site of the financial institution or to examiners who spend 100 percent of their time on a single institution.

Each Federal banking agency is directed to issue rules, regulations, and guidance to delineate the personnel to which this postemployment restriction applies. Each agency head also has authority, on a case-by-case basis, to waive the postemployment restriction for a particular individual if the waiver would not hurt the integrity of the agency's supervisory program. It is intended that the agency head issue these waivers personally, without delegating the waiver authority to another official, to ensure careful usage.

The new subsection (k) authorizes two types of penalties for senior examiners who violate the 1-year cooling off period. These two penalties are in addition to any other administrative, civil, or criminal remedy or penalty that may be available to the United States or any other person for the same conduct. The first penalty is an industry-wide employment ban which requires the relevant agency to remove the affected individual from the financial institution and prohibit them from employment at any insured financial institution for up to 5 years. The second penalty authorizes the agency to impose a civil monetary fine on the individual of up to $250,000. This fine would have to be imposed either in a Federal court proceeding or in an administrative proceeding that accords with the agency's administrative rules for imposing civil monetary penalties. The provision also authorizes the Attorney General to impose a civil monetary penalty if an agency does not, but prohibits both from doing so.

The requirement for a 1-year cooling off period is intended to become effective one year after the date of the enactment of this act, whether or not any agency issues implementing regulations to carry out the act's requirements.

Mr. COLEMAN. Mr. President, first of all, I thank Chairman COLLINS and ranking Member Senator LIEBERMAN, for their diligence and hard work on the National Intelligence Reform bill. I would like to say a few words on the Levin-Coleman amendment on terrorist financing. Without question, financial institutions are vital to our economy. Unfortunately, banks can also be used as conduits for terrorist financing and money laundering.

In July, 2004, as chairman of the Permanent Subcommittee on Investigations, I held a hearing on suspicious financial activity in accounts handled by Riggs Bank. The subcommittee uncovered clear evidence of poor bank compliance and lax oversight regarding Federal laws, designed to protect the integrity of the international financial system.

Chairman COLLINS is currently looking at certain Saudi Arabian accounts that may have benefited two of the September 11, 2001 hijackers. I commend her diligence in expanding our investigation and look forward to the results of her investigation.

Equally disturbing, PSI's investigation demonstrated that Federal banking regulators took far too long to implement proper controls and procedures to identify, monitor, and combat money laundering, suspicious activity, and terrorist financing. In particular, I was troubled by the actions of a former senior bank examiner of Riggs Bank who began to work for Riggs Bank immediately after retiring from the Office of Comptroller of the Currency. Prior to leaving Riggs Bank, this examiner apparently limited findings of accounts owned by Augusto Pinochet contrary to established policies. Upon taking employment at Riggs Bank, this former examiner attended numerous meetings with bank regulators such that the potential for undue influence was less than to be desired.

Certain provisions of this legislation will close the revolving door between senior examiners and the financial institutions they examine, by requiring a cooling off period of 1 year before taking employment at the financial institutions they previously regulated.

In a post-9/11 world, we need to ensure that financial institutions and Federal banking regulators uphold Federal banking statutes, including the Bank Secrecy Act and the Patriot Act. This legislation will maintain the separation between Federal banking regulators and financial institutions. Given our concern for terrorist financing, and our heavy reliance on the integrity of the financial system, reducing the potential of harm is necessary because the stakes are too high if problems go uncorrected. I hope my colleagues will all join me in support of this amendment.

Mr. JEFFORDS. Mr. President, on the morning of September 14, 2001, I toured the Pentagon with officials from the Federal Emergency Management Agency, FEMA. I was so impressed, that on the morning of September 11, in the hours following an unspeakable tragedy, first responders and rescue workers from different departments were able to work as one great team to extinguish the fires, to help the injured, and to save lives. This first impression only tells half of the real story. In actuality, the bravery and selflessness of the firefighters, emergency medical technicians, and police officers were hindered by a lack of interoperability between their communications systems. I spoke with workers at the Pentagon who experienced this limitation firsthand. It's inconceivable to me that members of fire departments and emergency agencies from Fairfax and Arlington Counties, the District of Columbia, and Montgomery County were held back because of equipment incompatibility.

The lack of adequate communications equipment was not only an unnecessary impediment to response operations in and among units on duty across the Potomac at the Pentagon, but has also been an obstacle to other emergencies. In March 2002, I chaired an Environment and Public Works Committee hearing to address the budget needs of FEMA. At the hearing, then-Director Joe Allbaugh testified that:

> This problem of limited interoperability is especially frustrating in the area of communications. While at Ground Zero for several days, I personally witnessed first responders passing notes, handwritten notes, back and forth to one another as the most reliable, effective means of communication. On September 11 and in other emergency situations, seamless communication interoperability would have saved lives.

Today, more than 3 years after the attacks of September 11, the Senate is still debating the issues of interoperability and sufficient communications capabilities.

Interoperability is not only an issue during times of extreme national distress, whether brought on by a terrorist attack or a natural disaster. On August 19, 1997, residents and police officers from northern Vermont and New Hampshire were faced with tragedy when Carl Draga began a shooting spree, killing four and wounding three others, before being killed in an standoff with police. Throughout that sad day, officers from the Vermont and New Hampshire State Police and a New Hampshire Fish and Game warden chased Draga across the Connecticut River from New Hampshire to Vermont and back again to New Hampshire. Compounding the difficulty of pursuing a fugitive across State lines, was the lack of interoperability between the departments. Communications were hampered by the technical limitations of the radios and other equipment.

Last week, the Senate unanimously adopted amendments that will provide for a higher priority for public safety in terms of Spectrum allocation. My amendment will further address the needs of first responders. My amendment will establish National Interoperability Standards and a National Interoperability Implementation Plan to put those standards into place. Specifically, the Department of Homeland Security, DHS, will, no later than 1 year after the enactment of this bill, adopt interoperability goals and standards to fully assess and evaluate the technical needs of first responders for more routine operations and for catastrophic events like those we suffered on September 11, 2001. After those goals and standards are developed, the DHS will create an implementation plan, and will report to the Congress on its plan and its progress. This will ensure that as the Federal Government, States, and localities spend money on interoperability, we will all be working in the same direction, toward one set of goals, with measurable results.

My amendment also requires that the DHS establish a means of coordinating international interoperability. For States like Vermont, which share an international borer, it is imperative

that first responders in both nations communicate with each other.

We must be prepared for the future, and we must give our first responders the tools they need to perform their duties. My amendment will give the DHS the direction and authority to make our country safer.

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that there now be a period of morning business for debate only with Senators speaking for up to 10 minutes each.

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

HONORING OUR ARMED SERVICES

FIRST LIEUTENANT TYLER HALL BROWN

Mr. CHAMBLISS. Mr. President, I rise today to honor United States Army 1LT Tyler Hall Brown, who was killed proudly fighting for his country in Iraq on September 14, 2004. An Airborne Ranger and ROTC graduate from Atlanta, GA, Tyler was 26 years old.

Tyler was born on May 27, 1978, in Atlanta. He attended Woodward Academy and was senior class president, where his classmates considered him a ''politician in the making.''

Tyler Brown then attended the Georgia Institute of Technology where he was student body president of the Class of 2001 and a cadet in the Army ROTC program. Tyler graduated with dual bachelor of science degrees in management and in history, society and technology. After being commissioned as an Army Officer, he was assigned to the 2nd Infantry Division—Camp Hovey, in Tongduchon City, Korea. From Korea, he deployed to Iraq early last month with his unit, C Company, 1st Battalion, 9th Infantry Regiment, 2nd Infantry Division. He was killed by small arms fire when his unit was attacked by insurgents in the Iraqi town of Ar Ramadi, Iraq, 70 miles west of Baghdad.

Lieutenant Brown was slain by a sniper as he led a reconnaissance patrol in an Iraqi town infested with insurgents. Mortally wounded by the sniper's shot, Lieutenant Brown was able to give a warning to his men, which prevented any others from being hit. Though he was wearing upper body armor, he was hit in the upper thigh where a tourniquet could not stop the bleeding.

His unit had deployed from Korea in early September and had been in Iraq only two weeks when Tyler was killed.

Tyler's company commander, CPT Daniel Gade, made the following comments: ''Tyler was the finest officer I've ever known . . . he loved his men, and they loved him in return.''

It is certainly ironic that Lieutenant Brown had been approved for service in the Army's famous 3rd Infantry Regiment, known as the Old Guard, which guards the Tomb of the Unknowns and serves as escorts at military burials at Arlington Cemetery. Instead, Brown chose to go to Iraq with men from his battalion in South Korea. On September 28, at Arlington Cemetery, the Old Guard that he was to join honored Tyler Brown at his gravesite.

Tyler Brown was a great American, a great soldier, a great leader, and an outstanding young man. He and his comrades in Iraq deserve our deepest gratitude and respect as they go about the extraordinarily challenging, important job of rebuilding a country, which will result in freedom and prosperity for million of Iraqis. I join with Tyler's family, friends, and fellow soldiers in mourning his loss and want them to know that Tyler's sacrifice will not be lost or forgotten, but will truly make a difference in the lives of the Iraqi people.

HE SAPA WACIPI

Mr. DASCHLE. Mr. President, I take this opportunity to let my Senate colleagues know about a wonderful event going on back in my home state of South Dakota later this week. For 3 days starting on Friday, October 8, the 18th Annual He Sapa Wacipi (Black Hills Powwow) and Fine Arts Show will be taking place in the beautiful Black Hills, traditional homeland of the Oceti Sakowin Oyate, or Great Sioux Nation. I can think of no better way, or place, to celebrate life and the vibrant cultures of the bands of the Oceti Sakowin Oyate, and of the many other tribal nations who live throughout the Great Plains.

I also want to take this opportunity to congratulate the tribal citizens of the Oceti Sakowin Oyate, the board of directors of the Black Hills Powwow Association, the organizers and event staff, and the all those participating in the Wacipi.

In Washington on September 21, 2004, we celebrated the opening of the National Museum of the American Indian. The events associated with the museum's dedication marked the first time in history that so many people from throughout the Western Hemisphere have gathered to celebrate a museum dedicated solely to their historic contributions to humankind, their many struggles for survival, and their present-day accomplishments and lifeways. Featured prominently in the museum and accompanying celebrations were the tribal nations of the Great Plains.

The opening week of the museum was also historic because the Senate Committee on Indian Affairs held an oversight hearing on the contributions of Native American code talkers in World War I, the Korean War, and World War II. There have been code talkers from at least 17 tribes, the Lakota, Dakota, and Nakota among them. As a cosponsor of legislation that would honor all Native American code talkers, I was especially proud to have met and visited with Clarence Wolf Guts, of the Oglala Lakota Nation, the last surviving Lakota code talker. I had the honor of presenting Clarence with a framed copy of a recent Senate floor speech I delivered that was submitted to the CONGRESSIONAL RECORD in Lakota, marking the first time a Native American language has been memorialized in the RECORD.

Like the National Museum of the American Indian, and the legacy of the code talkers, the He Sapa Wacipi is a living testament to the tribal nations of the Great Plains. It brings people from across North America, young and old, Indian and non-Indian, together to celebrate life through song and dance. It is a chance for old friends to see one another, and for new ones to be made. The art show gives Native American artists the opportunity to showcase their talent, and there are various other activities, including traditional hand-game tournaments, contemporary Native American music concerts, and activities targeted to the youth. It is more than just a dance; it is a modern expression of the traditional values of respect, honor, devotion to family, and patriotism that so many of our tribal nations have embodied throughout history.

For my part, I am sorry that my schedule keeps me from attending such a wonderful event. But I am proud to officially acknowledge and honor all those participating in the He Sapa Wacipi.

TRIBUTE TO DR. BEVERLY KEEPERS

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a special and valued educator in my hometown of Louisville, KY, Dr. Beverly Keepers. Dr. Keepers has devoted her time and energy for the past 34 years to the educational growth of the Commonwealth's youth.

Dr. Keepers is a native of Shively, KY where she attended McFerren Elementary and graduated from Western High school. Following high school, she entered Western Kentucky University and earned a Bachelor of Arts Degree in English with minors in theatre arts and education. With her degree in hand, she started her career at Butler High School teaching English, theater, journalism, and photography.

Dr. Keepers' many talents in the classroom were recognized and in 1988 she accepted the assistant principal position at Southern High School. One year later she became the principal at the Youth Performing Arts School, YPAS, in Louisville. While this position was challenging in and of itself, Dr. Keepers was offered a second principalship at Louisville's duPont Manual High School. She accepted the offer and became the first woman in higher administration in Manual's history. In the fall of 1991, she began her dual roles as principal at two different schools, and hit the ground running.

During her years at Manual and YPAS, Dr. Keepers has earned the respect of students and teachers alike. She has made the campuses safer, kept the schools up to date with the latest technologies, strove to make student's voices heard, and worked hard to continue the long standing tradition of excellence at Manual High School and YPAS.

If all this work were not enough, Dr. Keepers was recently a student herself. She went back to school in 2000 and completed her doctorate in educational leadership and organizational development at my alma mater, the University of Louisville, where she was named to the dean's list and was recognized with an Outstanding Student award.

Dr. Keepers' hectic schedule does not end when the school bell rings either. While she has shown tireless dedication by working 70-hour weeks, she remains devoted to her family: husband Jerry, and their two daughters, Tiffany and Lauren.

While most would say her contributions to the Louisville community are more than enough, she is quite active outside of school. She serves as a board member of the Kentucky Derby Festival and Kosair Children's Hospital and has participated in Leadership Louisville and the Bingham Fellows.

Today I ask my colleagues to join me in honoring and recognizing Dr. Beverly Keepers as a truly remarkable member of the Louisville community.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On May 19, 2002, in Wise, VA, Joseph Armstrong murdered his cellmate, Kenneth Boothe Jr., at Red Onion State Prison. During the trial, prosecutors contended Armstrong killed Boothe because he hated gays and blacks and thought Boothe was gay.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

MINNESOTA'S FAVORITE TEACHERS

Mr. DAYTON. Mr. President, Recently I invited Minnesotans to honor their favorite teachers. The response was overwhelming.

Over 4,000 Minnesotans nominated their favorite teachers. Many teachers were nominated more than once. Current students nominated present teachers. Older Minnesotans nominated teachers from years, even decades, ago.

Many of the honored teachers are still actively teaching; others are now retired; some have passed away. I wish there was time here and space in the CONGRESSIONAL RECORD to read all of the words of admiration and gratitude, which accompanied those 4,000 nominations.

They were truly heartwarming. Very successful adults credited special teachers with turning their lives around; helping them to recognize their undiscovered talents, or sparking interests which led to their successful careers.

The specific details varied but the conclusions were the same. Those teachers made huge differences in the lives of their students. They saved lives. They made lives. They taught more than their subjects. They taught ways of thinking, ways of being. They taught study skills and the value of hard work. They helped boys and girls; young women and young men to find themselves, to believe in themselves, and to better themselves. They helped young dreamers learn how to live out those dreams and how to make them life-enhancing realities.

We do too little to credit and honor the many teachers—dedicated men and women—who perform these human miracles for our children. They are modestly paid at best, underpaid at worst, although most of them do not teach for monetary rewards. They teach for their love of teaching, for the joys of performing their magical awakening of young minds to new possibilities. They take personal satisfaction in their own knowledge of their successes, even when they are seldom recognized and appreciated by the rest of us. It may be only years later that someone thinks to note their incredible contributions. Now is one those moments.

Sadly, in Minnesota, there is mostly bashing and trashing of public school teachers and public schools. They are paid $2,500 less than the national averages for public school K–12 teachers. Their class sizes are larger than the national average. State support for public school students is declining, both in real dollars and relative to other states. They are asked to do more and more, with less and less.

The least we can do is to say thank you, when they do their jobs well. I encourage my fellow Minnesotans to thank a teacher this week or this month, and next week or next month. Either a present or former teacher. For a special job, well done. They deserve it. They have earned it.

I ask unanimous consent that names of teachers nominated by Minnesotans as their favorite teachers be printed in the RECORD.

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

ABE Program (Burnsville)—Dorien Busch; Academia Cesar Chavez—Melissa Deeb; Academy of Hly Angels—Nancy Alcombright, Johanna Giesen, Kate Hanson, Mary Jonas, James Page, Gregg Sawyer; Academy of Saints Peter & Paul—Rachel Gapinsky, Molly Green-Tandberg, Mrs. Whitmore; Adams Elementary (Coon Rapids)—Jenny Popp, Tim Simonson; Adams Magnet Elementary (St. Paul)—Casey Cavenaugh, Ruth Gandara, Tatiana Leiva, Andrea Marcy, Marina Median, Amy Ottaviani, Tamara Ramirez, Shelly Stevens, Carrie Webber; Adrian Elementary—Jolene Henning; Afton-Lakeland Elementary—Caronline DeRuck, Colleen Hayne, Derek Olson; AGAPE–ALC (St. Paul)—Rosemary Dosch; Akin Road Elementary—Anita Ruthenbeck; Albany High School—Bill Krogman; Albert Lea High School—Jill Donahue, Paul Kile; Albertville ECSE Program—Linda Foss; Albrook School—Kit Davis, Sandra Olson; Alden-Conger Secondary School—Marty Anderson; Alice Smith Elementary—Anne Crowe, Ms. Lynch, Martha Mason, Jody Olson, Carla Perrier, Shelley Varner; Alta Elementary—Cary Friedrich; Alternative Learning Center (Norwood-Young America)—Dennis Stanek; American Indian Magnet—Ms. Fairbanks, Heidi Nakatani; Ames Elementary—John Weimholt; Anderson Open Elementary—Deb Becker, Martha Purcell, Jo Thies, Tony Trelles; Andover—Patti Bollinger; Andover Elementary—Mrs. Bastian, Gail Fessler, Mrs. Vanarsedale, Linda Zdenek, Terry Zumberg, Sue Casey; Andover High School—Deb Aaarsch, Stew Lasky, Renee Voltin; Annandale Middle School—Troy Davidson, Pam Peterson; Anne Sullivan Communication Center—Susette Brandon, Pat Coonen-Korte, Molly Coyne, Sharon DeLisle, Joyce Graham, Alan Husby, Ron Hustvedt, Sue Levahn; Annuciation School—Marie Murphy, Mrs. Nixon, Mary Strickland; Anoka—Joleen Lundeen; Anoka High School—Mr. Alhquist, Mr. Baufield, Scott Birklid, Jeff Buerkle, Mr. Coffee, Marilee Gustafson, Peter Hayes, Morrie Johnson, Paul Kelley, Bob and Susan Kimball, Mr. Rignell, Brenda Selander, Mr. Wicks;

Anoka-Ramsey Community College—Steve Beste, Gorrdy Wax; Anoka-Hennepin Community College—Judy Klein-Pells, Lea Yager; Anwatin Middle School—Ed Barlow, Lou Byers, Dennis Debe, Tom Muehlbauer, Steven Polen, Libby Schubert, Tanna Swanson, Chris Wernimont, Jackie Williams; Apollo High School—Sue Peterka; Apple Valley High School—Cathy Campbell, Mike Egstad, Barry Gimpel, Robert Helgeson, Thomas O'Neill, Frank Pasquerella, Ron Ronning, Wenzel Ruhmann; Arden Hills—Mr. Price; Argosy University—Susan Hines; Arlington High School—Allan Grady, Tami Molkenbur, Michelle Monogue, Diana Morton, Ms. Page, Mark Rawlings, Claudia Reeve, Sue Tuggle; Armatage Elementary—Sue Allen, Jane Campbell, Hern Livermore, Mary Shaffer, Les Beudoin; Armstrong High School—Mary Davis, Jill Wolpert; ARTech Charter School (Northfield)—Anne Klawiter; Ashland Middle School—Ms. Heino; Assumption School—Ms. Kolidji; Augsburg College—Dal Liddle, John Shockley; Augustan College—Janina Ehrlich; Austin High School—Maurine Carver, Peter Schmidt; Avalon Charter School—Nora Whalen; Aveda Institute—Lyndon Barsten, Joe Lopez; Avon Elementary—Ridell Mathwison; Bailey Elementary—Renee Birkholtz; Baker Elementary—Florence Allen, Sue Powell; Baldwin-Woodville High School—Marti Koller; Bamber Valley Elementary—Janet Carlson; Bancroft Elementary—Mrs. Johnson, Jill Loesch, Danton Tyree; Barton Open Elementary—Mary Austin, Mark Downing, Laura Ellison, Karin Emerson, Lee Fabel, Maryann Fabel, Allison Forester, M. Gauthier, Kate Glasenapp, Robin Jacobs, Chris Jaglo, John

Kline, Julie Martin, Patrice Pavek, Helena Perry, Amber Place, Scott Slocum, Jane Spicer, Jackie Sullivan; Basswood Elementary—Wendy Forsyth, Ms. Lalin, Reene Williams; Battle Creek Magnet Elementary—Jennifer Carwright, Joan Hunkeke; Bay View Elementary (Duluth)—Sue Hieb; Bayview Elementary (Waconia)—Stacy Gustafson; Becker High School—Sue Meyer, Dan Olson, Lisa Sackett, Joini Svaren; Becker Intermediate Elementary—Joan O'Brian; Becker Middle School—Wayne Johnson, Jennifer Mahowald, Sandy Hayes; Bel Air Elementary—Debbie Raymond; Belle Plain Elementary—Diane Hanson; Belle Plaine Junior High—Steven Schroeder; Bemidji—Orin Ecternach, Mrs. Sanford; Bemidji High School—Dan Bryant, James Saari, Diane Sharpe;

Bemloji Middle School—Kent Nichols, Moe Webb; Bemidji State University—Mark Christensen; Ben Franklin Junior High—Dy Fladland; Bendix Elementary—Brian Atkinson, Ms. Fee; Benilde-Saint Margaret's School—Michael Jeremiah, Sylvian Sundrom, Mrs. Zahedi; Benjamin Banneker Middle School—Scott Grabowski, Delores Lemp; Bethune Elementary—Elizabeth Bergu, Sandi Sween; Birch Grove Elementary—Mrs. Johnson, Tanya Stember; Birchview Elementary—Marianne Brinda, Kathy Henkel, Douglas Johnson, Shannon Peterson; Birchwood Elementary (Duluth)—Milton Hill; Birchwood Elementary (Plymouth)—Jill Freshwaters; Bird Island Elementary—Betsy Hennen; Bishop Elementary—Mrs. Barnes; Black Hawk Middle School—Alan Glass, Mrs. Windgate; Blaine High School—Frank Shelton, Robert Strand, Joyce Banghart, Robert Godding, Alan Krantz, Mr. Mesick, Bradley Miller, Bruce Olson, Larry Osnek, Walt Pimlott, Kathleen Pimlott, Ed Schaefle, Ms. Sundberg, Jean Wontor; Blessed Sacrament School (St. Paul)—Angie Kelcher; Blessed Sacrament School (Toledo, OH)—Mrs. Tansey, Mrs. Wyrick; Bloomington—Mike Becker, Carol Berg, Debbie Rohde, Mrs. Russell, Jan Tweet, All Bloomington School District Teachers; Blue Heron Elementary—Ms. Kegley, Kathy Perreault, Mandy Hidabrands; Bluff Creek Elementary—Sharla Ekegren, Lisa Gilbert, Susan Gulstrand; Braham Area Secondary School—Herman Aune; Brainard High School—Sue Headlee, Alan Hewitt, Keith Peterson; Breck School—Mrs. Barton, Jane Bartow, Peter Clark, Penny Donelson, Dan Dotteny, Mr. Thomas, Sara Thorne, Bonnie Zeff; Bridgewater Elementary—Lee Murray; Brimhall Elementary—Lonnie Doberstein, Shirley Heiligman, Ann Hobbie, Margaret Kuhfield, Marina Liadova, Rich Olson, Ms. Tyler; Brooklyn Center High School—Robert Jacobson, Roger Dick, Ben Vennes; Brookland Park—Mrs. Lafrenz, Judith Nelson, Tracey Williams; Brooklyn Park Junior High—Al Daas, Cindy Knight, Mr. Johnson; Brookside Education Center—Mary Hinnekamp; Brown College—Lyn Bell, Rick Murray; Bruce F. Vento Elementary—Laura Vargo, Marjorie Smith; Bryn Mawr Elementary—Annette Gagliardi, Suzanne Greenberg, Joann Parker, Jeanie Revor; Buchtel Senior High School (Akron, OH)—James Wortham; Budd Elementary—Michelle Rosen; Buffalo Community Middle School—Mrs. Baunschmidt, Greg Blacik, Suzette Habisch, Barry Johnson, Joan Olson; Buffalo High School—Gerry Bakke, Mrs. Cary, Tracy Hagstrom, David Robinson, Joel Squadroni, Mrs. Soderman; Burnsville—Mrs. Ubbelohde, Ms. Conrad, Shannon Westerbuck, Dan Wolf, Mrs. Wolter, Matt Deutsch, Mrs. Drugge, Kevin Floyd, Linda Goude, Jenny Hugstad-Vaa, Andy Karageorgiu, Jeff Marshall, Cheryl Thorson, Harlan Ernisee, David Griffith;

Burroughs Elementary—Tim Cadotte, Mrs. Curtis, Ms. Davies, Theresa Fee, Norman Hauer, Joe Janssen, Mr. Kilabarda, Samuel Larsen, Greg Moen; Byron Elementary—Rebecca Demmer, C.H.I.L.D. Preschool, Fairview University Medical Center—Rose Beauchamp; Cambridge—Isanti School District—Chris Miller; Calvin Christian School—Amanda Kubacki; Cambridge Middle School—Mark Rothbauer; Cambridge-Isanti High School—Bruce Anderson, Kathy Dolezal, Bob Dolezal, Rebecca Lieser, John Porisch, Shane Weibel; Cannon Falls Elementary—Nancy Berhow, Staff of Cannon Falls Elementary; Cannon Falls High School—John Fogarty, Pat Senjum; Cannon Falls Middle School—Carol McNeary; Capitol Hill Elementary—Robert Burns, Barbara Ford, Mrs. Gulner; Capitol Hill Magnet—Renne Antonow, John Benda, Robert Burns, Mr. Lewter, Annette Lopez, John Maycock, Jane McKim, Mrs. Ochi-Watson, John Porter, Nancy Randall, Mr. Scott, Tom DeGree, Lucy Kanson, Niemiec Marian, Marti Starr, Mary Steffy, Carlton Elementary—Kathryn Vigliaturo; Carlton High School—Mr. Gardner; Carondelet Catholic School—Kevin Bagley, Anna Hoffman, Jeff Ruhnke, Mr. Wright; Carver Elementary—Kathryn Gantriis, Patti Life, Sandy Winegarden; Carver-Scott Education Cooperative—Cindy Walters; Castle Elementary—Barb Ives, Joyce Tonn, Micah Friese; Cedar Creek Community School—Mrs. Mozetti, Pete Rose; Cedar Island Elementary—Norma Hughes, Ms. Tobler, Chuck Waltz, Jennifer Leslie, All Cedar Island Elementary Teachers; Cedar Manor Elementary—Marriah Davis; Cedar Park Elementary—Mrs. Kouba, Mrs. Rustad, Sandy Spitzner; Cedar Rapids Community Schools—Dora McNulty, Mr. Moran, Jan Schrader; Cedar Ridge Elementary (Eden Prairie)—Beth Kohls, Barry Zeeb; Cedar Riverside Community School (Minneapolis)—Stephanie Byrdziak; Cedar School—Joan Ward; Cedarburg High School—Robert Merklein; Centennial Elementary (Circle Pines)—Mrs. Doble, Ms. Fritz, Mr. Gutbrod, Amy Halbur, Emily Hjelle, Rhonda Stone, Mr. Wirkkunen; Centennial Elementary (Richfield)—Erica Busta-Loken, Jake Jauert, Becky Rysted; Centennial High School (Circle Pines)—Duane, John Eret, Nicole Larson, Greg Schmidt, Nicole Sherry, Jeff Welciek, David Wolff; Centennial Junior High (Lino Lakes)—Mrs. Allen; Centennial Middle School (Lino Lakes)—Jill Ehlen Christian Gould, Suzanne Horne, Erica Joy Johnson, Karen Ross-Brown, Greg Schnagl, Laurie Tangren, Ann Thomsen;

Centerville Elementary School—Ann Batholomew; Central Community Center (Minneapolis)—Kris Fingerson; Central Community Center Child Care (St. Louis Park)—Beth Shannon; Central Elementary (Norwood)—Dave Rauch; Central Elementary (Winona)—Carol Harbinson; Central High School (Duluth)—Cal Benson; Central High School (Omaha, NE)—Dan Daly; Central High School (St. Paul)—R.C. Demers, John Elwell, Orville Everson, Patrty Heim, Mrs. Jithendranathan, Mary Mackbee, Donald Murray, Cathy Nachbar, Tom Niland, Matthew Oyen, Lorraine Potuzak, Meredith Rainbow, John Rousseau, Mrs. Schlukebier, Ms. Speltz, Amy Stelle, Ed Roth; Central Lakes College—Mary Barthel; Central Middle School (Eden Prairie)—Patrick Gallagher, Scott Hackett, Karen Nelson; Central Middle School (Plymouth)—Dan Nielsen; Central Middle School (Wihte Bear Lake)—Kari Jansen; Central Park Elementary (Roseville)—Lisa Bell, Liz Dayton, Gail Hoveland-Wires, Andrew Nielsen, Mrs. Snyder, Ms. Wheton; Central Services Building (Stillwater)—Jo Tate; Century College—Brian Downs, Wayne Haag, Mark Hophmeister, Kim Loomis; Centruy High School (Rochester)—Shane Baker, Sonia Ellsworth, Lanny Kolpek, Jean Marvin, Phillip Olson, Kari Stellpflug; Century Junior High (Forest Lake)—Patricia Cheynne, Ricahrd Hofstede, Glen King, Carol Rupar, Ms. Trampe; Champlin Elementary—Deborah Dille, Geoff Olinyk, Dave Walters, Carol Allen, Mr. Baufield, Kerry Bogenreif, Mrs. Burtness, Karen Gallagher, Ms. Hable, Ryan Holmgren, Bradley Johnson, Vicki Johnson, Amy Kennedy, Steve Lyons, Geoff Olinyk, Mr. Rosenkranz, Clark Sanders, Chris Woodward, Kathy Suski; Chanhassen Elementary—Robin Coleman, Jane Johnson, Jen Ptacek, Janet Snyder, Karen Timmers, Sharon Tupper; Chapel Hill Academy—Mary Stude; Chaska Elementary—Mrs. Johnson, Mrs. Kingdig, Gregory Lange, Mr. Shernock, Darla Work; Chaska High School—Fred Berg, Cheryl Boe, Sharah Boehlke, Chris Cormmers, Jason Pelowski, Christopher Schriever; Chaska Middle School East—Chris Behrens, Mrs. Melius, Jill Wimberger; Chaska Middle School West—Ron Cramer, Nate Delowski, Cullen Nelson; Chelsea Heights Elementary—Mr. Barnes, Ms. Barry, Lynn Bartol, Lynn Blumthal, Ron Johnson, Jodie Krogseng, Ann Linz, Micky Palewicz, Christine Stolz, Diana Swanson, Ms. Young; Cherokee Heights Magnet Elementary—Ms. Otto; Cherry View Elementary—Lynn Dolan, Mrs. Grant, Claudia Nelson, Tina Pearson, Deane Barta, Pat Isbel; Child Garden Montessori—Kathy Sefelt;

Children's Center Montessori—Jean, Lori; Children's Country Day School—Sheila; Chippewa Middle School—Christine Alexander, Keith Anderson, Ms. Carley, Karen Forest, Mrs. Ifkavitch, Judy Klohs, Ms. Nickila, Mrs. Plocher, Ric Seiderkranz, Joseph Thell; Chisago—Katie Hawkins Ahearn; Chisago Lakes Elementary—Jamie Thaler; Chisago Lakes High School—Pat Collins, Jason Mahlen, Peg McCubbin, Diane Spychalla; Chisago Lakes Middle School—Jim Gillach, Linda Guanzini, Lynnett Kutzke, Sally Lundholm, Gloria Peterson, Jim Sauerbry, Paul Swanson; Chosen Valley Elementary—Mary Jasmin; Chosen Valley Elementary—Ms. Mathison; Chosen Valley Elementary—Barb Schroeder; Christ Community Lutheran School—Jeff Boehlke, Barb Laabs, Julie Steinborn, Madeline Strei; Christ Lutheran School—Mark Dobberstein; Christa McAulilffe Elementary—Cindy Belongia; Christ's Household of Fiath—Karin Alsbury, Adella Alsbury, David Behum; Churchill Elementary (Rochester)—Mrs. Stekel; Churchill High School (Winnipeg, Canada)—Neil Dempsey; City of Lakes Waldorf School—Emily McLoury, Ms. Ouellette; Cityview Community School—Melissa Kaiser-Crist, Michael Stokes; Clarkfield Junior High School—Tom Diekman; Clear Springs Elementary—Kaari Cox, Ms. Moret; Clearbrook-Gonvick High School—Jacob Boomgaarden; Clearwater Middle School (Waconia)—Jeff Radel; Cleveland Middle School (St. Paul)—Mary Cathryn Ricker; Cleveland Public School (Cleveland)—Greg Davis; Clinton-Graceville-Beardsley High School—Randy Giles; Cloquet High School—Dan Naslund; Clover Ridge Elementary—Heather Miller, Jeffifer Shinn; Coleraine—Tom Patnaude; College of Saint Benedict—Mara Faulkner, Dale White; College of Saint Catherine—Patricia Eldred, Dale McGowan, Julie Ashland, Aruni Fernando; Colorado Spring—Ann Elrod; Columbia Heights High School—Jim Jungers, Dan Shuck, Kris Svedberg; Columbus Elementary School—Sharon DeRaad; Community of Peace Academy—Tim Danz, Susan Gottlieb, Carrie Eicher; Community/Family Education Center (St. Paul)—Sue Betten; Como Park Elementary—Susan Munion; Como Park High School—Jeff Gosse, Mr. Grebner, Mike Lewis, Roy Magnuson, Sharon Mason; Concord Elementary—Deborah Carroll, Colin Friden, Kari Ingemann, Ms. Koster, Kimberly Moore, Pam Olson, Leslie Stacey, Mrs.

Swanson, Holly Thiede, Rosemary Thiel; Concordia Academy (Roseville)—Dean Dunnavan, Micah Treichel; Concordia College of Bronxville—Mandara Nakhai.

NUCLEAR MEDICINE WEEK

Mr. BOND. Mr. President, I rise today to remind my colleagues that this week, October 3 through October 9, is Nuclear Medicine Week. Nuclear Medicine Week is the first week in October every year and is an annual celebration initiated by the Society of Nuclear Medicine. Each year, Nuclear Medicine Week is celebrated internationally at hospitals, clinics, imaging centers, educational institutions, corporations, and more.

I am particularly proud to note that Dr. Henry Royal, a physician practicing nuclear medicine at the Mallinckrodt Institute of Radiology in St. Louis, is a constituent and immediate-past president of the Society of Nuclear Medicine. The Society of Nuclear Medicine is an international scientific and professional organization of more than 15,000 members dedicated to promoting the science, technology and practical applications of nuclear medicine. I commend him and his colleagues for their outstanding work in the field of nuclear medicine and for their dedication to caring for people with cancer and other serious and life-threatening illnesses that can be diagnosed, managed, and treated with medical isotopes via nuclear medicine procedures.

With nuclear medicine, health care providers can use a safe, noninvasive procedure to gather information about a patient's condition that might otherwise be unavailable or have to be obtained through surgery or more expensive diagnostic tests. Nuclear medicine procedures often identify abnormalities very early in the progression of a disease—long before some medical problems are apparent with other diagnostic tests. This early detection allows a disease to be treated early in its course, when there may be a more successful prognosis.

An estimated 16 million nuclear medicine imaging and therapeutic procedures are performed each year in the United States. Of these, 40 to 50 percent are cardiac exams and 35 to 40 percent are oncology related. Nuclear medicine procedures are among the safest diagnostic imaging tests available. The amount of radiation from a nuclear medicine procedure is comparable to that received during a diagnostic x-ray.

Nuclear medicine tests, also known as scans, examinations, or procedures, are safe and painless. In a nuclear medicine test, small amounts of medical isotopes are introduced into the body by injection, swallowing, or inhalation. A special camera, PET or gamma camera, is then used to take pictures of your body. The camera does this by detecting the medical isotope in the target organ, bone or tissue and thus forming images that provide data and information about that area of your body. This is how nuclear medicine differs from an x-ray, ultrasound or other diagnostic test—it determines the presence of disease based on function rather than anatomy.

Recently, the Centers for Medicare & Medicaid Services' announced its decision to approve coverage of positron emission tomography or PET for Medicare beneficiaries who have suspected Alzheimer's disease. This decision will allow physicians to obtain an early and more definitive diagnosis and to begin treatment at the time when it provides the best chance of prolonging cognitive function for our Medicare beneficiaries. Some of the more frequently performed nuclear medicine procedures include: bone scans to examine orthopedic injuries, fractures, tumors or unexplained bone pain; heart scans to identify normal or abnormal blood flow to the heart muscle, measure heart function or determine the existence or extent of damage to the heart muscle after a heart attack; breast scans that are used in conjunction with mammograms to more accurately detect and locate cancerous tissue in the breasts; liver and gallbladder scans to evaluate liver and gallbladder function; cancer imaging to detect tumors and determine the severity—staging—of various types of cancer; treatment of thyroid diseases and certain types of cancer; brain imaging to investigate problems within the brain itself or in blood circulation to the brain; renal imaging in children to examine kidney function.

Unfortunately, the field of nuclear medicine is not attracting enough incoming students to fill the current demand for nuclear medicine technologists—usually called NMTs. Currently, there is approximately an 18-percent vacancy of NMTs as determined by the American Hospital Association, AHA. By 2010, the Bureau of Labor Statistics, BLS, projects that the U.S. will need an additional 8,000 NMTs to fill the projected demand created by the aging workforce and expanding senior population. Over the next 20 years, the BLS expects that there will be a 140-percent increase in the demand for imaging services. The use of diagnostic imaging services has been increasing by approximately four percent a year, even as the number of certified NMTs and registered radiologic technologists has remained stable. As a result, imaging technologists often work longer shifts, and patients can face weeks of delay for routine exams.

A similar situation is developing for nuclear medicine physicians. According to the American Board of Medical Specialties, there currently are 4,087 certified nuclear medicine physicians in the United States. At the same time, the number of physician training programs is also declining, exacerbating the future shortage.

Over the next 20 years, the number of people over the age of 65 is expected to double at the exact same time when the nation will face shortages of medical personnel—including nurses, NMTs, physicians, laboratory personnel, and other specialists. With an increasing number of people needing specialized care—such as nuclear medicine—coupled with an inadequate workforce, our Nation quickly could face a healthcare crisis of serious proportions with limited access to quality cancer care, particularly in traditionally underserved areas.

I encourage my colleagues to support Nuclear Medicine Week, to support policies such as the newly released CMS decision, and to support increased funding for programs so that our Nation will have a sufficient supply of nuclear medicine physicians and technologists to care for all patients in need of nuclear medicine procedures and related care.

CHIP PROTECTION AND IMPROVEMENT ACT

Mr. CHAFEE. Mr. President, I introduced S. 2759, along with my colleague, Senator ROCKEFELLER, to help States with healthy State Children's Health Insurance programs remain strong, so that they may continue to provide high-quality health care coverage to the children they serve. Our bill achieves this objective by allowing States to keep $1.1 billion in expiring funds in the SCHIP program and continuing current law redistribution rules through 2007.

Concerns have been expressed that S. 2759 would not reallocate SCHIP funds in an effective manner and that States cannot utilize their current SCHIP allotments. Proponents of this view believe the expiring SCHIP funds could be more effectively used for outreach and enrollment in the program. We fully support greater outreach and enrollment, but do not believe that it should come at the expense of providing adequate health insurance to children currently served by the program. In 2003, due to State budget deficits, seven States capped enrollment in their SCHIP. Over the next few years, unless we extend the availability of existing SCHIP funds and target them to the States with the most need, many States will lack adequate funds to meet their existing need, much less enroll more eligible but uninsured children. It is also important to note that ten percent of the amount States spend on coverage can be spent on administrative costs, including outreach. Consequently, an increase in coverage would also increase the funding States have for outreach and enrollment. Moreover, the Robert Wood Johnson Foundation currently provides SCHIP outreach grants to community health centers, hospitals, and faith-based organizations through its Covering Kids & Families Initiative.

Another criticism of S. 2759 deals with the amount of money States will have available in fiscal year 2005.

States and territories will have $10.8 billion available to provide health insurance coverage to children in 2005. It has also been estimated that States will only require $5.3 billion in fiscal year 2005 to provide adequate coverage. Although this is true in the aggregate, this funding figure does not take into account the realities of the existing SCHIP financing system. These excess funds are concentrated in low-spending States that have not utilized their SCHIP allotments in previous years, and they are not available to States facing Federal funding shortfalls. In the absence of a fundamental alteration of the current SCHIP financing system, the aggregate funding in the program is not relevant to critical issue of whether there is adequate funding within specific States.

Lastly, it has been proposed that the Secretary of the Department of Health and Human Services has the authority to redistribute unspent allotments from fiscal year 2002 to States where Federal funding shortfalls are anticipated in fiscal year 2005. While it is encouraging that the concerns of States facing an immediate shortfall in 2005 would be alleviated under this approach, our larger concern about the long-term financial health of the SCHIP in fiscal years 2006 and 2007 persists. Eleven States would receive less in redistributed fiscal year 2002 funds under this proposal than they would otherwise receive, and they would not have access to the $1.07 billion in federal SCHIP funds that are scheduled to expire.

The Children's Health Protection and Improvement Act addresses the long-term Federal funding shortfalls in the SCHIP program over the next 3 years. The Governors of all 50 States have endorsed our proposal and view it as a comprehensive approach to addressing the Federal SCHIP funding shortfalls that will occur prior to the program's reauthorization in fiscal year 2007. We stand ready to work with the Senate leadership and the administration to keep the SCHIP strong so that it may continue to provide critical health care coverage to uninsured children through fiscal year 2007, when a more comprehensive resolution of the formula problems can be explored.

ASSISTIVE TECHNOLOGY ACT OF 2004

Mr. DEWINE. Mr. President, I rise today in support of the Assistive Technology Act of 2004, which passed the Senate last week by unanimous consent on September 30, 2004. I thank Senator GREGG for his commitment to this very important issue and to my colleagues who have spent several months working on this bill.

The Assistive Technology Act is legislation that helps those individuals with disabilities receive the necessary equipment, devices, and services that allow them to live independently, improve their education, or assist with employment opportunities. This program is open to all ages, so it may help the smallest child receive equipment that will help him or her in the classroom or older adults who may need a device to adapt their workspace so they continue on the job.

Many States, such as Ohio, offer many different services to individuals with disabilities. Successful programs—equipment exchange programs and demonstration centers, for example—help ensure that the individual needing assistance is receiving the appropriate equipment to address the obstacle he or she is trying to overcome. Programs like these and the financial loan program help provide everyone in need with the opportunity to receive and purchase the technology and devices necessary to lead productive lives.

This legislation is very important to the millions of individuals with disabilities living in the United States. Again, I thank Senator GREGG and my colleagues on the HELP Committee for working on this issue. I look forward to working with my colleagues on other legislation that will address the needs of individuals with disabilities.

I ask unanimous consent the text of three letters from groups supporting the Assistive Technology Act be printed in the RECORD.

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

DEAR CHAIRMAN GREGG AND SENATOR HARKIN: On behalf of the National Association of Assistive Technology Act Programs (ATAP), I am writing to indicate our support for the Senate's passage of HR 4278, a bill to reauthorize the Assistive Technology Act. We understand it will be ''hotlined'' today.

Thank you for your work to bring this process to this point. The bill allows AT programs to continue so that people with disabilities can access assistive technology devices and services. We hope to work with you to make sure that the bill is adequately funded in future appropriations bills so that we can fully realize all of the goals of the bill.

If you have questions or need additional information, please contact Jane West at 202–289–3903 or jwest@wpllc.net.

Sincerely,

DEBORAH BUCK,
Executive Director.

DEAR MR. DEWINE: On behalf of the Association of University Centers on Disabilities (AUCD) I would like to thank you for your leadership and remarkable bi-partisan work on HR 4278, the reauthorization of the Assistive Technology Act. The bill will assist people with disabilities throughout our country who will be able to work more effectively, learn at school and more fully participate in their communities, thanks to their increased access to assistive technologies.

We appreciate the hard work that has gone into every phase of the process of developing and negotiating this vital legislation. We are especially pleased that the bill clearly delineates the authorization of appropriations so that state grants will have defined and equitable minimum allotment levels. We also appreciate the fact that the bill provides flexibility to states to design locally responsive programs while still assuring a focus on activities that will get assistive technology into the hands of the people that need it. We are pleased, as well, that the bill has enhanced provisions for Research and Development efforts.

The network of University Centers for Excellence in Developmental Disabilities represented by AUCD urge you to pass HR 4278 now, and we look forward to working with you as you continue to work to ensure that the future holds nothing but enhancements of the programs and services authorized by this legislation.

Thank you for your support of people with disabilities and families who will now see increased benefits from the vast technological advances the 21st century will bring. And thank you again for your bipartisan work and your leadership.

Sincerely,

GEORGE JESIEN, PH.D.,
Executive Director.

Hon. MIKE DEWINE,
U.S. Senate, Washington, DC.

DEAR SENATOR DEWINE: On behalf of the National Association of Protection and Advocacy Systems (NAPAS) we would like to thank you for your leadership on assistive technology and moving forward with the process of reauthorizing the Assistive Technology Act of 1998. The substitute bill before the Senate ''Improving Access to Assistive Technology for Individuals with Disabilities Act of 2004'' represents a true bipartisan piece of legislation.

The bill is a step forward for the protection and advocacy system. The bill makes the following changes that we support: Establishes a grant to the American Indian Consortium for a Protection and Advocacy for Assistive Technology (PAAT) program; establishes a line item to fund the PAAT program; enables a PAAT program to retain earned income for an additional fiscal year beyond current law and regulation; included language to continue needed training and technical assistance for the PAAT program.

All of these changes to current law will help make the PAAT program consistent with other protection and advocacy programs. We are thankful for the hard work and dedication of you and the staff who have endeavored to improve this program for people with disabilities.

Regrettably, the bill did not contain recommended language to include a provision which would enable the minimum allotments for states and territories to rise when the program receives an appropriations increase.

Thank you very much for working in a bipartisan manner to move this legislation. We look forward to working with you to enact this into law this year. If you would like additional information or have questions, please contact myself or Nadia Facey, Public Policy Analyst, at 202–408–9514.

Sincerely,

MAUREEN FITZGERALD,
President, Board of Directors.
CURTIS L. DECKER,
Executive Director.

ADDITIONAL STATEMENTS

IN CELEBRATION OF THE DEDICATION OF PACIFICA STATE BEACH

● Mrs. BOXER. Mr. President, I take this opportunity to recognize the City of Pacifica for its efforts to renovate and restore Pacifica State Beach.

California's beaches are an integral part of our State's heritage. Whether they are vast expanses of flat, sandy

shores or rocky cliffs overlooking the ocean, California's beaches are diverse and beautiful. People from all over the world come to participate in the myriad activities California's beaches offer. With over a thousand miles of coastline, California is truly a State that thrives on its beaches.

For over 10 years, the City of Pacifica has striven to renovate Pacifica State Beach, which serves as a gateway to Northern California's spectacular coastline. The city has demonstrated a great commitment to protect, enhance and restore the 4 miles of shoreline that define the community. Through the strong leadership of Pacifica Mayor Jim Vreeland and countless other local, State, and Federal representatives, many changes have been made at Pacifica State Beach.

From the restoration of sand dunes and wetlands, to the creation of bike paths, coastal trail paths and a new skate park, to habitat enhancement and new amenities for visitors, the renovation of Pacifica State Beach has been a success. The City of Pacifica has not only understood the importance of protecting and restoring California's fragile coastal areas, its restoration efforts are a model of balancing environmental needs, public access and economic necessities.

The City of Pacifica's dedication to the community is inspiring, and its vision and commitment in protecting California's coastal resources should be commended. I congratulate the City of Pacifica for its hard work, and wish all concerned the best as they dedicate Pacifica State Beach on October 16, 2004.●

TRIBUTE TO MR. GEORGE F. DIXON III

● Mr. VOINOVICH. Mr. President, I rise today to recognize Mr. George F. Dixon III for his exceptional service and leadership to our Nation.

Mr. Dixon is nearing the end of his term as chair of the American Public Transportation Association, the association that represents the North American public transportation industry.

During his chairmanship, Mr. Dixon has been dedicated to supporting the reauthorization of the Transportation Equity Act for the 21st Century, the development of a 5-year strategic plan for APTA, and the oversight of APTA's Public Transportation Partnership for Tomorrow outreach and education program. Mr. Dixon also represented APTA on a trade mission to Russia.

Mr. Dixon, a Cleveland, OH native, has a distinguished history of public service in Northeast Ohio. For example, over the past 10 years, he has brought great improvements to the public transportation system in Cleveland as the President of the Board of the Greater Cleveland Regional Transportation Authority. Mr. Dixon has also served the Cleveland community as a member of the Cleveland School Board for 5 years and as a leader in numerous local organizations including the Greater Cleveland Growth Association, Build up Greater Cleveland, Civic Vision, MidTown Cleveland, and the Convention and Visitors Bureau of Greater Cleveland.

Mr. Dixon is a accomplished leader and someone who, day in and day out, goes above and beyond the call of duty to help people in his community. On behalf of the people of Ohio, I am pleased to commend George F. Dixon, III for his extraordinary efforts to improve the quality of life in Ohio and our Nation, and I congratulate him on a successful term as Chair of the American Public Transportation Association.●

MERLE JOHNSON

● Mrs. BOXER. Mr. President, I am pleased and honored to salute my constituent Merle Johnson, who served America with bravery and distinction behind enemy lines during World War II.

Merle Johnson joined the National Guard in 1939, at age 16. He was mobilized the following year and was sent to Hawaii 2 weeks after the attack on Pearl Harbor.

In October 1942, he was sent to the Solomon Islands with the Army's 25th Infantry Division, which conducted mop-up operations after the Marines' bloody assaults on Guadalcanal and New Georgia Island.

After being wounded in action and recovering on New Caledonia, Merle volunteered to join a unit that would become known to the world as Merrill's Marauders. This elite group of Army Rangers was formed to conduct extremely dangerous top-secret missions behind Japanese enemy lines in Burma.

The Marauders' most famous and important mission was to capture the strategic airfield at Myitkyina, Burma. To accomplish this goal, they had to fight their way for 9 months through more than 600 miles of jungle, surrounded by Japanese troops. By the time they captured the airfield, more than 2,500 of the 3,000 Marauders had been killed, wounded, or struck by illness.

For his valiant service, Merle Johnson was awarded a Purple Heart, three Bronze Stars, three Battle Stars, and a Presidential Unit Citation.

After the war, Mr. Johnson worked on the production line at Rockwell Corporation and as a labor organizer for the steelworkers union. He now lives in Tustin, CA.

Earlier this year, Mr. Johnson represented Merrill's Marauders during the dedication ceremony for the World War II Memorial. This monument now stands as a tribute to Merle Johnson, Merrill's Marauders, and 16 million other brave men and women who served America in World War II.●

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–9534. A communication from the Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''17 CFR Part 143—Collection of Claims Owed the United States Arising From Activities Under the Commission's Jurisdiction'' (RIN3038–AC03) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9535. A communication from the Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''17 CFR Part 143—Adjustment of Civil Monetary Penalties for Inflation'' (RIN3038–AC13) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9536. A communication from the Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''17 CFR Part 30—Foreign Futures and Foreign Options Transactions'' (RIN3038–AB45) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9537. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Child and Adult Care Food Program: Improving Management and Program Integrity'' (RIN0584–AC24) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9538. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Bacillus Thuringiensis var. aiza strain PS811 (Cry1F Insecticidal Protein); Exemption from the Requirement of a Tolerance'' (FRL#7372–6) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9539. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Cyzzofamid; Pesticide Tolerance'' (FRL#7367–4) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9540. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Dichlormid; Time-Limited Pesticide Tolerances'' (FRL#7680–8) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9541. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Forchlorfenuron; Pesticide Tolerance'' (FRL#7681–5) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9542. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Mesotrione; Pesticide Tolerances for Emergency Exemptions'' (FRL#7678–8) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9543. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant

to law, the report of a rule entitled ''Octanal; Exemption from the Requirement of a Tolerance'' (FRL#7678–7) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9544. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Sodium Thiosulfate; Exemption from the Requirement of a Tolerance'' (FRL#7677–1) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9545. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–9546. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–9547. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–9548. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–9549. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–9550. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–9551. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to proposed test and evaluation (T&E) budgets that are not certified by the Director of the Defense Test Resource Management Center (TRMC) to be adequate; to the Committee on Armed Services.

EC–9552. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the 2003 Annual Report of the Securities Investor Protection Corporation; to the Committee on Banking, Housing, and Urban Affairs.

EC–9553. A communication from the Assistant General Counsel for Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Retention of Excess Income in the Section 236 Program'' (RIN2502–AH68) received on September 29, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9554. A communication from the Assistant General Counsel for Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Suspension, Debarment, Limited Denial of Participation'' (RIN2501–AC81) received on September 29, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9555. A communication from the Export-Import Bank of the United States, transmitting, pursuant to law, the report of a transaction involving exports to the State of Qatar; to the Committee on Banking, Housing, and Urban Affairs.

EC–9556. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Removal of Mid-Range Procurement Procedures'' (RIN2700–AD02) received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9557. A communication from the Acting Director, Statutory Import Programs Staff, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Changes in the Insular Possessions Watch and Jewelry Programs'' (RIN0625–AA65) received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9558. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Pollock in Statistical Area 630 in the Gulf of Alaska'' received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9559. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Pollock in Statistical Area 620 in the Gulf of Alaska (C-season)'' received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9560. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Non-Community Development Quota Pollock with Trawl Gear in the Chinook Salmon Savings Area of the BSAI Management Area'' received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9561. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Flathead Sole in the Bering Sea and Aleutian Islands Management Area'' received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9562. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Fishing for Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska'' received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9563. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Summer Flounder Recreational Fishery; Fishing Year 2004; New York Measures'' (RIN0648–AQ82) received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9564. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #10—Adjustments of the Recreational Fishery from the U.S.-Canada Border to Cape Falcon, Oregon'' received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9565. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #9—Adjustment of the Commercial Salmon Fishery from Humbug Mountain, Oregon to the Oregon-California Border'' received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9566. A communication from the Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Pollock in Statistical Area 610 of the Gulf of Alaska'' received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9567. A communication from the Trial Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Civil Penalties'' (RIN2127–AJ32) received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9568. A communication from the Secretary of Energy, transmitting, pursuant to law, the report of the Department of Energy's intention to inter into a five-year contract with Mountain State Energy Technology Applications, Incorporated; to the Committee on Energy and Natural Resources.

EC–9569. A communication from the Inspector General, Nuclear Regulatory Commission, transmitting, pursuant to law, the Inspector General's report for Fiscal Year 2004 Commercial and Inherently Governmental Activities for the Commission; to the Committee on Environment and Public Works.

EC–9570. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''Annual Report to Congress on Implementation of Public Law 106–107''; to the Committee on Environment and Public Works.

EC–9571. A communication from the Chairman, Tennessee Valley Authority, transmitting, pursuant to law, a report relative to the issues the Authority needs to address in order to prepare for a competitive electricity wholesale market in the Tennessee Valley; to the Committee on Environment and Public Works.

EC–9572. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Longmont Recised Carbon Monoxide Plan'' (FRL#7822–3) received on September 29, 2004; to the Committee on Environment and Public Works.

EC–9573. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Northern Engraving Environmental Cooperative Agreement'' (FRL#7632–2) received on September 29, 2004; to the Committee on Environment and Public Works.

EC–9574. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production'' (FRL#7812–8) received on September 29, 2004; to the Committee on Environment and Public Works.

EC–9575. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Nebraska: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL#7823–8) received on September 29, 2004; to the Committee on Environment and Public Works.

EC–9576. A communication from the Assistant Secretary for Fish and wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2004–05 Late Season'' (RIN1018–AT53) received on September 29, 2004; to the Committee on Environment and Public Works.

EC–9577. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Modification of Exemption from Tax for Small Property and Casualty Insurance Companies'' (Notice 2004–64) received on September 29, 2004; to the Committee on Finance.

EC–9578. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Certain Reinsurance Arrangements'' (Notice 2004–65) received on September 29, 2004; to the Committee on Finance.

EC–9579. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Australia; to the Committee on Foreign Relations.

EC–9580. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report that the termination of assistance and the application of sanctions to Libya would have a serious adverse effect on vital United States interests; to the Committee on Foreign Relations.

EC–9581. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Canada; to the Committee on Foreign Relations.

EC–9582. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Germany; to the Committee on Foreign Relations.

EC–9583. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to India; to the Committee on Foreign Relations.

EC–9584. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the prohibition on military assistance provided for in the Act for the Republic of the Congo; to the Committee on Foreign Relations.

EC–9585. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–9586. A communication from the Chief Executive Officer, Corporation for National and Community Service, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Chief Financial Officer, Corporation for National and Community Service, received on September 29, 2004; to the Committee on Governmental Affairs.

EC–9587. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Comparative Analysis of Actual Cash Collections to Revised Revenue Estimates Through the 3rd Quarter of Fiscal Year 2004''; to the Committee on Governmental Affairs.

EC–9588. A communication from the Assistant Secretary for Policy, Management, and Budget, Department of the Interior, transmitting, pursuant to law, a report relative to grants streamlining and standardization; to the Committee on Governmental Affairs.

EC–9589. A communication from the Administrator, Office of Workforce Security, Employment and Training Administration, transmitting, pursuant to law, the report of a rule entitled ''Unemployment Insurance Program Letter: SUTA Dumping—Amendments to Federal Law Affecting the Federal-State Unemployment Compensation Program'' (UIPL30–04) received on September 29, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9590. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' received on September 29, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9591. A communication from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Fiduciary Responsibility Under the Employee Retirement Income Security Act of 1974; Automatic Rollover Safe Harbor'' (RIN1210–AA92) received on September 29, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9592. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Change of Names and Addresses; Technical Amendment'' (Doc. No. 2004N–0287) received on September 29, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9593. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled ''Change of Names and Addresses; Technical Amendment; Correction'' (Doc. No. 2004N–0287) received on September 29, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9594. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, transmitting, pursuant to law, the report of a rule entitled ''Exemption from Import/Export Requirements for Personal Medical Use'' (RIN1117–AA56) received on September 9, 2004; to the Committee on the Judiciary.

EC–9595. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Presidential Inaugural Committee Reporting and Prohibition on Accepting Donations from Foreign Nationals'' received on September 29, 2004; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs, without amendment:

S. 2688. A bill to provide for a report of Federal entities without annually audited financial statements (Rept. No. 108–383).

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 2686. A bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act (Rept. No. 108-384).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

H.R. 867. A bill for the relief of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan.

S. 115. A bill for the relief of Richi James Lesley.

S. 353. A bill for the relief of Denes and Gyorgyi Fulop.

S. 1042. A bill for the relief of Tchisou Tho.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1635. A bill to amend the Immigration and Nationality Act to ensure the integrity of the L–1 visa for intracompany transferees.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1784. A bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine.

S. 2012. A bill for the relief of Luay Lufti Hadad.

S. 2044. A bill for the relief of Alemseghed Mussie Tesfamical.

S. 2089. A bill to allow aliens who are eligible for diversity visas to be eligible beyond the fiscal year in which they applied.

S. 2314. A bill for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan.

S. 2331. A bill for the relief of Fereshteh Sani.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH for the Committee on the Judiciary.

Susan Bieke Neilson, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

Christopher A. Boyko, of Ohio, to be United States District Judge for the Northern District of Ohio.

Beryl A. Howell, of the District of Columbia, to be a Member of the United States Sentencing Commission for the remainder of the term expiring October 31, 2005.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. MIKULSKI (for herself and Mr. KENNEDY):

S. 2885. A bill to build capacity at community colleges in order to meet increased demand for community college education while

maintaining the affordable tuition rates and the open-door policy that are the hallmarks of the community college system; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BOND:

S. 2886. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain hazard mitigation assistance; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID (for himself, Mr. LEAHY, and Mr. LAUTENBERG):

S. Res. 446. A resolution honoring former President James Earl (Jimmy) Carter on the occasion of his 80th birthday; considered and agreed to.

ADDITIONAL COSPONSORS

S. 1784

At the request of Mrs. FEINSTEIN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1784, a bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine.

S. 2395

At the request of Mr. CONRAD, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2395, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 2425

At the request of Mr. BYRD, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2553

At the request of Mr. DODD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2553, a bill to amend title XVIII of the Social Security Act to provide for coverage of screening ultrasound for abdominal aortic aneurysms under part B of the medicare program.

S. 2568

At the request of Mr. BIDEN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2587

At the request of Ms. STABENOW, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2587, a bill to amend title XVIII of the Social Security Act to adjust the amount of payment under the physician fee schedule for drug administration services furnished to medicare beneficiaries.

S. 2613

At the request of Mr. HAGEL, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2613, a bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, and local public health agencies.

S. 2718

At the request of Mr. DEWINE, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2718, a bill to provide for programs and activities with respect to the prevention of underage drinking.

S. 2744

At the request of Mr. SUNUNU, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Indiana (Mr. BAYH), the Senator from Illinois (Mr. DURBIN), the Senator from Nevada (Mr. ENSIGN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 2744, a bill to authorize the minting and issuance of a Presidential $1 coin series.

S. 2759

At the request of Mr. ROCKEFELLER, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2759, a bill to amend title XXI of the Social Security Act to modify the rules relating to the availability and method of redistribution of unexpended SCHIP allotments, and for other purposes.

S. 2831

At the request of Mr. SMITH, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2831, a bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to clarify that federally recognized Indian tribal governments are to be regulated under the same government employer rules and procedures that apply to Federal, State, and other local government employers with regard to the establishment and maintenance of employee benefit plans.

S. 2845

At the request of Ms. COLLINS, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

S. 2856

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 2856, a bill to limit the transfer of certain Commodity Credit Corporation funds between conservation programs for technical assistance for the programs.

S. CON. RES. 78

At the request of Mr. LIEBERMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Con. Res. 78, a concurrent resolution condemning the repression of the Iranian Baha'i community and calling for the emancipation of Iranian Baha'is.

S. CON. RES. 136

At the request of Mr. CONRAD, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Georgia (Mr. MILLER), the Senator from Oregon (Mr. WYDEN), the Senator from Oklahoma (Mr. NICKLES), the Senator from Michigan (Ms. STABENOW), the Senator from Louisiana (Mr. BREAUX) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 420

At the request of Mr. PRYOR, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. Res. 420, a resolution recommending expenditures for an appropriate visitors center at Little Rock Central High School National Historic Site to commemorate the desegregation of Little Rock Central High School.

S. RES. 430

At the request of Mr. HATCH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 430, a resolution designating November 2004 as ''National Runaway Prevention Month''.

AMENDMENT NO. 3845

At the request of Mr. BYRD, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of amendment No. 3845 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3890

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 3890 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3891

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 3891 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3893

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 3893 proposed to S.

2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3908

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 3908 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI (for herself and Mr. KENNEDY):

S. 2885. A bill to build capacity at community colleges in order to meet increased demand for community college education while maintaining the affordable tuition rates and the open-door policy that are the hallmarks of the community college system; to the Committee on Health, Education, Labor, and Pensions.

Ms. MIKULSKI. Mr. President, I rise to introduce the ''Community College Opportunity Act.'' Community colleges are the gateway to the future for first time students looking for an affordable college education, and for mid-career students looking to get ahead in the workplace. As college tuition at four-year colleges continues to rise, more and more students are turning to community colleges for the education they need to prepare for 21st century jobs.

Yet soon we may not be able to count on our community colleges being available to everyone. The combination of budget cuts and increased enrollments is forcing community colleges to make tough choices between raising tuition and turning students away. This important legislation will help keep the doors of our community colleges open to increasing numbers of students without sending tuition through the roof. My bill authorizes $100 million for a competitive grant program to help community colleges serve more students. Community colleges could apply for a grant to help with the cost of constructing or renovating facilities, hiring faculty, purchasing new computers and scientific equipment, and investing in creative ways of addressing overcrowding—like distance learning.

Why is this important? Community colleges are one of the great American social inventions. I used to teach night school at Baltimore City Community College. I know firsthand the vital role they play in our communities. Their low cost, convenient location, and open door admissions policy have made them the key to the American dream for so many. Many generations of immigrants pursued the American dream by working all day and going to school at night. After World War II, the GI bill gave returning veterans a chance to get ahead by going to local junior colleges.

Now, more than ever, it's important to invest in community colleges. In the next ten years, 40 percent of new jobs will require college education. At the same time, college tuition is on the rise. Tuition at the University of Maryland is up by as much as 21 percent. That's causing many students to take a second look at community colleges because they're more affordable. They're also leaders in training workers for 21st century jobs from nurses to computer techies, and even lab techs for new industries, like biotechnology. They're playing a key role in addressing shortages in nursing and teaching. In Maryland, community colleges train 55 percent of new nurses.

Yet our community colleges are bursting at the seams. They're growing faster than 4-year colleges. Enrollment at Maryland's community colleges is expected to grow 30 percent in the next 10 years, while 4-year colleges will grow by 15 percent. Community colleges are holding classes from 7 in the morning to 10 at night, on weekends, and over the internet. In my own state of Maryland, they are starting to turn students away because there isn't enough room. As many as 2000 students were shut out of Montgomery College last year because they couldn't get into the classes they needed or they couldn't afford the cost. Last fall, Prince George's Community College had to turn away 630 prospective nursing students and 1,000 prospective education students.

It's great that so many Americans are going to community colleges. For so many Americans, community colleges are the only way to get the education they need to be competitive for 21st century jobs. Yet the rapid increase of students is threatening the very mission of community colleges. If we want a world-class workforce, we need to invest in higher education. We need to make sure we have always institutions available to everyone who wants a college degree or just a couple of courses. That means investing in our community colleges, so they can continue to be affordable, accessible, and successful at training the next generation of nurses, teachers, and techies.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2885

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMMUNITY COLLEGE CAPACITY-BUILDING GRANT PROGRAM.

Title III of the Higher Education Act of 1965 (20 U.S.C. 1051 et seq.) is amended—

(1) by redesignating part F as part G; and

(2) by inserting after part E the following:

''PART F—COMMUNITY COLLEGES

''SEC. 371. COMMUNITY COLLEGE CAPACITY-BUILDING GRANT PROGRAM.

''(a) PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—From amounts appropriated under section 399(a)(6) for a fiscal year, the Secretary shall award grants to eligible entities, on a competitive basis, for the purpose of building capacity at community colleges to meet the increased demand for community colleges while maintaining the affordable tuition rates and the open-door policy that are the hallmarks of the community college system.

''(2) DURATION.—Grants awarded under this section shall be for a period not to exceed 3 years.

''(b) DEFINITIONS.—In this section:

''(1) COMMUNITY COLLEGE.—The term 'community college' means a public institution of higher education (as defined in section 101(a)) whose highest degree awarded is predominantly the associate degree.

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a community college, or a consortium of 2 or more community colleges, that demonstrates capacity challenges at not less than 1 of the community colleges in the eligible entity, such as—

''(A) an identified workforce shortage in the community served by the community college that will be addressed by increased enrollment at the community college;

''(B) a wait list for a class or for a degree or a certificate program;

''(C) a faculty shortage;

''(D) a significant enrollment growth;

''(E) a significant projected enrollment growth;

''(F) an increase in the student-faculty ratio;

''(G) a shortage of laboratory space or equipment;

''(H) a shortage of computer equipment and technology;

''(I) out-of-date computer equipment and technology;

''(J) a decrease in State or county funding or a related budget shortfall; or

''(K) another demonstrated capacity shortfall.

''(c) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require by regulation.

''(d) AWARD BASIS.—In awarding grants under subsection (a), the Secretary shall take into consideration—

''(1) the relative need for assistance under this section of the community colleges;

''(2) the probable impact and overall quality of the proposed activities on the capacity problem of the community college;

''(3) providing an equitable geographic distribution of grant funds under this section throughout the United States and among urban, suburban, and rural areas of the United States; and

''(4) providing an equitable distribution among small, medium, and large community colleges.

''(e) USE OF FUNDS.—Grant funds provided under subsection (a) may be used for activities that expand community college capacity, including—

''(1) the construction, maintenance, renovation, and improvement of classroom, library, laboratory, and other instructional facilities;

''(2) the purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional research purposes;

''(3) the development, improvement, or expansion of technology;

''(4) preparation and professional development of faculty;

''(5) recruitment, hiring, and retention of faculty;

''(6) curriculum development and academic instruction;

''(7) the purchase of library books, periodicals, and other educational materials, including telecommunications program material;

''(8) the joint use of facilities, such as laboratories and libraries; or

''(9) the development of partnerships with local businesses to increase community college capacity.

''SEC. 372. APPLICABILITY.

''The provisions of part G shall not apply to this part.''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 399(a) of the Higher Education Act of 1965 (20 U.S.C. 1068h(a)) is amended by adding at the end the following:

''(6) PART F.—There are authorized to be appropriated to carry out part F, $100,000,000 for fiscal year 2005, and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

By Mr. BOND:

S. 2886. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain hazard mitigation assistance; to the Committee on Finance.

Mr. BOND. Mr. President, I rise today to introduce legislation concerning a critical issue this year—disaster assistance. This has been one of the worst hurricane seasons that Florida has seen in recent years. The Sunshine State has been battered by four hurricanes in the past six weeks. I extend my deepest sympathies to the residents of Florida where some have had to evacuate more than three times during this hurricane season only to return home and find their homes leveled, their crops uprooted, their neighborhoods flooded, and their dreams shattered.

In my home State of Missouri, we are no strangers to natural disasters. Located smack in the middle of Tornado Alley, Missouri has been hit by some of the largest storms in U.S. in history. In May of 2003, a string of tornadoes ripped through the western part of the State causing major damage and devastation.

With two rivers—the Mississippi and the Missouri—we have also seen our fair share of flooding through the years. I will never forget when the Mississippi River breached its banks in 1993—one of the most devastating floods in U.S. history. Of the nine Midwestern States affected, the State of Missouri was the hardest hit and State officials estimate that damages totaled $3 billion.

While both the Mississippi and Missouri Rivers have made the State of Missouri susceptible to riverine flooding, the State is also susceptible to flash flooding. A case in point is the city of Union, located about 45 minutes from St. Louis, which suffered tremendous damage from a severe flash flood in May of 2000.

I mention the city of Union as a specific example of the benefits that a disaster mitigation program can hold in flash-flood situations. After the flood, the City of Union applied to the State of Missouri Emergency Management Agency to seek help in a demolition and acquisition project. With the mitigation grant money, 17 properties were acquired in residential areas with substantial damage. These properties are now dead restricted for ''open space,'' which will prevent future development and the potential for flash flood related deaths in that area because many of the homes and people will no longer be in harm's way. This is an excellent example of the value of disaster and mitigation money invested by the federal, state and local governments.

Over the years, the State of Missouri has worked with the Federal Emergency Management Agency (FEMA) to build structures that prevent flooding and other damage from occurring when natural disasters strike. Time and time again, FEMA has come to the rescue by establishing funding for disaster relief and mitigation activities within the State of Missouri and in other States across the country.

Having served as the Chairman of the Senate Appropriations Subcommittee on VA, HUD, and Independent Agencies, which until recently oversaw FEMA, I know first hand the value of the agency's disaster mitigation grant programs—the Hazards Mitigation Grant Program (HGMP), the Pre-Disaster Mitigation program (PDM), and the Flood Mitigation Assistance (FMA) program. Designed to manage future emergencies, these programs have been essential to countless communities, and without them, thousands of lives would be in jeopardy.

Recently, some very disturbing news was brought to my attention. According to a June 2004 legal memorandum issued by the Internal Revenue Service (IRS), FEMA mitigation grants may be subject to income taxation. While some may argue that this is merely the IRS's interpretation of the statute, it is clearly the position the IRS intends to take against American taxpayers whose only recourse will be to fight the agency in court.

I must say that I am absolutely stunned by this determination by the IRS!! How in the world could the IRS possibly think that Congress intended to tax these types of grants to prevent natural disasters, especially when we went out of our way to ensure that disaster-relief payments to individuals recovering from a hurricane, flood, tornado or other natural disaster are not subject to income taxes?

Today, I am offering a bill that will stop the IRS in its tracks and prevent the taxation of disaster mitigation grants. This language will ensure that any Federal grants, as well as state grants indirectly associated with this program, will not be deemed to be income by the IRS's tortured reasoning. This bill will be effective as of the beginning of this year to ensure that any grants currently out there, especially in light of the current hurricanes that have happened, are not subject to tax. In addition, there should be no inference by this legislation that Congress intended such grants to be taxable prior to the effective date of this legislation.

Why is this important? Why am I out here today? Because the Missouri and Mississippi Rivers rise, because tornadoes will ravage through the state once again, and because flash flooding can decimate an entire community. The last thing Americans who are working to prevent such potential destruction need is for government-grant funding to be subject to tax. My bill ensures that such taxes do not see the light of day.

I urge my colleagues to support this important legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2886

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION FROM GROSS INCOME FOR CERTAIN DISASTER MITIGATION PAYMENTS.

(a) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986 (relating to disaster relief payments) is amended by adding at the end the following new subsection:

''(g) CERTAIN DISASTER MITIGATION PAYMENTS.—Gross income shall not include the value of any amount received directly or indirectly as payment or benefit by the owner of any property for hazard mitigation with respect to the property pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act or the National Flood Insurance Act.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending on or after December 31, 2004.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 446—HONORING FORMER PRESIDENT JAMES EARL (JIMMY) CARTER ON THE OCCASION OF HIS 80TH BIRTHDAY

Mr. REID (for himself, Mr. LEAHY, and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 446

Whereas Jimmy Carter was born in Plains, Georgia, on October 1, 1924;

Whereas Jimmy Carter attended Georgia Southwestern College and the Georgia Institute of Technology, and received a B.S. degree from the United States Naval Academy in 1946;

Whereas Jimmy Carter served honorably as a submariner in the United States Navy in both the Atlantic and Pacific fleets, working under Admiral Hyman Rickover in the development of the nuclear submarine program;

Whereas Jimmy Carter continued his commitment to public service, serving as Georgia State Senator and Governor of Georgia;

Whereas Jimmy Carter was elected the 39th President of the United States on November 2, 1976;

Whereas Jimmy Carter created both the Departments of Education and Energy and implemented major education policies and a comprehensive national energy program;

Whereas Jimmy Carter oversaw deregulation of the airline, energy, and banking industries;

Whereas Jimmy Carter promoted human rights as a tenet of American foreign policy and pressed nations to uphold basic human rights;

Whereas Jimmy Carter furthered diplomatic relations with the People's Republic of China;

Whereas Jimmy Carter was instrumental in the negotiation and signing of the Camp David Accord between Israel and Egypt, signaling a new era of peace between those 2 countries;

Whereas Jimmy Carter has continued his service to his country since leaving the Presidency by championing safe and affordable housing, human rights, and disease prevention;

Whereas Jimmy Carter remains actively committed to promoting peace and democracy abroad, supervising elections in fledgling democracies, and helping to defuse international crises in North Korea, Somalia, and Haiti; ''his decades of untiring effort to find peaceful solutions to international conflicts, to advance democracy and human rights, and to promote economic and social development''; and

Now, therefore, be it

Resolved, That the Senate honors former President Jimmy Carter on the occasion of his 80th birthday and extends best wishes to him and his family.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3950. Ms. COLLINS (for herself and Mr. LIEBERMAN) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

SA 3951. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3724 proposed by Mr. KYL (for himself, Mr. CORNYN, Mr. CHAMBLISS, and Mr. NICKLES) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3952. Mr. LIEBERMAN (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. LIEBERMAN to the bill S. 2845, supra.

SA 3953. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 3941 submitted by Mr. GRAHAM of Florida and intended to be proposed to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3954. Ms. COLLINS (for Mr. LOTT) submitted an amendment intended to be proposed by Ms. COLLINS to the bill H.R. 5122, to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms.

SA 3955. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table.

SA 3956. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3950. Ms. COLLINS (for herself and Mr. LIEBERMAN) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 5, after line 2, insert the following:

(7) Grant programs under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121–5206.).

On page 10, line 17, strike the semicolon and all that follows through page 11, line 7, and insert a period.

On page 12, line 5, strike ''(5)'' and insert ''(6)''.

On page 12, lines 17 through 20, strike ''technical assistance provided by any Federal agency to States and local governments to conduct threat analyses and vulnerability assessments'' and insert ''technical assistance provided by any Federal agency to States and local governments regarding homeland security matters''.

On page 18, line 9, insert ''secure'' after ''for''.

On page 23, line 18, insert ''on the basis of terrorist threat'' after ''grant''.

On page 25, line 24, insert ''on the basis of terrorist threat'' after ''distribute''.

SA 3951. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3724 proposed by Mr. KYL (for himself, Mr. CORNYN, Mr. CHAMBLISS, and Mr. NICKLES) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

DIVISION ___—ADVANCING JUSTICE THROUGH DNA TECHNOLOGY

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Division may be cited as the ''Advancing Justice Through DNA Technology Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents of this Division is as follows:

TITLE I—DEBBIE SMITH ACT OF 2004

SEC. 101. SHORT TITLE.

This title may be cited as the ''Debbie Smith Act of 2004''.

SEC. 102. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) DESIGNATION OF PROGRAM; ELIGIBILITY OF LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) by amending the heading to read as follows:

''SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.'';

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or units of local government'' after ''eligible States''; and

(ii) by inserting ''or unit of local government'' after ''State'';

(B) in paragraph (2), by inserting before the period at the end the following: '', including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect''; and

(C) in paragraph (3), by striking ''within the State'';

(3) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or unit of local government'' after ''State'' both places that term appears; and

(ii) by inserting '', as required by the Attorney General'' after ''application shall'';

(B) in paragraph (1), by inserting ''or unit of local government'' after ''State'';

(C) in paragraph (3), by inserting ''or unit of local government'' after ''State'' the first place that term appears;

(D) in paragraph (4)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking ''and'' at the end;

(E) in paragraph (5)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

''(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System; and'';

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''The plan'' and inserting ''A plan pursuant to subsection (b)(1)'';

(ii) in subparagraph (A), by striking ''within the State''; and

(iii) in subparagraph (B), by striking ''within the State''; and

(B) in paragraph (2)(A), by inserting ''and units of local government'' after ''States'';

(5) in subsection (e)—

(A) in paragraph (1), by inserting ''or local government'' after ''State'' both places that term appears; and

(B) in paragraph (2), by inserting ''or unit of local government'' after ''State'';

(6) in subsection (f), in the matter preceding paragraph (1), by inserting ''or unit of local government'' after ''State'';

(7) in subsection (g)—

(A) in paragraph (1), by inserting ''or unit of local government'' after ''State''; and

(B) in paragraph (2), by inserting ''or units of local government'' after ''States''; and

(8) in subsection (h), by inserting ''or unit of local government'' after ''State'' both places that term appears.

(b) REAUTHORIZATION AND EXPANSION OF PROGRAM.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting ''(1) or'' before ''(2)''; and

(B) by inserting at the end the following:

''(4) To collect DNA samples specified in paragraph (1).

''(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.'';

(2) in subsection (b), as amended by this section, by inserting at the end the following:

''(7) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4).'';

(3) by amending subsection (c) to read as follows:

''(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

''(1) IN GENERAL.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

''(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

''(B) allocates grants among eligible entities fairly and efficiently to address jurisdictions in which significant backlogs exist, by considering—

''(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

''(ii) the population in the jurisdiction; and

''(iii) the number of part 1 violent crimes in the jurisdiction.

''(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

''(3) LIMITATION.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

''(A) For fiscal year 2005, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(B) For fiscal year 2006, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(C) For fiscal year 2007, not less than 45 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(D) For fiscal year 2008, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(E) For fiscal year 2009, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).'';

(4) in subsection (g)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.'';

(5) in subsection (j), by striking paragraphs (1) and (2) and inserting the following:

''(1) $151,000,000 for fiscal year 2005;

''(2) $151,000,000 for fiscal year 2006;

''(3) $151,000,000 for fiscal year 2007;

''(4) $151,000,000 for fiscal year 2008; and

''(5) $151,000,000 for fiscal year 2009.''; and

(6) by adding at the end the following:

''(k) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

''(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

''(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community—

''(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which participates in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards;

''(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

''(C) to support future capacity building efforts; and

''(3) in the form of additional grants to nonprofit professional associations actively involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

''(l) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act has undergone an external audit conducted to determine whether the laboratory is in compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.''.

SEC. 103. EXPANSION OF COMBINED DNA INDEX SYSTEM.

(a) INCLUSION OF ALL DNA SAMPLES FROM STATES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1), by striking ''of persons convicted of crimes;'' and inserting the following: ''of—

''(A) persons convicted of crimes;

''(B) persons who have been charged in an indictment or information with a crime; and

''(C) other persons whose DNA samples are collected under applicable legal authorities, provided that DNA profiles from arrestees who have not been charged in an indictment or information with a crime, and DNA samples that are voluntarily submitted solely for elimination purposes shall not be included in the Combined DNA Index System;''; and

(2) in subsection (d)(2)—

(A) by striking ''if the responsible agency'' and inserting''if—

''(i) the responsible agency'';

(B) by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(ii) the person has not been convicted of an offense on the basis of which that analysis was or could have been included in the index, and all charges for which the analysis was or could have been included in the index have been dismissed or resulted in acquittal.''.

(b) FELONS CONVICTED OF FEDERAL CRIMES.—Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

''(d) QUALIFYING FEDERAL OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

''(1) Any felony.

''(2) Any offense under chapter 109A of title 18, United States Code.

''(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

''(4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).''.

(c) MILITARY OFFENSES.—Section 1565(d) of title 10, United States Code, is amended to read as follows:

''(d) QUALIFYING MILITARY OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

''(1) Any offense under the Uniform Code of Military Justice for which a sentence of confinement for more than one year may be imposed.

''(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d))).''.

(d) KEYBOARD SEARCHES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132), as amended by subsection (a), is further amended by adding at the end the following new subsection:

''(e) AUTHORITY FOR KEYBOARD SEARCHES.—

''(1) IN GENERAL.—The Director shall ensure that any person who is authorized to access the index described in subsection (a) for

purposes of including information on DNA identification records or DNA analyses in that index may also access that index for purposes of carrying out a one-time keyboard search on information obtained from any DNA sample lawfully collected for a criminal justice purpose except for a DNA sample voluntarily submitted solely for elimination purposes.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'keyboard search' means a search under which information obtained from a DNA sample is compared with information in the index without resulting in the information obtained from a DNA sample being included in the index.

''(3) NO PREEMPTION.—This subsection shall not be construed to preempt State law.''.

SEC. 104. TOLLING OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3297. Cases involving DNA evidence

''In a case in which DNA testing implicates an identified person in the commission of a felony, except for a felony offense under chapter 109A, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3297. Cases involving DNA evidence.''.

(c) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section if the applicable limitation period has not yet expired.

SEC. 105. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by inserting ''dating violence,'' after ''domestic violence,'';

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

''(1) DATING VIOLENCE.—The term 'dating violence' means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of—

''(A) the length of the relationship;

''(B) the type of relationship; and

''(C) the frequency of interaction between the persons involved in the relationship.''; and

(C) in paragraph (3), as redesignated by subparagraph (A), by inserting ''dating violence,'' after ''domestic violence,'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting '', dating violence,'' after ''between domestic violence''; and

(ii) by inserting ''dating violence,'' after ''victims of domestic violence,'';

(B) in paragraph (2), by inserting ''dating violence,'' after ''domestic violence,''; and

(C) in paragraph (3), by inserting ''dating violence,'' after ''domestic violence,'';

(4) in subsection (d)—

(A) in paragraph (1), by inserting '', dating violence,'' after ''domestic violence'';

(B) in paragraph (2), by inserting '', dating violence,'' after ''domestic violence'';

(C) in paragraph (3), by inserting '', dating violence,'' after ''domestic violence''; and

(D) in paragraph (4), by inserting ''dating violence,'' after ''domestic violence,'';

(5) in subsection (e), by inserting ''dating violence,'' after ''domestic violence,''; and

(6) in subsection (f)(2)(A), by inserting ''dating violence,'' after ''domestic violence,''.

SEC. 106. ENSURING PRIVATE LABORATORY ASSISTANCE IN ELIMINATING DNA BACKLOG.

Section 2(d)(3) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(d)(3)) is amended to read as follows:

''(3) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

''(A) IN GENERAL.—A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services, even if the laboratory makes a reasonable profit for the services.

''(B) REDEMPTION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated on a nonprofit or forprofit basis, by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

''(C) PAYMENTS.—The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).''.

TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2004

SEC. 201. SHORT TITLE.

This title may be cited as the ''DNA Sexual Assault Justice Act of 2004''.

SEC. 202. ENSURING PUBLIC CRIME LABORATORY COMPLIANCE WITH FEDERAL STANDARDS.

Section 210304(b)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14132(b)(2)) is amended to read as follows:

''(2) prepared by laboratories that—

''(A) not later than 2 years after the date of enactment of the DNA Sexual Assault Justice Act of 2004, have been accredited by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science community; and

''(B) undergo external audits, not less than once every 2 years, that demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation; and''.

SEC. 203. DNA TRAINING AND EDUCATION FOR LAW ENFORCEMENT, CORRECTIONAL PERSONNEL, AND COURT OFFICERS.

(a) IN GENERAL.—The Attorney General shall make grants to provide training, technical assistance, education, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by—

(1) law enforcement personnel, including police officers and other first responders, evidence technicians, investigators, and others who collect or examine evidence of crime;

(2) court officers, including State and local prosecutors, defense lawyers, and judges;

(3) forensic science professionals; and

(4) corrections personnel, including prison and jail personnel, and probation, parole, and other officers involved in supervision.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $12,500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 204. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, equipment, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other professionals involved in treating victims of sexual assault and sexual assault examination programs, including SANE (Sexual Assault Nurse Examiner), SAFE (Sexual Assault Forensic Examiner), and SART (Sexual Assault Response Team).

(b) ELIGIBLE ENTITY.—For purposes of this section, the term ''eligible entity'' includes—

(1) States;

(2) units of local government; and

(3) sexual assault examination programs, including—

(A) sexual assault nurse examiner (SANE) programs;

(B) sexual assault forensic examiner (SAFE) programs;

(C) sexual assault response team (SART) programs;

(D) State sexual assault coalitions;

(E) medical personnel, including doctors, medical examiners, coroners, and nurses, involved in treating victims of sexual assault; and

(F) victim service providers involved in treating victims of sexual assault.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 205. DNA RESEARCH AND DEVELOPMENT.

(a) IMPROVING DNA TECHNOLOGY.—The Attorney General shall make grants for research and development to improve forensic DNA technology, including increasing the identification accuracy and efficiency of DNA analysis, decreasing time and expense, and increasing portability.

(b) DEMONSTRATION PROJECTS.—The Attorney General shall make grants to appropriate entities under which research is carried out through demonstration projects involving coordinated training and commitment of resources to law enforcement agencies and key criminal justice participants to demonstrate and evaluate the use of forensic DNA technology in conjunction with other forensic tools. The demonstration projects shall include scientific evaluation of the public safety benefits, improvements to law enforcement operations, and cost-effectiveness of increased collection and use of DNA evidence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 206. NATIONAL FORENSIC SCIENCE COMMISSION.

(a) APPOINTMENT.—The Attorney General shall appoint a National Forensic Science Commission (in this section referred to as the ''Commission''), composed of persons experienced in criminal justice issues, including persons from the forensic science and criminal justice communities, to carry out the responsibilities under subsection (b).

(b) RESPONSIBILITIES.—The Commission shall—

(1) assess the present and future resource needs of the forensic science community;

(2) make recommendations to the Attorney General for maximizing the use of forensic technologies and techniques to solve crimes and protect the public;

(3) identify potential scientific advances that may assist law enforcement in using forensic technologies and techniques to protect the public;

(4) make recommendations to the Attorney General for programs that will increase the

number of qualified forensic scientists available to work in public crime laboratories;

(5) disseminate, through the National Institute of Justice, best practices concerning the collection and analyses of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(6) examine additional issues pertaining to forensic science as requested by the Attorney General;

(7) examine Federal, State, and local privacy protection statutes, regulations, and practices relating to access to, or use of, stored DNA samples or DNA analyses, to determine whether such protections are sufficient;

(8) make specific recommendations to the Attorney General, as necessary, to enhance the protections described in paragraph (7) to ensure—

(A) the appropriate use and dissemination of DNA information;

(B) the accuracy, security, and confidentiality of DNA information;

(C) the timely removal and destruction of obsolete, expunged, or inaccurate DNA information; and

(D) that any other necessary measures are taken to protect privacy; and

(9) provide a forum for the exchange and dissemination of ideas and information in furtherance of the objectives described in paragraphs (1) through (8).

(c) PERSONNEL; PROCEDURES.—The Attorney General shall—

(1) designate the Chair of the Commission from among its members;

(2) designate any necessary staff to assist in carrying out the functions of the Commission; and

(3) establish procedures and guidelines for the operations of the Commission.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 207. FBI DNA PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $42,100,000 for each of fiscal years 2005 through 2009 to carry out the DNA programs and activities described under subsection (b).

(b) PROGRAMS AND ACTIVITIES.—The Federal Bureau of Investigation may use any amounts appropriated pursuant to subsection (a) for—

(1) nuclear DNA analysis;

(2) mitochondrial DNA analysis;

(3) regional mitochondrial DNA laboratories;

(4) the Combined DNA Index System;

(5) the Federal Convicted Offender DNA Program; and

(6) DNA research and development.

SEC. 208. DNA IDENTIFICATION OF MISSING PERSONS.

(a) IN GENERAL.—The Attorney General shall make grants to promote the use of forensic DNA technology to identify missing persons and unidentified human remains.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 209. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED DISCLOSURE OR USE OF DNA INFORMATION.

Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended to read as follows:

''(c) CRIMINAL PENALTY.—A person who knowingly discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it, or obtains or uses, without authorization, such sample or result, shall be fined not more than $100,000. Each instance of disclosure, obtaining, or use shall constitute a separate offense under this subsection.''.

SEC. 210. TRIBAL COALITION GRANTS.

(a) IN GENERAL.—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

''(d) TRIBAL COALITION GRANTS.—

''(1) PURPOSE.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

''(A) increasing awareness of domestic violence and sexual assault against American Indian and Alaska Native women;

''(B) enhancing the response to violence against American Indian and Alaska Native women at the tribal, Federal, and State levels; and

''(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to American Indian women victimized by domestic and sexual violence.

''(2) GRANTS TO TRIBAL COALITIONS.—The Attorney General shall award grants under paragraph (1) to—

''(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against American Indian and Alaska Native women; and

''(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against American Indian and Alaska Native women.

''(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).''.

(b) TECHNICAL AMENDMENT.—Effective as of November 2, 2002, and as if included therein as enacted, Public Law 107–273 (116 Stat. 1789) is amended in section 402(2) by striking ''sections 2006 through 2011'' and inserting ''sections 2007 through 2011''.

(c) AMOUNTS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (as redesignated by section 402(2) of Public Law 107–273, as amended by subsection (b)) is amended by amending subsection (b)(4) (42 U.S.C. 3796gg–1(b)(4)) to read as follows:

''(4) 1/54 shall be available for grants under section 2001(d);''.

SEC. 211. EXPANSION OF PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANT PROGRAM.

(a) FORENSIC BACKLOG ELIMINATION GRANTS.—Section 2804 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797m) is amended—

(1) in subsection (a)—

(A) by striking ''shall use the grant to carry out'' and inserting ''shall use the grant to do any one or more of the following:

''(1) To carry out''; and

(B) by adding at the end the following:

''(2) To eliminate a backlog in the analysis of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence.

''(3) To train, assist, and employ forensic laboratory personnel, as needed, to eliminate such a backlog.'';

(2) in subsection (b), by striking ''under this part'' and inserting ''for the purpose set forth in subsection (a)(1)''; and

(3) by adding at the end the following:

''(e) BACKLOG DEFINED.—For purposes of this section, a backlog in the analysis of forensic science evidence exists if such evidence—

''(1) has been stored in a laboratory, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility; and

''(2) has not been subjected to all appropriate forensic testing because of a lack of resources or personnel.''.

(b) EXTERNAL AUDITS.—Section 2802 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797k) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(4) a certification that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees or contractors of any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the State that will receive a portion of the grant amount.''.

(c) THREE-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(24) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(24)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(G) $20,000,000 for fiscal year 2007;

''(H) $20,000,000 for fiscal year 2008; and

''(I) $20,000,000 for fiscal year 2009.''.

(d) TECHNICAL AMENDMENT.—Section 1001(a) of such Act, as amended by subsection (c), is further amended by realigning paragraphs (24) and (25) so as to be flush with the left margin.

SEC. 212. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of this Division and the amendments made by this Division.

(b) CONTENTS.—The report submitted under subsection (a) shall include a description of—

(1) the progress made by Federal, State, and local entities in—

(A) collecting and entering DNA samples from offenders convicted of qualifying offenses for inclusion in the Combined DNA Index System (referred to in this subsection as ''CODIS'');

(B) analyzing samples from crime scenes, including evidence collected from sexual assaults and other serious violent crimes, and entering such DNA analyses in CODIS; and

(C) increasing the capacity of forensic laboratories to conduct DNA analyses;

(2) the priorities and plan for awarding grants among eligible States and units of local government to ensure that the purposes of this Division are carried out;

(3) the distribution of grant amounts under this Division among eligible States and local governments, and whether the distribution of such funds has served the purposes of the Debbie Smith DNA Backlog Grant Program;

(4) grants awarded and the use of such grants by eligible entities for DNA training and education programs for law enforcement, correctional personnel, court officers, medical personnel, victim service providers, and other personnel authorized under sections 203 and 204;

(5) grants awarded and the use of such grants by eligible entities to conduct DNA

research and development programs to improve forensic DNA technology, and implement demonstration projects under section 205;

(6) the steps taken to establish the National Forensic Science Commission, and the activities of the Commission under section 206;

(7) the use of funds by the Federal Bureau of Investigation under section 207;

(8) grants awarded and the use of such grants by eligible entities to promote the use of forensic DNA technology to identify missing persons and unidentified human remains under section 208;

(9) grants awarded and the use of such grants by eligible entities to eliminate forensic science backlogs under the amendments made by section 211;

(10) State compliance with the requirements set forth in section 313; and

(11) any other matters considered relevant by the Attorney General.

TITLE III—INNOCENCE PROTECTION ACT OF 2004

SEC. 301. SHORT TITLE.

This title may be cited as the ''Innocence Protection Act of 2004''.

Subtitle A—Exonerating the Innocent Through DNA Testing

SEC. 311. FEDERAL POST-CONVICTION DNA TESTING.

(a) FEDERAL CRIMINAL PROCEDURE.—

(1) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 228 the following:

''CHAPTER 228A—POST-CONVICTION DNA TESTING

''§ 3600. DNA testing

''(a) IN GENERAL.—Upon a written motion by an individual under a sentence of imprisonment or death pursuant to a conviction for a Federal offense (referred to in this section as the 'applicant'), the court that entered the judgment of conviction shall order DNA testing of specific evidence if—

''(1) the applicant asserts, under penalty of perjury, that the applicant is actually innocent of—

''(A) the Federal offense for which the applicant is under a sentence of imprisonment or death; or

''(B) another Federal or State offense, if—

''(i)(I) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(c) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

''(II) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or new sentencing hearing; and

''(ii) in the case of a State offense—

''(I) the applicant demonstrates that there is no adequate remedy under State law to permit DNA testing of the specified evidence relating to the State offense; and

''(II) to the extent available, the applicant has exhausted all remedies available under State law for requesting DNA testing of specified evidence relating to the State offense;

''(2) the specific evidence to be tested was secured in relation to the investigation or prosecution of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

''(3) the specific evidence to be tested—

''(A) was not previously subjected to DNA testing and the applicant did not—

''(i) knowingly and voluntarily waive the right to request DNA testing of that evidence in a court proceeding after the date of enactment of the Innocence Protection Act of 2004; or

''(ii) knowingly fail to request DNA testing of that evidence in a prior motion filed under this section; or

''(B) was previously subjected to DNA testing and the applicant is requesting DNA testing using a new method or technology that is substantially more probative than the prior DNA testing;

''(4) the specific evidence to be tested is in the possession of the Government and has been subject to a chain of custody and retained under conditions sufficient to ensure that such evidence has not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed DNA testing;

''(5) the proposed DNA testing is reasonable in scope, uses scientifically sound methods, and is consistent with accepted forensic practices;

''(6) the applicant identifies a theory of defense that—

''(A) is not inconsistent with an affirmative defense presented at trial; and

''(B) would establish the actual innocence of the applicant of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

''(7) if the applicant was convicted following a trial, the identity of the perpetrator was at issue in the trial;

''(8) the proposed DNA testing of the specific evidence—

''(A) would produce new material evidence to support the theory of defense referenced in paragraph (6); and

''(B) assuming the DNA test result excludes the applicant, would raise a reasonable probability that the applicant did not commit the offense;

''(9) the applicant certifies that the applicant will provide a DNA sample for purposes of comparison; and

''(10) the applicant's motion is filed for the purpose of demonstrating the applicant's actual innocence of the Federal or State offense, and not to delay the execution of the sentence or the administration of justice.

''(b) NOTICE TO THE GOVERNMENT; PRESERVATION ORDER; APPOINTMENT OF COUNSEL.—

''(1) NOTICE.—Upon the receipt of a motion filed under subsection (a), the court shall—

''(A) notify the Government; and

''(B) allow the Government a reasonable time period to respond to the motion.

''(2) PRESERVATION ORDER.—To the extent necessary to carry out proceedings under this section, the court shall direct the Government to preserve the specific evidence relating to a motion under subsection (a).

''(3) APPOINTMENT OF COUNSEL.—The court may appoint counsel for an indigent applicant under this section in the same manner as in a proceeding under section 3006A(a)(2)(B).

''(c) TESTING PROCEDURES.—

''(1) IN GENERAL.—The court shall direct that any DNA testing ordered under this section be carried out by the Federal Bureau of Investigation.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the court may order DNA testing by another qualified laboratory if the court makes all necessary orders to ensure the integrity of the specific evidence and the reliability of the testing process and test results.

''(3) COSTS.—The costs of any DNA testing ordered under this section shall be paid—

''(A) by the applicant; or

''(B) in the case of an applicant who is indigent, by the Government.

''(d) TIME LIMITATION IN CAPITAL CASES.—In any case in which the applicant is sentenced to death—

''(1) any DNA testing ordered under this section shall be completed not later than 60 days after the date on which the Government responds to the motion filed under subsection (a); and

''(2) not later than 120 days after the date on which the DNA testing ordered under this section is completed, the court shall order any post-testing procedures under subsection (f) or (g), as appropriate.

''(e) REPORTING OF TEST RESULTS.—

''(1) IN GENERAL.—The results of any DNA testing ordered under this section shall be simultaneously disclosed to the court, the applicant, and the Government.

''(2) NDIS.—The Government shall submit any test results relating to the DNA of the applicant to the National DNA Index System (referred to in this subsection as 'NDIS').

''(3) RETENTION OF DNA SAMPLE.—

''(A) ENTRY INTO NDIS.—If the DNA test results obtained under this section are inconclusive or show that the applicant was the source of the DNA evidence, the DNA sample of the applicant may be retained in NDIS.

''(B) MATCH WITH OTHER OFFENSE.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant results in a match between the DNA sample of the applicant and another offense, the Attorney General shall notify the appropriate agency and preserve the DNA sample of the applicant.

''(C) NO MATCH.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant does not result in a match between the DNA sample of the applicant and another offense, the Attorney General shall destroy the DNA sample of the applicant and ensure that such information is not retained in NDIS if there is no other legal authority to retain the DNA sample of the applicant in NDIS.

''(f) POST-TESTING PROCEDURES; INCONCLUSIVE AND INCULPATORY RESULTS.—

''(1) INCONCLUSIVE RESULTS.—If DNA test results obtained under this section are inconclusive, the court may order further testing, if appropriate, or may deny the applicant relief.

''(2) INCULPATORY RESULTS.—If DNA test results obtained under this section show that the applicant was the source of the DNA evidence, the court shall—

''(A) deny the applicant relief; and

''(B) on motion of the Government—

''(i) make a determination whether the applicant's assertion of actual innocence was false, and, if the court makes such a finding, the court may hold the applicant in contempt;

''(ii) assess against the applicant the cost of any DNA testing carried out under this section;

''(iii) forward the finding to the Director of the Bureau of Prisons, who, upon receipt of such a finding, may deny, wholly or in part, the good conduct credit authorized under section 3632 on the basis of that finding;

''(iv) if the applicant is subject to the jurisdiction of the United States Parole Commission, forward the finding to the Commission so that the Commission may deny parole on the basis of that finding; and

''(v) if the DNA test results relate to a State offense, forward the finding to any appropriate State official.

''(3) SENTENCE.—In any prosecution of an applicant under chapter 79 for false assertions or other conduct in proceedings under this section, the court, upon conviction of the applicant, shall sentence the applicant to a term of imprisonment of not less than 3 years, which shall run consecutively to any

other term of imprisonment the applicant is serving.

''(g) POST-TESTING PROCEDURES; MOTION FOR NEW TRIAL OR RESENTENCING.—

''(1) IN GENERAL.—Notwithstanding any law that would bar a motion under this paragraph as untimely, if DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, the applicant may file a motion for a new trial or resentencing, as appropriate. The court shall establish a reasonable schedule for the applicant to file such a motion and for the Government to respond to the motion.

''(2) STANDARD FOR GRANTING MOTION FOR NEW TRIAL OR RESENTENCING.—The court shall grant the motion of the applicant for a new trial or resentencing, as appropriate, if the DNA test results, when considered with all other evidence in the case (regardless of whether such evidence was introduced at trial), establish by a preponderance of the evidence that a new trial would result in an acquittal of—

''(A) in the case of a motion for a new trial, the Federal offense for which the applicant is under a sentence of imprisonment or death; and

''(B) in the case of a motion for resentencing, another Federal or State offense, if—

''(i) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(c) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

''(ii) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or a new sentencing proceeding.

''(h) OTHER LAWS UNAFFECTED.—

''(1) POST-CONVICTION RELIEF.—Nothing in this section shall affect the circumstances under which a person may obtain DNA testing or post-conviction relief under any other law.

''(2) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.

''(3) NOT A MOTION UNDER SECTION 2255.—A motion under this section shall not be considered to be a motion under section 2255 for purposes of determining whether the motion or any other motion is a second or successive motion under section 2255.

''§ 3600A. Preservation of biological evidence

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Government shall preserve biological evidence that was secured in the investigation or prosecution of a Federal offense, if a defendant is under a sentence of imprisonment for such offense.

''(b) DEFINED TERM.—For purposes of this section, the term 'biological evidence' means—

''(1) a sexual assault forensic examination kit; or

''(2) semen, blood, saliva, hair, skin tissue, or other identified biological material.

''(c) APPLICABILITY.—Subsection (a) shall not apply if—

''(1) a court has denied a request or motion for DNA testing of the biological evidence by the defendant under section 3600, and no appeal is pending;

''(2) the defendant knowingly and voluntarily waived the right to request DNA testing of the biological evidence in a court proceeding conducted after the date of enactment of the Innocence Protection Act of 2004;

''(3) the defendant is notified after conviction that the biological evidence may be destroyed and the defendant does not file a motion under section 3600 within 180 days of receipt of the notice;

''(4)(A) the evidence must be returned to its rightful owner, or is of such a size, bulk, or physical character as to render retention impracticable; and

''(B) the Government takes reasonable measures to remove and preserve portions of the material evidence sufficient to permit future DNA testing; or

''(5) the biological evidence has already been subjected to DNA testing under section 3600 and the results included the defendant as the source of such evidence.

''(d) OTHER PRESERVATION REQUIREMENT.—Nothing in this section shall preempt or supersede any statute, regulation, court order, or other provision of law that may require evidence, including biological evidence, to be preserved.

''(e) REGULATIONS.—Not later than 180 days after the date of enactment of the Innocence Protection Act of 2004, the Attorney General shall promulgate regulations to implement and enforce this section, including appropriate disciplinary sanctions to ensure that employees comply with such regulations.

''(f) CRIMINAL PENALTY.—Whoever knowingly and intentionally destroys, alters, or tampers with biological evidence that is required to be preserved under this section with the intent to prevent that evidence from being subjected to DNA testing or prevent the production or use of that evidence in an official proceeding, shall be fined under this title, imprisoned for not more than 5 years, or both.

''(g) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 228 the following:

''228A. Post-conviction DNA testing ... 3600''.

(b) SYSTEM FOR REPORTING MOTIONS.—

(1) ESTABLISHMENT.—The Attorney General shall establish a system for reporting and tracking motions filed in accordance with section 3600 of title 18, United States Code.

(2) OPERATION.—In operating the system established under paragraph (1), the Federal courts shall provide to the Attorney General any requested assistance in operating such a system and in ensuring the accuracy and completeness of information included in that system.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that contains—

(A) a list of motions filed under section 3600 of title 18, United States Code, as added by this Division;

(B) whether DNA testing was ordered pursuant to such a motion;

(C) whether the applicant obtained relief on the basis of DNA test results; and

(D) whether further proceedings occurred following a granting of relief and the outcome of such proceedings.

(4) ADDITIONAL INFORMATION.—The report required to be submitted under paragraph (3) may include any other information the Attorney General determines to be relevant in assessing the operation, utility, or costs of section 3600 of title 18, United States Code, as added by this Division, and any recommendations the Attorney General may have relating to future legislative action concerning that section.

(c) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section shall take effect on the date of enactment of this Act and shall apply with respect to any offense committed, and to any judgment of conviction entered, before, on, or after that date of enactment.

SEC. 312. KIRK BLOODSWORTH POST-CONVICTION DNA TESTING GRANT PROGRAM.

(a) IN GENERAL.—The Attorney General shall establish the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program to award grants to States to help defray the costs of post-conviction DNA testing.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

(c) STATE DEFINED.—For purposes of this section, the term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 313. INCENTIVE GRANTS TO STATES TO ENSURE CONSIDERATION OF CLAIMS OF ACTUAL INNOCENCE.

For each of fiscal years 2005 through 2009, all funds appropriated to carry out sections 203, 205, 208, and 312 shall be reserved for grants to eligible entities that—

(1) meet the requirements under section 203, 205, 208, or 312, as appropriate; and

(2) demonstrate that the State in which the eligible entity operates—

(A) provides post-conviction DNA testing of specified evidence—

(i) under a State statute enacted before the date of enactment of this Act (or extended or renewed after such date), to persons convicted after trial and under a sentence of imprisonment or death for a State felony offense, in a manner that ensures a reasonable process for resolving claims of actual innocence; or

(ii) under a State statute enacted after the date of enactment of this Act, or under a State rule, regulation, or practice, to persons under a sentence of imprisonment or death for a State felony offense, in a manner comparable to section 3600(a) of title 18, United States Code (provided that the State statute, rule, regulation, or practice may make post-conviction DNA testing available in cases in which such testing is not required by such section), and if the results of such testing exclude the applicant, permits the applicant to apply for post-conviction relief, notwithstanding any provision of law that would otherwise bar such application as untimely; and

(B) preserves biological evidence secured in relation to the investigation or prosecution of a State offense—

(i) under a State statute or a State or local rule, regulation, or practice, enacted or adopted before the date of enactment of this Act (or extended or renewed after such date), in a manner that ensures that reasonable measures are taken by all jurisdictions within the State to preserve such evidence; or

(ii) under a State statute or a State or local rule, regulation, or practice, enacted or adopted after the date of enactment of this Act, in a manner comparable to section 3600A of title 18, United States Code, if—

(I) all jurisdictions within the State comply with this requirement; and

(II) such jurisdictions may preserve such evidence for longer than the period of time that such evidence would be required to be preserved under such section 3600A.

Subtitle B—Improving the Quality of Representation in State Capital Cases

SEC. 321. CAPITAL REPRESENTATION IMPROVEMENT GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.

(b) DEFINED TERM.—In this section, the term ''legal representation'' means legal

counsel and investigative, expert, and other services necessary for competent representation.

(c) USE OF FUNDS.—Grants awarded under subsection (a)—

(1) shall be used to establish, implement, or improve an effective system for providing competent legal representation to—

(A) indigents charged with an offense subject to capital punishment;

(B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and

(C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States; and

(2) shall not be used to fund, directly or indirectly, representation in specific capital cases.

(d) EFFECTIVE SYSTEM.—As used in subsection (c)(1), an effective system for providing competent legal representation is a system that—

(1) invests the responsibility for appointing qualified attorneys to represent indigents in capital cases—

(A) in a public defender program that relies on staff attorneys, members of the private bar, or both, to provide representation in capital cases;

(B) in an entity established by statute or by the highest State court with jurisdiction in criminal cases, which is composed of individuals with demonstrated knowledge and expertise in capital representation; or

(C) pursuant to a statutory procedure enacted before the date of the enactment of this Act under which the trial judge is required to appoint qualified attorneys from a roster maintained by a State or regional selection committee or similar entity; and

(2) requires the program described in paragraph (1)(A), the entity described in paragraph (1)(B), or an appropriate entity designated pursuant to the statutory procedure described in paragraph (1)(C), as applicable, to—

(A) establish qualifications for attorneys who may be appointed to represent indigents in capital cases;

(B) establish and maintain a roster of qualified attorneys;

(C) except in the case of a selection committee or similar entity described in paragraph (1)(C), assign 2 attorneys from the roster to represent an indigent in a capital case, or provide the trial judge a list of not more than 2 pairs of attorneys from the roster, from which 1 pair shall be assigned, provided that, in any case in which the State elects not to seek the death penalty, a court may find, subject to any requirement of State law, that a second attorney need not remain assigned to represent the indigent to ensure competent representation;

(D) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases;

(E) monitor the performance of attorneys who are appointed and their attendance at training programs, and remove from the roster attorneys who fail to deliver effective representation or who fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs; and

(F) ensure funding for the cost of competent legal representation by the defense team and outside experts selected by counsel, who shall be compensated—

(i) in the case of a State that employs a statutory procedure described in paragraph (1)(C), in accordance with the requirements of that statutory procedure; and

(ii) in all other cases, as follows:

(I) Attorneys employed by a public defender program shall be compensated according to a salary scale that is commensurate with the salary scale of the prosecutor's office in the jurisdiction.

(II) Appointed attorneys shall be compensated for actual time and service, computed on an hourly basis and at a reasonable hourly rate in light of the qualifications and experience of the attorney and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases.

(III) Non-attorney members of the defense team, including investigators, mitigation specialists, and experts, shall be compensated at a rate that reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases.

(IV) Attorney and non-attorney members of the defense team shall be reimbursed for reasonable incidental expenses.

SEC. 322. CAPITAL PROSECUTION IMPROVEMENT GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to States for the purpose of enhancing the ability of prosecutors to effectively represent the public in State capital cases.

(b) USE OF FUNDS.—

(1) PERMITTED USES.—Grants awarded under subsection (a) shall be used for one or more of the following:

(A) To design and implement training programs for State and local prosecutors to ensure effective representation in State capital cases.

(B) To develop and implement appropriate standards and qualifications for State and local prosecutors who litigate State capital cases.

(C) To assess the performance of State and local prosecutors who litigate State capital cases, provided that such assessment shall not include participation by the assessor in the trial of any specific capital case.

(D) To identify and implement any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases.

(E) To establish a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate.

(F) To provide support and assistance to the families of murder victims.

(2) PROHIBITED USE.—Grants awarded under subsection (a) shall not be used to fund, directly or indirectly, the prosecution of specific capital cases.

SEC. 323. APPLICATIONS.

(a) IN GENERAL.—The Attorney General shall establish a process through which a State may apply for a grant under this subtitle.

(b) APPLICATION.—

(1) IN GENERAL.—A State desiring a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall contain—

(A) a certification by an appropriate officer of the State that the State authorizes capital punishment under its laws and conducts, or will conduct, prosecutions in which capital punishment is sought;

(B) a description of the communities to be served by the grant, including the nature of existing capital defender services and capital prosecution programs within such communities;

(C) a long-term statewide strategy and detailed implementation plan that—

(i) reflects consultation with the judiciary, the organized bar, and State and local prosecutor and defender organizations; and

(ii) establishes as a priority improvement in the quality of trial-level representation of indigents charged with capital crimes and trial-level prosecution of capital crimes;

(D) in the case of a State that employs a statutory procedure described in section 321(d)(1)(C), a certification by an appropriate officer of the State that the State is in substantial compliance with the requirements of the applicable State statute; and

(E) assurances that Federal funds received under this subtitle shall be—

(i) used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under this subtitle; and

(ii) allocated in accordance with section 326(b).

SEC. 324. STATE REPORTS.

(a) IN GENERAL.—Each State receiving funds under this subtitle shall submit an annual report to the Attorney General that—

(1) identifies the activities carried out with such funds; and

(2) explains how each activity complies with the terms and conditions of the grant.

(b) CAPITAL REPRESENTATION IMPROVEMENT GRANTS.—With respect to the funds provided under section 321, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) an explanation of the means by which the State—

(A) invests the responsibility for identifying and appointing qualified attorneys to represent indigents in capital cases in a program described in section 321(d)(1)(A), an entity described in section 321(d)(1)(B), or a selection committee or similar entity described in section 321(d)(1)(C); and

(B) requires such program, entity, or selection committee or similar entity, or other appropriate entity designated pursuant to the statutory procedure described in section 321(d)(1)(C), to—

(i) establish qualifications for attorneys who may be appointed to represent indigents in capital cases in accordance with section 321(d)(2)(A);

(ii) establish and maintain a roster of qualified attorneys in accordance with section 321(d)(2)(B);

(iii) assign attorneys from the roster in accordance with section 321(d)(2)(C);

(iv) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases in accordance with section 321(d)(2)(D);

(v) monitor the performance and training program attendance of appointed attorneys, and remove from the roster attorneys who fail to deliver effective representation or fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs, in accordance with section 321(d)(2)(E); and

(vi) ensure funding for the cost of competent legal representation by the defense team and outside experts selected by counsel, in accordance with section 321(d)(2)(F), including a statement setting forth—

(I) if the State employs a public defender program under section 321(d)(1)(A), the salaries received by the attorneys employed by such program and the salaries received by attorneys in the prosecutor's office in the jurisdiction;

(II) if the State employs appointed attorneys under section 321(d)(1)(B), the hourly fees received by such attorneys for actual time and service and the basis on which the hourly rate was calculated;

(III) the amounts paid to non-attorney members of the defense team, and the basis

on which such amounts were determined; and

(IV) the amounts for which attorney and non-attorney members of the defense team were reimbursed for reasonable incidental expenses;

(3) in the case of a State that employs a statutory procedure described in section 321(d)(1)(C), an assessment of the extent to which the State is in compliance with the requirements of the applicable State statute; and

(4) a statement confirming that the funds have not been used to fund representation in specific capital cases or to supplant non-Federal funds.

(c) CAPITAL PROSECUTION IMPROVEMENT GRANTS.—With respect to the funds provided under section 322, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) a description of the means by which the State has—

(A) designed and established training programs for State and local prosecutors to ensure effective representation in State capital cases in accordance with section 322(b)(1)(A);

(B) developed and implemented appropriate standards and qualifications for State and local prosecutors who litigate State capital cases in accordance with section 322(b)(1)(B);

(C) assessed the performance of State and local prosecutors who litigate State capital cases in accordance with section 322(b)(1)(C);

(D) identified and implemented any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases in accordance with section 322(b)(1)(D);

(E) established a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate in accordance with section 322(b)(1)(E); and

(F) provided support and assistance to the families of murder victims; and

(3) a statement confirming that the funds have not been used to fund the prosecution of specific capital cases or to supplant non-Federal funds.

(d) PUBLIC DISCLOSURE OF ANNUAL STATE REPORTS.—The annual reports to the Attorney General submitted by any State under this section shall be made available to the public.

SEC. 325. EVALUATIONS BY INSPECTOR GENERAL AND ADMINISTRATIVE REMEDIES.

(a) EVALUATION BY INSPECTOR GENERAL.—

(1) IN GENERAL.—As soon as practicable after the end of the first fiscal year for which a State receives funds under a grant made under this title, the Inspector General of the Department of Justice (in this section referred to as the ''Inspector General'') shall—

(A) after affording an opportunity for any person to provide comments on a report submitted under section 324, submit to Congress a report evaluating the compliance by the State with the terms and conditions of the grant; and

(B) if the Inspector General concludes that the State is not in compliance with the terms and conditions of the grant, specify any deficiencies and make recommendations for corrective action.

(2) PRIORITY.—In conducting evaluations under this subsection, the Inspector General shall give priority to States that the Inspector General determines, based on information submitted by the State and other comments provided by any other person, to be at the highest risk of noncompliance.

(3) DETERMINATION FOR STATUTORY PROCEDURE STATES.—For each State that employs a statutory procedure described in section 321(d)(1)(C), the Inspector General shall submit to Congress, not later than the end of the first fiscal year for which such State receives funds, after affording an opportunity for any person to provide comments on a certification submitted under section 323(b)(2)(D), a determination as to whether the State is in substantial compliance with the requirements of the applicable State statute.

(b) ADMINISTRATIVE REVIEW.—

(1) COMMENT.—Upon the submission of a report under subsection (a)(1) or a determination under subsection (a)(3), the Attorney General shall provide the State with an opportunity to comment regarding the findings and conclusions of the report or the determination.

(2) CORRECTIVE ACTION PLAN.—If the Attorney General, after reviewing a report under subsection (a)(1) or a determination under subsection (a)(3), determines that a State is not in compliance with the terms and conditions of the grant, the Attorney General shall consult with the appropriate State authorities to enter into a plan for corrective action. If the State does not agree to a plan for corrective action that has been approved by the Attorney General within 90 days after the submission of the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall, within 30 days, direct the State to take corrective action to bring the State into compliance.

(3) REPORT TO CONGRESS.—Not later than 90 days after the earlier of the implementation of a corrective action plan or a directive to implement such a plan under paragraph (2), the Attorney General shall submit a report to Congress as to whether the State has taken corrective action and is in compliance with the terms and conditions of the grant.

(c) PENALTIES FOR NONCOMPLIANCE.—If the State fails to take the prescribed corrective action under subsection (b) and is not in compliance with the terms and conditions of the grant, the Attorney General shall discontinue all further funding under sections 321 and 322 and require the State to return the funds granted under such sections for that fiscal year. Nothing in this paragraph shall prevent a State which has been subject to penalties for noncompliance from reapplying for a grant under this subtitle in another fiscal year.

(d) PERIODIC REPORTS.—During the grant period, the Inspector General shall periodically review the compliance of each State with the terms and conditions of the grant.

(e) ADMINISTRATIVE COSTS.—Not less than 2.5 percent of the funds appropriated to carry out this subtitle for each of fiscal years 2005 through 2009 shall be made available to the Inspector General for purposes of carrying out this section. Such sums shall remain available until expended.

(f) SPECIAL RULE FOR ''STATUTORY PROCEDURE'' STATES NOT IN SUBSTANTIAL COMPLIANCE WITH STATUTORY PROCEDURES.—

(1) IN GENERAL.—In the case of a State that employs a statutory procedure described in section 321(d)(1)(C), if the Inspector General submits a determination under subsection (a)(3) that the State is not in substantial compliance with the requirements of the applicable State statute, then for the period beginning with the date on which that determination was submitted and ending on the date on which the Inspector General determines that the State is in substantial compliance with the requirements of that statute, the funds awarded under this subtitle shall be allocated solely for the uses described in section 321.

(2) RULE OF CONSTRUCTION.—The requirements of this subsection apply in addition to, and not instead of, the other requirements of this section.

SEC. 326. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR GRANTS.—There are authorized to be appropriated $100,000,000 for each of fiscal years 2005 through 2009 to carry out this subtitle.

(b) RESTRICTION ON USE OF FUNDS TO ENSURE EQUAL ALLOCATION.—Each State receiving a grant under this subtitle shall allocate the funds equally between the uses described in section 321 and the uses described in section 322, except as provided in section 325(f).

Subtitle C—Compensation for the Wrongfully Convicted

SEC. 331. INCREASED COMPENSATION IN FEDERAL CASES FOR THE WRONGFULLY CONVICTED.

Section 2513(e) of title 28, United States Code, is amended by striking ''exceed the sum of $5,000'' and inserting ''exceed $100,000 for each 12-month period of incarceration for any plaintiff who was unjustly sentenced to death and $50,000 for each 12-month period of incarceration for any other plaintiff''.

SEC. 332. SENSE OF CONGRESS REGARDING COMPENSATION IN STATE DEATH PENALTY CASES.

It is the sense of Congress that States should provide reasonable compensation to any person found to have been unjustly convicted of an offense against the State and sentenced to death.

SA 3952. Mr. LIEBERMAN (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. LIEBERMAN to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 170, between lines 8 and 9, insert the following:

(i) PROTECTIONS FOR HUMAN RESEARCH SUBJECTS.—The Secretary of Homeland Security shall ensure that the Department of Homeland Security complies with the protections for human research subjects, as described in part 46 of title 45, Code of Federal Regulations, or in equivalent regulations as promulgated by such Secretary, with respect to research that is conducted or supported by such Department.

SA 3953. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 3941 submitted by Mr. GRAHAM of Florida and intended to be proposed to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. TREATMENT OF FOREIGN STATES.

(a) IMMUNITY OF A FOREIGN STATE.—Section 1605(a) of title 28, United States Code, is amended by striking paragraph (7) not including subparagraph (B) and inserting the following:

''(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of

his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

''(A) if the foreign state was not designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later so designated as a result of such act or the act is related to the September 11, 2001, terrorist attacks against the World Trade Center, the Pentagon, and other targets in the United States; and''.

(b) DEFINITION OF NATIONAL OF THE UNITED STATES.—Section 2332f(e) of title 18, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) national of the United States means—

''(A) a person described in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); or

''(B) an organization which is incorporated or chartered or has its principal place of business in the United States;''.

SA 3954. Ms. COLLINS (for Mr. LOTT) submitted an amendment intended to be proposed by Ms. COLLINS to the bill H.R. 5122, to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms; as follows:

On page 2, line 11, strike ''the date of the enactment of this Act'' and insert ''September 30, 2004''.

SA 3955. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. RESTRICTION ON ISSUANCE OF MULTIPLE REPLACEMENT SOCIAL SECURITY CARDS.

(a) IN GENERAL.—The Commissioner of Social Security shall issue regulations to restrict the issuance of multiple replacement social security cards to any individual to not more than 3 per year and not more than 10 for the life of the individual, except in any case in which the Commissioner determines there is minimal opportunity for fraud.

(b) RULEMAKING.—The Commissioner of Social Security shall issue regulations to carry out the amendment made by subsection (a) not later than 180 days after the date of enactment of this Act.

SA 3956. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

SEC. ___. RESTRICTION ON ISSUANCE OF MULTIPLE REPLACEMENT SOCIAL SECURITY CARDS.

(a) IN GENERAL.—The Commissioner of Social Security shall issue regulations to restrict the issuance of multiple replacement social security cards to any individual to not more than 3 per year and not more than 10 for the life of the individual, except in any case in which the Commissioner determines there is minimal opportunity for fraud.

(b) RULEMAKING.—The Commissioner of Social Security shall issue regulations to carry out the amendment made by subsection (a) not later than 180 days after the date of enactment of this Act.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., Tuesday, Oct. 5, 2004, to conduct a special meeting of the Committee to consider a resolution related to recommendations of the National Commission on Terrorist Attacks Upon the United States.

For further information concerning this meeting, please contact Susan Wells at 202–224–6352.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, October 6, 2004, at 10:00 a.m. in Room 485 of the Hart Senate Office Building to conduct a business meeting on pending Committee matters.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to continue its markup of Thursday, September 30, 2004 on Monday, October 4, 2004 immediately following the stacked roll call votes which are scheduled to begin at 4:15 p.m. in S–219, The Capitol.

I. Nominations: Claude A. Allen to be U.S. Circuit Judge for the Fourth Circuit; Susan B. Neilson to be United States Circuit Judge for the Sixth Circuit; Christopher Boyko to be United States District Judge for the Northern District of Ohio; Beryl Alaine Howell to be a Member of the United States Sentencing Commission.

II. Legislation: S. 2396—Federal Courts Improvement Act of 2004; Hatch, Leahy, Chambliss, Durbin, Schumer; S. 2204—A bill to provide criminal penalties for false information and hoaxes relating to Terrorism Act of 2004; Hatch, Schumer, Cornyn, Feinstein, DeWine; S. 1860—A bill to reauthorize the Office of National Drug Control Policy Act of 2003; Hatch, Biden, Grassley; S. 2560—A bill to amend chapter 5 of title 17, United States Code, relating to inducement of copyright infringement, and for other purposes Act of 2004; Hatch, Leahy, Graham; S.J. Res. 23—A joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated Act of 2003; Cornyn, Chambliss; S. 2737—A bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names Act of 2004; Domenici, Graham, Sessions; S. 1784—A bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine Act of 2003; Feinstein, Grassley, Kohl, Biden, Kyl, Schumer; S. 2863—A bill to reauthorize the Department of Justice Act of 2004; Hatch, Leahy, DeWine, Schumer; H.R. 2391—To amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises Act of 2003; Smith—TX; S. 2760—A bill to limit and expedite Federal collateral review of convictions for killing a public safety officer Act of 2004; Kyl, Hatch, Craig, Cornyn, Sessions, Chambliss; S. 1297—A bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance to the Flag Act of 2003; Hatch, Talent, Kyl; S. 2089—A bill to allow aliens who are eligible for diversity visas to be eligible beyond the fiscal year in which they applied Act of 2004; Chambliss, Kennedy, Miller; S. 2302—A bill to improve access to physicians in medically underserved areas Act of 2004; Conrad, Feingold, Kennedy, Schumer, DeWine, Kohl; S. 989—A bill to provide death and disability benefits for aerial firefighters who work on a contract basis for a public agency and suffer death or disability in the line of duty, and for other purposes Act of 2003; Enzi, Reid; S. 1728—Terrorism Victim Compensation Equity Act of 2003; Specter, Leahy, Schumer; S. 1740—Anthrax Victims Fund Fairness Act of 2003; Leahy, Feingold; S. 549—A bill to amend the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107–42) to provide compensation for victims killed in the bombing of the World Trade Center in 1993, and for other purposes Act of 2003; Schumer; S. 115—Private Bill; A bill for the relief of Richi James Lesley Act of 2004; Cochran; S. 2331—A bill for the relief of Fereshteh Sani Act of 2004; Allen; S. 1042—Private Bill; A bill for the relief of Tchisou Tho Act of 2003; Coleman; S. 2314—A bill for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan Act of 2004; Durbin; S. 353—Private Bill; A bill for the relief of Denes and Gyorgyi Fulop Act of 2003; Feinstein; H.R. 867—Private Bill; For the relief of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan Act of 2003; Holt—NJ; S. 2012—Private Bill; A bill for the relief of Luay Lufti Hadad Act of 2004; Levin.

PRIVILEGE OF THE FLOOR

Mr. TALENT. I ask unanimous consent that a fellow from my office, Lore Aguyo, be allowed floor privileges for the remainder of the bill.

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

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader and Democratic Leader of the Senate and the Speaker of the House of Representatives and Minority Leader of the House of Representatives, pursuant to Public Law 108–199, Section 104(c)(1), announces the joint appointment of the following individual to serve as Chairman of the Commission on the Abraham Lincoln Study Abroad Fellowship Program: Peter McPherson.

AMENDING THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5122 which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislation clerk read as follows:

A bill (H.R. 5122) to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for two terms.

There being no objection, the Senate proceeded to consider the bill.

Ms. COLLINS. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD.

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

The amendment (No. 3954) was agreed to, as follows:

On page 2, line 11, strike ''the date of the enactment of this Act'' and insert ''September 30, 2004''.

The bill (H.R. 5122), as amended, was passed.

HONORING FORMER PRESIDENT JAMES EARL (JIMMY) CARTER ON THE OCCASION OF HIS 80TH BIRTHDAY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 446, submitted earlier today by Senator REID of Nevada.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 446) honoring former President James Earl (Jimmy) Carter on the occasion of his 80th birthday.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I rise today to recognize President Jimmy Carter on the occasion of his 80th birthday.

The people of Nevada elected me to the U.S. House in 1982, so I arrived in Congress after President Carter had already left the White House. I did not have a chance to work with him.

But I have had, and I continue to have the pleasure of observing his great leadership on many important projects and issues.

What I admire most about President Carter is that he has never forgotten where he came from. Jimmy Carter was brought up on his family's peanut farm outside the small town of Plains, GA. His family home lacked electricity and indoor plumbing.

He is a product of the American dream, ascending from the red clay fields of Georgia to the most powerful office in the world.

I have heard a story that when he told his mother he was going to run for President, she replied, ''President of what?''

After graduating as valedictorian of his high school class, a young Jimmy Carter enrolled in the U.S. Naval Academy. He graduated in 1946 in the top tenth of his class, and signed on as an officer under the tough but inspirational Captain Hyman Rickover in the Navy's first experimental nuclear submarine.

Due to his service, a submarine was named for him: The USS *Jimmy Carter*. This is one of the very few US Navy vessels to be named for a person still alive at the time of the commissioning.

President Carter's presidency was distinguished by his strong commitment to human rights in the world, and his commitment to justice and protection of the environment at home.

As the governor of Georgia, he had reorganized the State government to make it more responsive to the needs of the people. He did the same thing as president, separating the Department of Health, Education and Welfare into the Department of Education and the Department of Health and Human Services. He also recognized the importance of establishing a strong national energy policy by creating a new cabinet-level department, the United States Department of Energy.

The Carter administration's foreign policy is best remembered for the peace treaty he brokered between the states of Israel and Egypt with the Camp David Accord. The unfortunate assassination of President Sadat only underscored the deep-seated animosity in that part of the world, which made this agreement so remarkable.

He also brokered the SALT II treaty with the Soviet Union to control the proliferation of nuclear weapons. At the same time, he aggressively developed weapons systems like cruise missiles and stealth bombers, which are still a vital part of our military arsenal.

Since leaving the White House, Jimmy Carter has redefined the role of an ex-President, using his status and standing to mediate for peace and fight disease worldwide.

He has been involved in a number of public policy, human rights, and charitable causes. His work in international public policy and conflict resolution is largely through the Carter Center, which also focuses on worldwide health care and includes a campaign to eliminate guinea worm disease.

Outside of the Carter Center, President Carter conducts diplomatic missions as an elder statesman. In 2002 the Nobel committee recognized his efforts at Camp David and the accomplishments of his post-presidency by awarding him the Nobel Peace Prize.

In addition to promoting peace and human rights through the world, President Carter has been involved with the non-profit group Habitat for Humanity since 1984.

Habitat is an ecumenical Christian housing ministry dedicated to eliminating substandard housing. Habitat volunteers have built more than 100,000 houses worldwide, providing decent and affordable homes for grateful families, including some in my home State of Nevada.

Unlike some public figures who support good causes merely by lending their name, President Carter gives his sweat to Habitat for Humanity. He hammers nails and cuts boards. Each year he leads a work project, and he and his wife Rosalyn donate a week of their time to this wonderful cause.

The late educator Booker T. Washington once said, ''There are two ways of exerting one's strength: one is pushing down, the other is pulling up.''

President Carter's life has been a testament to the latter. The value of his life's work cannot be measured or quantified by the years he served as President, but by the scope of all his deeds, political as well as humanitarian.

I have visited the President at his home in Plains. I have attended his Sunday School class. I am honored to have served as his Nevada finance chairman when he ran for President. President Carter is my friend, for which I am grateful.

President Carter leads by example. Living modestly and decently, he continues to stand up for the weak, the less fortunate, and those whose Godgiven rights have been denied.

It is my honor to wish the Naval lieutenant, Nobel Prize recipient, and 39th President of our United States, James Earl Carter, a happy 80th birthday.

I have submitted a resolution to commemorate this occasion, and Congressman LEWIS has introduced the accompanying resolution in the House. I urge all of my colleagues to join me in supporting this measure.

Ms. COLLINS. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD without intervening action or debate.

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

The resolution (S. Res. 446) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follow:

S. RES. 446

Whereas Jimmy Carter was born in Plains, Georgia, on October 1, 1924;

Whereas Jimmy Carter attended Georgia Southwestern College and the Georgia Institute of Technology, and received a B.S. degree from the United States Naval Academy in 1946;

Whereas Jimmy Carter served honorably as a submariner in the United States Navy in both the Atlantic and Pacific fleets, working under Admiral Hyman Rickover in the development of the nuclear submarine program;

Whereas Jimmy Carter continued his commitment to public service, serving as Georgia State Senator and Governor of Georgia;

Whereas Jimmy Carter was elected the 39th President of the United States on November 2, 1976;

Whereas Jimmy Carter created both the Departments of Education and Energy and implemented major education policies and a comprehensive national energy program;

Whereas Jimmy Carter oversaw deregulation of the airline, energy, and banking industries;

Whereas Jimmy Carter promoted human rights as a tenet of American foreign policy and pressed nations to uphold basic human rights;

Whereas Jimmy Carter furthered diplomatic relations with the People's Republic of China;

Whereas Jimmy Carter was instrumental in the negotiation and signing of the Camp David Accord between Israel and Egypt, signaling a new era of peace between those 2 countries;

Whereas Jimmy Carter has continued his service to his country since leaving the Presidency by championing safe and affordable housing, human rights, and disease prevention;

Whereas Jimmy Carter remains actively committed to promoting peace and democracy abroad, supervising elections in fledgling democracies, and helping to defuse international crises in North Korea, Somalia, and Haiti; his decades of untiring effort to find peaceful solutions to international conflicts, to advance democracy and human rights, and to promote economic and social development; and

Now, therefore, be it

Resolved, That the Senate honors former President Jimmy Carter on the occasion of his 80th birthday and extends best wishes to him and his family.

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2004

Ms. COLLINS. Mr. President, I ask that the Chair now lay before the Senate the House message to accompany H.R. 1047, the miscellaneous tariffs bill.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives disagreeing to the amendment of the Senate to the bill (H.R. 1047) entitled ''An Act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes'', and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ms. COLLINS. I ask unanimous consent that the Senate insist on its amendment, agree to conference with the House, and the Chair be authorized to appoint conferees at a ratio of 2 to 1.

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

The Presiding Officer (Mr. TALENT) appointed Mr. GRASSLEY, Mr. FRIST, and Mr. BAUCUS conferees on the part of the Senate.

ORDERS FOR TUESDAY, OCTOBER 5, 2004

Ms. COLLINS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m. on Tuesday, October 5. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and that there be a period of morning business until 9:40 a.m. with the first half of the time under the control of the majority leader or his designee and the second half under the control of the Democratic leader or his designee; provided further that at 9:40 a.m., the Senate resume consideration of S. 2845, the intelligence reform bill, and the time until 9:45 a.m. be equally divided between the two leaders or their designees; provided further that at 9:45 a.m. the Senate proceed to a vote on the motion to invoke cloture on the bill.

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

ORDER TO FILE SECOND-DEGREE AMENDMENTS

Ms. COLLINS. I ask unanimous consent that Members have until 9:45 tomorrow morning in order to file second-degree amendments as under rule XXII.

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

PROGRAM

Ms. COLLINS. Mr. President, for the information of all Senators, tomorrow at 9:45 a.m., the Senate will vote on the motion to invoke cloture on the intelligence reform bill. We have made good progress on the bill, disposing of dozens of amendments. It is my hope that cloture will be invoked tomorrow morning so that we can move toward final action on the bill. For the remainder of the bill, the Senate will work through additional amendments to the bill. Senators should, therefore, expect rollcall votes throughout the day tomorrow.

Finally, I remind everyone of the majority leader's announcement that following the conclusion of this bill, the Senate will begin consideration of the intelligence reforms related to the organization of the Senate.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Ms. COLLINS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:18 p.m. adjourned until Tuesday, October 5, 2004, at 9 a.m.