SCHEDULE

Mr. REID. Mr. President, this morning, the Senate will begin consideration of the Intelligence Authorization Act. The only amendments in order to this bill are relevant amendments, with the exception of two possible amendments regarding immigrant deportation that may be offered by Senator SMITH of New Hampshire and Senator LEAHY. Rollcall votes are possible throughout the day.

I note that we are expecting to receive from the House at or about noon today the VA–HUD appropriations bill that has been worked on for many months, led by Senator MIKULSKI and the ranking member, Senator BOND. It is a very important bill.

This will be the sixth bill we would send to the President for his signature. There are other appropriations conference reports moving toward completion now. We should be able to do several more of those in the next few days.

I also indicate that we have some extremely important items to consider, as the entire Senate knows. We are hopeful of working on the stimulus package next week. The majority leader will have announcements about that later on in the day.

We have a lot to do on most-important matters, but I indicate, it is very timely we will be working today on the intelligence authorization bill. The two managers will be Senator GRAHAM of Florida and the ranking member, Senator SHELBY of Alabama. We hope to complete the bill very soon today. It should not take a lot of time we hope. But whatever time it takes, we need to complete that legislation today.

I suggest the absence of a quorum.

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

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2002

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 1428, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1428) to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account of the Director of Central Intelligence, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Select Committee on Intelligence without amendment and the Committee on Armed Services with amendments, as follows:

(The parts of the bill intended to be inserted are shown in italic.)

S. 1428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Intelligence Authorization Act for Fiscal Year 2002''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2002 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The National Reconnaissance Office.
(11) The National Imagery and Mapping Agency.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2002, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill _____ of the One Hundred Seventh Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2002 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall notify promptly the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 2002 the sum of $238,496,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the advanced research and development committee shall remain available until September 30, 2003.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Community Management Account of the Director of Central Intelligence are authorized 343 full-time personnel as of September 30, 2002. Personnel serving in such elements may be permanent employees of the Community Management Account or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Community Management Account by subsection (a), there are also authorized to be appropriated for the Community Management Account for fiscal year 2002 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts shall remain available until September 30, 2003.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Community

Management Account as of September 30, 2002, there are hereby authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2002 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), $27,000,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2003, and funds provided for procurement purposes shall remain available until September 30, 2004.

(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) LIMITATION.—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)).

(4) AUTHORITY.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2002 the sum of $212,000,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. JUDICIAL REVIEW UNDER FOREIGN NARCOTICS KINGPIN DESIGNATION ACT.

Section 805 of the Foreign Narcotics Kingpin Designation Act (title VIII of Public Law 106–120; 113 Stat. 1629; 21 U.S.C. 1904) is amended by striking subsection (f).

SEC. 304. MODIFICATION OF POSITIONS REQUIRING CONSULTATION WITH DIRECTOR OF CENTRAL INTELLIGENCE IN APPOINTMENTS.

Section 106(b)(2) of the National Security Act of 1947 (50 U.S.C. 403–6(b)(2)) is amended by striking subparagraph (C) and inserting the following new subparagraphs:

''(C) The Director of the Office of Intelligence of the Department of Energy.

''(D) The Director of the Office of Counterintelligence of the Department of Energy''.

SEC. 305. MODIFICATION OF REPORTING REQUIREMENTS FOR SIGNIFICANT ANTICIPATED INTELLIGENCE ACTIVITIES AND SIGNIFICANT INTELLIGENCE FAILURES.

Section 502 of the National Security Act of 1947 (50 U.S.C. 413a) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''To the extent''; and

(2) by adding at the end the following new subsections:

''(b) FORM AND CONTENTS OF CERTAIN REPORTS.—Any report relating to a significant anticipated intelligence activity or a significant intelligence failure that is submitted to the intelligence committees for purposes of subsection (a)(1) shall be in writing, and shall contain the following:

''(1) A concise statement of any facts pertinent to such report.

''(2) An explanation of the significance of the intelligence activity or intelligence failure covered by such report.

''(c) STANDARDS AND PROCEDURES FOR CERTAIN REPORTS.—The Director of Central Intelligence, in consultation with the heads of the departments, agencies, and entities referred to in subsection (a), shall establish standards and procedures applicable to reports covered by subsection (b).''.

SEC. 306. MODIFICATION OF AUTHORITIES FOR PROTECTION OF INTELLIGENCE COMMUNITY EMPLOYEES WHO REPORT URGENT CONCERNS TO CONGRESS.

(a) AUTHORITY OF INSPECTOR GENERAL OF CENTRAL INTELLIGENCE AGENCY.—Section 17(d)(5) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(5)) is amended—

(1) in subparagraph (B), by striking the second sentence and inserting the following new sentence: ''Upon making the determination, the Inspector General shall transmit to the Director notice of the determination, together with the complaint or information.''; and

(2) in subparagraph (D)(i), by striking ''does not transmit,'' and all that follows through ''subparagraph (B),'' and inserting ''does not find credible under subparagraph (B) a complaint or information submitted under subparagraph (A), or does not transmit the complaint or information to the Director in accurate form under subparagraph (B),''.

(b) AUTHORITIES OF INSPECTORS GENERAL OF THE INTELLIGENCE COMMUNITY.—Section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b), by striking the second sentence and inserting the following new sentence: ''Upon making the determination, the Inspector General shall transmit to the head of the establishment notice of the determination, together with the complaint or information.''; and

(2) in subsection (d)(1), by striking ''does not transmit,'' and all that follows through ''subsection (b),'' and inserting ''does not find credible under subsection (b) a complaint or information submitted to the Inspector General under subsection (a), or does not transmit the complaint or information to the head of the establishment in accurate form under subsection (b),''.

SEC. 307. REVIEW OF PROTECTIONS AGAINST THE UNAUTHORIZED DISCLOSURE OF CLASSIFIED INFORMATION.

(a) REQUIREMENT.—The Attorney General shall, in consultation with the Secretary of Defense, Secretary of State, Secretary of Energy, Director of Central Intelligence, and heads of such other departments, agencies, and entities of the United States Government as the Attorney General considers appropriate, carry out a comprehensive review of current protections against the unauthorized disclosure of classified information, including—

(1) any mechanisms available under civil or criminal law, or under regulation, to detect the unauthorized disclosure of such information; and

(2) any sanctions available under civil or criminal law, or under regulation, to deter and punish the unauthorized disclosure of such information.

(b) PARTICULAR CONSIDERATIONS.—In carrying out the review required by subsection (a), the Attorney General shall consider, in particular—

(1) whether the administrative regulations and practices of the intelligence community are adequate, in light of the particular requirements of the intelligence community, to protect against the unauthorized disclosure of classified information; and

(2) whether recent developments in technology, and anticipated developments in technology, necessitate particular modifications of current protections against the unauthorized disclosure of classified information in order to further protect against the unauthorized disclosure of such information.

(c) REPORT.—(1) Not later than May 1, 2002, the Attorney General shall submit to Congress a report on the review carried out under subsection (a). The report shall include the following:

(A) A comprehensive description of the review, including the findings of the Attorney General as a result of the review.

(B) An assessment of the efficacy and adequacy of current laws and regulations against the unauthorized disclosure of classified information, including whether or not modifications of such laws or regulations, or additional laws or regulations, are advisable in order to further protect against the unauthorized disclosure of such information.

(C) Any recommendations for legislative or administrative action that the Attorney General considers appropriate, including a proposed draft for any such action, and a comprehensive analysis of the Constitutional and legal ramifications of any such action.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 308. MODIFICATION OF AUTHORITIES RELATING TO OFFICIAL IMMUNITY IN INTERDICTION OF AIRCRAFT ENGAGED IN ILLICIT DRUG TRAFFICKING.

(a) CERTIFICATION REQUIRED FOR IMMUNITY.—Subsection (a)(2) of section 1012 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2837; 22 U.S.C. 2291–4) is amended by striking '', before the interdiction occurs, has determined'' and inserting ''has, during the 12-month period ending on the date of the interdiction, certified to Congress''.

(b) ANNUAL REPORTS.—That section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

''(c) ANNUAL REPORTS.—(1) Not later than February 1 each year, the President shall submit to Congress a report on the assistance provided under subsection (b) during the preceding calendar year. Each report shall include for the calendar year covered by such report the following:

''(A) A list specifying each country for which a certification referred to in subsection (a)(2) was in effect for purposes of that subsection during any portion of such calendar year, including the nature of the illicit drug trafficking threat to each such country.

''(B) A detailed explanation of the procedures referred to in subsection (a)(2)(B) in effect for each country listed under subparagraph (A), including any training and other mechanisms in place to ensure adherence to such procedures.

''(C) A complete description of any assistance provided under subsection (b).

''(D) A summary description of the aircraft interception activity for which the United States Government provided any form of assistance under subsection (b).

''(2) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.''.

SEC. 309. ONE-YEAR SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

Notwithstanding any provision of subtitle B of title III of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106–567; 114 Stat. 2843; 22 U.S.C. 7301 et seq.), relating to the reorganization of the Diplomatic Telecommunications Service Program Office, no provision of that subtitle shall be effective during the period beginning on the date of the enactment of this Act and ending on October 1, 2002.

SEC. 310. PRESIDENTIAL APPROVAL AND SUBMISSION TO CONGRESS OF NATIONAL COUNTERINTELLIGENCE STRATEGY AND NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENTS.

The National Counterintelligence Strategy, and each National Threat Identification and Prioritization Assessment, produced under Presidential Decision Directive 75, dated December 28, 2000, entitled ''U.S. Counterintelligence Effectiveness—Counterintelligence for the 21st Century'', including any modification of the Strategy or any such Assessment, shall be approved by the President, and shall be submitted to the appropriate committees of Congress.

SEC. 311. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES.

(a) CONSULTATION IN PREPARATION.—The Director of Central Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act, including a provision of the classified Schedule of Authorizations or a classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense shall be prepared or conducted in consultation with the Secretary of Defense or an appropriate official of the Department designated by the Secretary for that purpose.

(b) SUBMITTAL.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:

(1) The Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate.

(2) The Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. ONE-YEAR EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT.

Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended—

(1) in subsection (f), by striking ''September 30, 2002'' and inserting ''September 30, 2003''; and

(2) in subsection (i), by striking ''or 2002'' and inserting ''2002, or 2003''.

SEC. 402. MODIFICATIONS OF CENTRAL SERVICES PROGRAM.

(a) ANNUAL AUDITS.—Subsection (g)(1) of section 21 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u) is amended—

(1) by striking ''December 31'' and inserting ''January 31''; and

(2) by striking ''conduct'' and inserting ''complete''.

(b) PERMANENT AUTHORITY.—Subsection (h) of that section is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(3) in paragraph (1), as so redesignated, by striking ''paragraph (3)'' and inserting ''paragraph (2)''; and

(4) in paragraph (2), as so redesignated, by striking ''paragraph (2)'' and inserting ''paragraph (1)''.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. GRAHAM. Mr. President, with my friend and colleague, Senator SHELBY, I bring to the Senate S. 1428, the Intelligence Authorization Act for the fiscal year 2002.

The tragic events of the past months and the reality that our Nation is engaged in a war against global terrorism make this year's intelligence authorization bill especially important. We all realize that good and timely intelligence is our first and sometimes our only line of defense against terrorism.

It is not enough for us to attempt to determine who was the culprit and to bring that culprit to justice. What the American people want most is the capability to prevent acts of terrorism, which necessitates the best intelligence information on a timely basis so that actions to interrupt terrorist activities can take place before more Americans are attacked.

To accomplish this prevention of terrorism strategy, we must provide our intelligence community with the resources and the authorities it needs to meet the expectations of the American people.

Many of those authorities were contained in the antiterrorism act which the President signed the last Friday of October. Today we are going to be talking about the resources that will give life to those authorities and to the ongoing activities of the intelligence community.

Our Select Committee on Intelligence marked up this bill on September 6, submitted it to the Armed Services Committee, and the Armed Services Committee has now reported the bill as submitted.

Even though we took legislative action before September 11, we noted at the time that international terrorism was not a crisis—with it, the connotation that it is a short-term passing phenomenon—rather, international terrorism is a condition with which we will have to deal on a long-term basis.

The committee strongly encouraged the intelligence community to orient itself accordingly by implementing policies under the control of the Director of Central Intelligence for regulating the various roles of the elements of the intelligence community that participate in the fight against terrorism. To that end, our legislation authorizes activities that will rebuild the foundation of our intelligence community so we can meet our long-term challenges.

In the process of preparing this year's intelligence authorization bill, the committee spent considerable time reviewing the current status of the intelligence community.

At this point, I recognize our vice chairman, Senator SHELBY. He, of course, had been the chairman of this committee for a considerable period of time and started much of this process of in-depth review of the intelligence community which then put us in a position to take advantage of that work to provide what today will be some of the prescriptions based on the diagnosis of the problems. I particularly recognize Senator SHELBY and the work in which he led the committee and our staff for many months.

As a result of this review, we concluded that the intelligence community has been underfunded over the past decade—basically, the decade since the fall of the Berlin Wall—and its ability to conduct certain core missions had deteriorated.

In order to correct these deficiencies, the committee identified four priorities to receive special emphasis in this year's bill: One, revitalization of the National Security Agency; two, correcting deficiencies in human intelligence; three, addressing the imbalance between collection and analysis; and four, providing sufficient funding for a robust research and development series of initiatives. These four priorities underpin the work of the intelligence committee in all areas, including counterterrorism.

The committee believes that providing additional resources in these priorities is critical to assuring that the intelligence community is capable of providing our political and military decisionmakers with the accurate and timely intelligence they require to make the best decisions in the interest of the American people.

By providing proper resources and attention to these four priorities, we will be able to support effectively the requirements placed on the intelligence community, including fighting global terrorism, but also a list of other challenging responsibilities: countering the proliferation of weapons of mass destruction and their delivery system; stopping the flow of illicit narcotics; and understanding the capabilities, potential, and intentions of potential adversaries and foreign powers.

It is important to note that the committee recognizes that a consistent and predictable funding stream is necessary to rebuild and maintain these priority areas.

In preparing this year's legislation, the committee outlined a 5-year plan for each of these priorities. We believe this plan is consistent with the capacity of the various agencies within the

intelligence community to absorb these additional funds and use them effectively, and that will result in a substantial new foundation under our intelligence community over the next 5 years in order to meet the challenges of the next decades. We know that our commitment to rebuild our intelligence community must be sustained over the long-term or our efforts this year will be wasted.

Let me briefly explain what we are doing in each of these four priority areas.

First, we are continuing the revitalization of the National Security Agency, or the NSA. The committee, under the leadership of Senator SHELBY, has been pressing for this revitalization over the past 3 years. The NSA is the agency of our intelligence community that is responsible for assuring the security of United States communications, as well as collecting foreign electronic signals. In the parlance of intelligence, this is the signals agency.

Five years from now, the NSA must have the ability to collect and exploit electronic signals in a vastly different communications environment than that in which we spent most of the second half of the 20th century. Along with significant investment in technology, this means closer collaboration with clandestine human collectors.

If I could explain briefly, during the Cold War, the United States became extremely adept at intercepting electronic communications. Our system was largely based on communications that would move over the airwaves. We would put a listening device between the sender and receiver and could absorb massive amounts of information with relative impunity.

Today, the computer and telecommunication systems that NSA employees will be attempting to intercept are much more difficult because they do not use the old over-the-airwaves system. To have the same level of electronic surveillance today that we did even 10 years ago is going to require a significant investment in new technology. I mentioned, also, the linkage to human intelligence. It was relatively easy to eavesdrop on the old communication technology. The new communication technologies will frequently require a human being to first gain access to the machine that you are trying to surveil, and then have that person who has gained access have sufficient technical capacity to be able to install the devices that are necessary to gain the information. So we are going to have to have a new generation of human intelligence that has a significantly higher component of technical expertise, especially in the communications area.

The analysts—the ones who take this information that is collected—must have sophisticated software tools to allow them to fully exploit the amount of data that will be available in the future. So our first objective is a continuation of the 3-year effort to revitalize the National Security Agency.

Second, we must correct deficiencies in our human intelligence capabilities. In 5 years, our human intelligence collection efforts must be designed to meet the increasingly complex and growing set of human intelligence collection requirements.

Most of the history of our intelligence community is since the Second World War. During World War II, we established America's first professional intelligence agency under the direction of the military. As soon as the war was over, it was disbanded. Two years later, President Truman, recognizing the rise of the Soviet Union, asked the Congress to establish a civilian agency and designate a director of central intelligence. Under that director, there were a number of agencies, such as the Central Intelligence Agency. For the next 40 years, we focused on one big target: the Soviet Union and its Warsaw pact allies.

As I indicated, in the area of signals intelligence, we became very adept at listening to that big target. People were speaking basically in Russian. It was a culture that we understood and with which we had a long association since John Quincy Adams was our Ambassador to the czarist court in St. Petersburg.

Now, in the post-Berlin Wall period, we are dealing with a wide diversity of targets, not just one. Many of these are targets with which we have not had a great deal of national history, and they speak many languages. In Afghanistan, for instance, in addition to English and Arabic, there are at least six major domestic languages. We are very deficient in our capabilities as a nation in many of these languages.

We must increase the diversity of our human intelligence, our spies. We must recruit more effectively to operate in many places around the world where U.S. interests are threatened. The human intelligence system must be integrated into our other collection systems, particularly, as I indicated, with our National Security Agency, in order to gain effective access to new communications technology.

In addition, the Director of Central Intelligence must conduct a rigorous analytical review of human intelligence collection requirements in the future so that we can be proactive with the resources necessary to meet those requirements. The Director of Central Intelligence must implement a performance measurement system to assure that our collection efforts are meeting the highest priority needs of our ultimate customers for intelligence—the President and military decisionmakers.

Our third priority is addressing the growing imbalance between collection and analysis. Even with the deficiencies that I have mentioned in signals intelligence and human intelligence, we are still collecting a massive amount of information on an hourly basis. But the percentage of this collected information to that which is analyzed and converted into effective intelligence has been steadily declining since 1990. Collection systems are becoming more and more capable as our investment in analysis erodes. This disparity threatens to overwhelm our ability to analyze and use the information collected.

The nightmare of the review of the events of September 11 would be if we find that there was a wiretap, for instance, on a foreign resident whom we had reason to suspect might be involved in some potential terrorist plot against the United States but that wiretap had not been listened to, translated from its foreign language—frequently it is an encrypted foreign language—into English and then analyzed in terms of what did it mean in terms of American security, and then that analysis is transferred to an effective law enforcement agency which could do something about the threat to American security. That nightmare underscores the importance of having the adequate capacity to analyze and convert information into intelligence.

To address this problem, the committee has added funds for the Assistant Director of the Central Intelligence Agency for Analysis and Production to finance promising new analytical initiatives that will be beneficial across the intelligence community.

The amount authorized is a downpayment on a 5-year spending profile to rebuild the community's all-source analytical capability. The words ''all-source'' refer to the fact that today there is a growing volume of information which is not clandestine, which is available through the newspapers, through other forms of public information, through the Internet. The challenge for the analysts of today is to take that open-source information and add to it the clandestine information gathered by our variety of sources and then produce a final intelligence document which will add to the ability of the ultimate decisionmaker, whether it is a military officer planning a combat action or whether it is the President of the United States attempting to set a strategic direction for American foreign policy. That decisionmaker will be in a better position to make an informed judgment to benefit the people of America.

The committee has also included funding to implement the National Imagery and Mapping Agency, known as NIMA, which is the agency that collects imagery for intelligence purposes. We will fund internal modernization plans to support this imagery analysis associated with the future imagery architecture of our satellite system.

The fourth and final priority for the intelligence community is providing additional funding for a robust research and development initiative. Over history, one of the hallmarks of American intelligence has been its leadership role in world technology. The U–2, which was groundbreaking in terms of aviation technology, was built

by the CIA in just a matter of weeks when it was recognized that we needed to have an overhead capacity to observe the Soviet Union, particularly during the period that the Soviet Union was accelerating its nuclear program.

Many of the telecommunications advances we now utilize and take for granted were first developed by the National Security Agency as part of our intelligence effort.

Over the decade since the fall of the Berlin Wall, it has been stated that the intelligence community has often used its research and development budget as a bill payer for funding shortfalls in other programs and that we have sacrificed the modernization and the innovation of technology in the process.

The committee has outlined a plan to reverse the intelligence community's declining investment in advanced research and development. The committee's classified annex includes a requirement for a review of several emerging technologies to determine what will provide the best long-term return on our investment.

The committee also encourages a symbiotic relationship between the intelligence community and the private sector using innovative approaches, such as the CIA's In-Q-Tel. In-Q-Tel is a venture capital fund, largely funded by the U.S. intelligence community, to stimulate new technologies through private sector entrepreneurs. It shows great promise.

I should also mention that there is a fifth priority we have identified but to which we have not yet given the specific emphasis in this year's legislation as we will in the next. This area is referred to as MASINT. It is the newest form of intelligence collection; that is, the collection of measurements and signatures intelligence.

MASINT encompasses a variety of technical and intelligence disciplines that are particularly important in countering the proliferation of weapons of mass destruction and their delivery system. While the committee recognizes the importance of this vital area of intelligence, we are awaiting the completion of a community-wide review of our MASINT capabilities which was required by the fiscal year 2000 intelligence authorization bill. This study will include recommendations for building a robust MASINT capability that will meet the challenges of the 21st century.

Admiral Wilson, the Director of the Defense Intelligence Agency, is leading this effort and has assured the committee this review will be completed and forwarded to the Congress in time to be considered as we prepare next year's authorization bill. We expect that rebuilding our MASINT capability will be a priority item in next year's legislation.

I am confident we have outlined a 5-year plan that will rebuild and reenergize our intelligence community so that it can meet the challenges before it. The events of September 11 have increased the complexity as well as the quantity of those challenges to our intelligence community. I urge my colleagues to support this legislation and help it move to the President's desk as expeditiously as possible so that the resources we are authorizing can get to the community which needs them.

I conclude by thanking some of those who have helped in the production of this important legislation. First, as I have indicated, much of this legislation is built on the foundation of the work that has been done over the past several years by our vice chairman, Senator RICHARD SHELBY. He has been a valued partner and a good friend as we have worked through this legislation, as well as some of the other challenges the committee has faced this year. The members of the committee have played an active and constructive role in the development of this legislation.

Our staff director, Al Cumming, our deputy director, Bob Filippone, and chief counsel, Vicki Divoll, have led the effort to put this bill together, as have our budget director, Melvin Dubee, chief clerk, Kathleen McGhee, and security director, Jim Wolfe.

I might say, our security director has been especially challenged in the last few weeks as our offices are in the hot zone of the Hart Building, and we have been evacuated for the past 3 weeks while still maintaining security over a large volume of very sensitive documents.

I also thank Senator SHELBY's staff director, Bill Duhnke, for his work and assistance in putting this legislation together. This committee has had a long history of bipartisanship. We do not have a Democratic staff or Republican staff; we have ''a staff,'' and they work together effectively to serve the Senate and the American people.

We have faced some unique challenges this year. The shift of control in the Senate was handled professionally and smoothly by our members as well as our staff. I again thank Senator SHELBY for his great contribution to that effort.

The comprehensive review of the defense and intelligence budgets caused us to receive the administration's budget request later than normal. This required our staff to work through the August recess and over the Labor Day weekend to prepare for our September 6 markup.

The anthrax contamination in the Hart Building has forced us out of our offices for an extended period of time. Again, our staff has met the challenge and continues to fulfill its obligations under these challenging circumstances.

I thank Mike DeSilvestro and his staff in the Office of Senate Security who have handed over some of their space and have shared their offices with our committee.

I also thank Congressman PORTER GOSS, the chairman of our House counterpart committee, and his staff who have been equally accommodating.

I am deeply indebted to all of these individuals and to our entire committee staff for their dedication, professionalism, and commitment to public service.

I commend to our colleagues in the Senate the legislation which is the Intelligence Authorization Act for this fiscal year and urge its adoption.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from Alabama.

Mr. SHELBY. Mr. President, the world is a very different place than it was the last time Congress passed an intelligence authorization bill. As we all know, we are now at war, but we are not only at war, we are in a particular kind of war: A war against global terrorism in which the lives of thousands of innocent Americans have already been lost.

This war has turned some of the conventional wisdom on its head. In past wars, intelligence agencies served to support the warfighter. In this war, however, the intelligence agencies are on the front lines all over the world.

Good intelligence has always been critical in wartime, but the war we fight today is an intelligence-driven one to a degree we have never seen before. This war has no front lines and the field of combat is global.

Wherever terrorists and their supporters can be found, that is the battlefield. Never before have we demanded or have we needed so much from our intelligence services. I have been privileged to serve as the chairman, and now the vice chairman, of the Senate Intelligence Committee. I treasure my relationship with the chairman, Senator GRAHAM. He has brought great, steady leadership to the committee. He is a veteran of the committee. He has been there a long time, we have worked together on a lot of initiatives, and we are going to continue to do that.

Some of what I have learned about our intelligence community over the last 7 years that I have been on the committee is very encouraging. It has many truly outstanding people doing very good work. Today it is working, actually right now, to respond vigorously to the unprecedented demands this war places upon it. But our intelligence community has changed far less rapidly than the world around it. In too many important ways, it remains structured as it was during the cold war.

The U.S. intelligence services were crucial to our victory in the cold war, but times have changed and they keep changing.

Our intelligence system still remains wedded to the institutional fiefdoms and information stovepipes of the past. Our intelligence community is still too little of a community and too much of a freewheeling federation that lacks effective, centralized control and management.

We have a nominal Director of Central Intelligence who has and apparently is resigned to having little authority over the community he is supposed to head. Although the press of

events since the September 11 events have prompted our agencies to communicate and to cooperate with each other much better, we still have a very long way to go before U.S. intelligence can effectively meet this new challenge.

Helping our intelligence community overcome these problems will be a challenge for this Congress and the President in the months and years ahead. This bill before us today embodies the Senate's continued support for the intelligence community, authorizing its appropriations for the next fiscal year. It also represents a small first step in what will be our role in driving significant reforms in U.S. intelligence, by helping set the stage for improved oversight.

This bill, for example, increases Congress's ability to evaluate allegations of wrongdoing within the Central Intelligence Agency by requiring the CIA Inspector General to notify the Director of credible complaints against the agency.

Building upon the report our committee recently produced on CIA activities in interdicting illegal drug flights in Peru, the bill before us also requires special reporting and certifications by the President for such interdiction operations.

Additionally, the bill requires that national counterintelligence strategies and threat reports be approved by the President before being submitted to the Congress.

This bill is not a bill to revolutionize the intelligence community. That effort will take time, but I believe it is now inevitable. This is a bill to keep the intelligence community on an even keel while it tries to respond to the challenges it faces today, and while we work to help it change in the right ways.

I have long been a strong supporter of U.S. intelligence, and I am pleased that we in the Senate continue to support it with special vigor in this time of crisis. We have more to do, however, and Congress will continue its tradition of assertive oversight. It must. Today, more than ever, we need an intelligence community that is able to overcome the tyranny of its conceptual and institutional stovepipes. We need one that does not merely respond to our present emergency by doing more of the same, just with more money and more people. That will not be enough. A bigger and better funded status quo is not good enough. The status quo has not and will not serve us well in a world of increasing and more diverse threats.

I believe we need management that is able and willing to fight for the intelligence community within the administration and to reach out to unconventional thinkers. The time for ''steady as you go'' is over, and we need leaders who are not afraid to take on the ossified bureaucracies.

I believe Chairman GRAHAM and I agree that change must come, and it will. Again, I commend Chairman GRAHAM for his efforts in getting this bill to the Senate today and managing it in a professional way. Senator GRAHAM's steady leadership of our committee has been instrumental during a turbulent period on Capitol Hill and throughout the Nation. I thank him again for his efforts and look forward to continuing our close working relationship.

At the end of the debate on this bill, I urge my colleagues to support it. It will permit our intelligence community to continue its current operations while we work to lay the foundations for a more capable intelligence community that can meet the challenges ahead.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

I have not had the opportunity while in the Senate to serve on the Intelligence Committee. It is a tremendous honor to serve on that committee. The things worked on in that committee are extremely important to our country. They always have been, but even more so the last 2 months. I have great admiration and respect for the bipartisan manner in which the Senator from Florida and the Senator from Alabama have handled this committee, especially during these most difficult times.

I read in this morning's paper there are efforts being made to do some consolidation within the intelligence-gathering community in our country. As someone not on the inside of what goes on in the intelligence community, from the outside it looked like a pretty good idea. I think one thing that should be done, and I have spoken both to the chairman and the ranking member of the committee, is this country needs to recognize terrorism is here for awhile. We as a country need to recognize there are certain things we need to do to better prepare to handle what these evil people are doing. As a first step, we need to consolidate the training of our Nation's first responders as well. I believe the Nevada Test is the best place to do that.

I have spoken, as I said, to the two managers of this bill about this ideas. I have also spoken to Governor Ridge, the terrorism czar, about this idea. I have spoken to the CIA Director.

This Nevada Test Site has played an important part in helping our nation win the cold war. As you know, I was born and raised in Nevada. As a little boy, I can remember getting up in my town of Searchlight because we knew an atomic blast was going to go off. We could see this bright orange thing in the sky, and then we could feel the force of that blast. We could not always feel it because sometimes it would bounce over us, but generally we could. Those nuclear devices were set off in the desert north of Las Vegas at the Nevada Test Site.

The Nevada Test Site area is larger than the State of Rhode Island. This area has mountains, valleys, dry lakes. It already has a facility for testing chemicals. It has been there for a number of years. It has worked extremely well. You have large dormitories and restaurants handle the first responders who will come to train there.

The facility also has a network of tunnels through the mountains. They were developed originally to set off nuclear devices and they can now be used as a place where training could be done. Now they can be used to simulate hardened underground bunkers like we saw in Iraq.

We need a top gun school for training first responders. There is a tremendous facility in Alabama at Fort McClellan, but it is limited as to what it can handle. We need a facility that can handle all the training necessary for first responders. The Nevada Test Site can do that. Already, first responders and special operations training is occurring there. The energy and water bill we just completed includes $10 million to help expand existing capabilities into a national antiterrorism center. There is also money in the Commerce-State-Justice bill for this.

A National Center for Combating Terrorism will offer all the people and organizations combating terrorism and the local first responders to the larger Federal resources a place to come together and train for the wars taking place today and in the future. It has it all: Caves, tunnels, mountains, valleys. It is very cold in the winter, very hot in the summer. The Nevada Test Site, without question, helped us win the cold war.

I hope we will look at the Nevada Test Site. I have a parochial interest, no question. It is quite obvious. But I haven't heard anyone tell me why this idea is wrong. I think it needs to be done. It is a facility that has tremendous potential.

The Nevada Test Site served our nation and helped it win the cold war. It can now help us fight the new wars we face today and will face tomorrow.

I appreciate the consideration the two managers of this bill have given me in my conversations with them. I certainly stand ready, as do the contractor and the Department of Energy, to make the facility available for those purposes.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. I appreciate the remarks our colleague from Nevada, Senator REID, has made regarding the contribution the Nevada Test Site has made to our development of weapons that were so critical to our success in the cold war and its potential for serving a role in the new war against terrorism. I appreciate the Senator's interest in increasing our capabilities to

wage and win this war. I assure him our committee will give full attention to this opportunity. I very much appreciate the Senator having brought this to our attention.

As the Senator from Nevada mentioned at the beginning of his remarks, this will be a period of some fundamental questions about the future of the intelligence community and how it can be best organized to deal with the new world in which we will be living, as opposed to the world in which it has spent most of its life to date, which was the world of a single enemy that we knew a lot about and that we had considerable experience in attempting to understand and respond to.

Mr. REID. Will the Senator yield?

Mr. GRAHAM. I yield.

Mr. REID. The chairman of this committee, the Senator from Florida, has been Governor of one of the biggest States in the United States. The State of Florida is not only large area-wise but has the fourth or fifth largest number of people in America. That gives me confidence that the Senator, who has had to administer an extremely large government, understands what is happening with our intelligence capability. Forty different entities are gathering intelligence information.

I have significant confidence in the Senator from Florida being chair. Because of the Senator's administrative experience, he is a great legislator, although being a great legislator does not always mean being a good administrator. It is extremely important for me to hear his thoughts based on experiences as the Governor of the State of Florida, and learning how to consolidate our intelligence information. I appreciate the Senator being willing to take the chairmanship of this most important committee. When the Senator took the chairmanship, he had no idea, as any of us, we would be in this war at this time. I look forward to improvements being made basically because of our special abilities.

Mr. GRAHAM. I appreciate those kind remarks. We do have a major challenge to see that the architecture of our intelligence agencies encourages innovative thinking, that the Senator's idea which he brings forward today will stimulate.

I, too, was impressed with the article that appeared in today's Washington Post about the recommendations being made to the President by a man for whom I have great respect, Gen. Brent Scowcroft, which, as reported, will call for a closer collaboration among the intelligence agencies. That is something that has long been recommended but difficult to achieve because we are asking agencies that have a piece of current intelligence jurisdiction to release their hold.

However, if we are to do things as suggested by the Senator from Nevada, new ways of thinking, of training for a new and continuous war—not only a war being fought over there but a war that is being fought right here on the homeland of the United States—we are going to need to have new organizational relationships. Eventually it will be the responsibility of the Congress, since it was the Congress which created the old architecture, to be the principal architect if we are to rebuild our intelligence capabilities to deal with the new challenges we face.

I look forward to working with Senator REID, Senator SHELBY, and our colleagues in doing that in the most effective way and to be willing to put aside old ideas—not because old necessarily means they are bad ideas but be willing to challenge those ideas with new thinking to prepare to deal with new challenges.

Mr. NELSON of Florida. Mr. President, will the Senator yield?

Mr. GRAHAM. I yield.

Mr. NELSON of Florida. Mr. President, I want to echo the assistant majority leader's comments about the right man who rises to the top for the times.

Just to give an example in addition to the one the Senator from Nevada has already given about our former Governor having that unique experience because of his experience in State government, he understands now, uniquely, the vulnerability of the 300 deep-water ports that we have in this Nation because Florida itself has 14 deep-water ports.

We have passed out of our Commerce Committee a port security bill. It is coming to the floor, hopefully, very soon. Senator GRAHAM and I and Senator HOLLINGS will be offering an amendment to significantly increase the Federal grants for security and loan guarantees to the tune of some several hundreds of millions of dollars of grants, and to the tune, over a 5-year period, of some $3.3 billion in loan guarantees. To do what? To try to make those ports more secure through badging, through sophisticated detection devices, through fencing, through guards, through gates, in addition to what the Coast Guard is already doing.

It is just another example of the leadership offered by the former Governor of Florida, now our senior Senator from Florida, and the chairman of the Intelligence Committee.

I wanted to add that one comment to the comments of the Senator from Nevada about the right man for the time. I would only say: Accolades to his ranking Republican on the committee as well, Senator SHELBY, who has been a dear personal friend of mine since we came to Congress together in 1978. I am confident in the leadership of our Intelligence Committee.

I yield the floor.

Mr. GRAHAM. Mr. President, obviously I am very touched by those kind remarks by my friend, colleague, and fellow Floridian, Senator NELSON.

To speak to the broader point he made, using the example of seaport security, one of the things we as a nation cannot allow ourselves to lapse into is a practice of waiting until one of our infinite number of vulnerabilities has actually been attacked before we start the process of attempting to make it more secure. We have been attacked in the last 2 months basically in two areas: The conversion of commercial aircraft into weapons of mass destruction, and the use of the Postal Service to distribute anthrax. We don't know yet what the origin of that second attack was. We are now responding.

We have passed massive economic assistance to the airline industry. We have now in conference legislation passed by both Houses in the area of airline and airport security. We will soon have a major bioterrorism bill before us, largely in response to the anthrax issue. Our Postal Service is now moving at the fastest possible pace to install technologies to check our mail to see that it is safe.

While we are doing that, and that is certainly appropriate, we cannot forget all these other vulnerabilities. If you had asked me 5 years ago what I thought was the more likely to be the target of a terrorist, a commercial airline or a container delivered at an American seaport, I would have said the container. Why would I have said that? Because the security standards in our seaports are substantially less rigorous than at airports and airlines, even before September 11.

Just a few statistics. We have 361 seaports, as Senator NELSON has outlined. Into those 361 seaports today and every day are delivered an average of 16,000 containers from noncontiguous nations; that is, not from Mexico or Canada but from the rest of the noncontiguous world. Of those 16,000, less than 3 percent are subject to close inspection. If a terrorist wanted to use one of those containers as a weapon of mass destruction, as 757s were used as weapons of mass destruction on September 11, frankly his chances of detection would be minimal.

I have gotten some criticism making that same statement, suggesting that I am disclosing some confidential information of which the terrorists might rush to take advantage. I am certain the terrorists are well aware of those statistics because they have been widely reported.

Mr. President, I ask unanimous consent to have printed in the RECORD an article which appeared in yesterday's New York Times, based on their analysis of one relatively moderate-size port in America, the one at Portland, ME, and its vulnerabilities.

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

[From The New York Times, Nov. 7, 2001]

THE SEAPORTS—ON THE DOCK, HOLES IN THE SECURITY NET ARE GAPING

(By Peter T. Kilborn)

PORTLAND, ME., Nov. 3.—The big cargo ships and ships with truck-size containers pull up to docks where no one inspects their contents. Brown tankers from the Middle East steam into the bay, slide under a drawbridge that bisects the Fore River and tie up

by terminals, tanks and a pipeline that carries the oil that heats Montreal.

In warmer weather, cruise ships like the QE2 and the Royal Empress with up to 3,000 tourists park at piers on busy Commercial Street, right next to Portland's lively downtown.

For Portland's officials, the scene, at least before Sept. 11, was a point of pride, the sign of a strong economy and a proud maritime heritage. Now it evokes fear and uncertainty. The unscrutinized containers, the bridge, the oil tanks, the dormant but still-radioactive nuclear power plant 20 miles north of the harbor—all form a volatile mix in a time of terrorism.

The usual barrier is chain-link fence. ''It keeps out the honest people,'' said Paul D. Merrill, owner of a cargo terminal. ''That's what it comes down to.'' The Port of Portland, Police Chief Michael Chitwood said, ''is a tinderbox.''

Remote as it seems on the northeastern ear of the nation, Portland is not particularly exceptional among the nation's 361 seaports. The ports of New York and New Jersey, Miami, Long Beach, Calif., and Los Angeles are much bigger and busier. Yet like most ports, the one here is near a population center and it is packed with bridges, power plants, and combustible and hazardous materials.

All that makes ports among the country's greatest points of vulnerability.

Even so, no national plan exists to thwart attacks against them, to respond if one happens or to organize a community afterward. No federal agency regulates seaports the way the Federal Aviation Administration manages airports. They are managed locally, often by the private businesses that use them. All are overseen by a patchwork of agencies, already stretched thin, some monitoring hundreds of ships a day.

Compared with the attention being given to airline security, security at the ports has gone largely unnoticed, even though they handle 95 percent of the cargo that enters from places other than Canada and Mexico. A bill to tighten port security has passed a Senate committee. The full Senate could vote on the bill within two weeks, but the debate has yet to begin in the House of Representatives.

''People in Congress don't have any idea it's a problem,'' said Senator Ernest F. Hollings, Democrat of South Carolina, who is chairman of the Commerce Committee and co-sponsor of the bill with Senator Bob Graham, Democrat of Florida. ''I've got folks who don't have ports in their states. It's hard to get it in front of their heads.''

Port officials are aware of various threats, like using a tanker or fuel-loaded cruise liner as a bomb, secreting weapons and explosives in containers, hijacking a ship and ramming it into a nuclear plant on the shores of a river or infesting a cargo of grain or seeds with a biological weapon.

Given the potential dangers, the security measures in place are far from adequate.

''We're looking for needles in a haystack,'' said Dean Boyd, a spokesman for the United States Customs Service. ''And the haystack has doubled.'' International trade has doubled since 1995 while the number of people to handle inspections has remained roughly constant, he said.

The Coast Guard patrols coasts and harbors but little of the land or the cargo. It checks out ships coming in from the open sea but has no way of thoroughly searching everything that comes by.

The Customs Service says it can inspect only 2 percent of the 600,000 cargo containers that enter seaports each a day on more than 500 ships. Of the 2 percent, many are not inspected until they reach their final destination, sometimes on the opposite coast, where they travel unguarded by rail, barge and truck.

Last year, a government commission on crime and security at seaports found similar weaknesses. The commission surveyed 12 major ports including those of New York and New Jersey, Miami, Los Angeles, New Orleans and Charleston.

While withholding their identities for security reasons, the report found that only three of the ports tightly controlled access from the land and that access from the water was completely unprotected at nine of them.

The report also emphasized the hazards posed by materials unloaded from ships. ''The influx of goods through U.S. ports provides a venue for the introduction of a host of transnational threats into the nation's infrastructures,'' the report said.

A tangled chain of authority further compromised security, the commission said, a point echoed by the authorities in Portland.

''No one's in charge,'' said Jeffrey W. Monroe, director of transportation for the city. ''There's no central guidance.''

And ports have a strong economic incentive to limit control. With the taxes that cruise ships, tankers and other businesses pay, ports are the lifeblood of their communities. Port authorities' principal constituencies are private industry and economic development offices, whose mission is growth, not security. ''They win if they move more cargo,'' Senator Hollings said.

In Portland, the seaport has been a boon, generating millions of dollars a year in revenues, Mr. Monroe said that in the past year the bulk cargo business grew 10 percent, passenger traffic and oil imports both rose by 20 percent. But the stalling economy and now the cost of heightened security have wiped out nearly all that the seaport and airport contribute to the city budget.

In Congress, the Hollings-Graham legislation would help cities meet some of the cost of securing their ports. It would give the Coast Guard regulatory control over ports, require background checks of waterfront workers and provide for 1,500 new Customs agents.

Before the September attacks, the seaport industry's principal lobby, the American Association of Port Authorities, fought the legislation, arguing that it would impose one-size-fits-all security systems for all seaports.

Though the group now supports many provisions of the bill, it still has questions over the matter of who controls security. Meanwhile, ports have taken their own steps to improve security. In Florida, Gov. Jeb Bush announced he would deploy the National Guard to oversee four of the state's busiest ports. In California, Gov. Gray Davis tightened security around bridges.

In Portland, officials and businesses have taken similar steps. Minutes before the drawbridge opens for a tanker, police officers arrive to monitor both sides of the bridge. Fences are being repaired and installed.

At the city's International Marine Terminal, where from May to October the Scotia Prince carries 170,000 passengers on 11-hour cruises between Portland and Yarmouth, Nova Scotia, visitors used to roam freely around the pier. Now only passengers are allowed there, and then only after they and their baggage are cleared by metal detectors and bomb dogs. The pilings below the pier are now illuminated at night.

For its part, the Coast Guard now focuses primarily on harbor security. It requires vessels weighing more than 300 tons to notify the port 96 hours before arrival. The big ships also must fax crew lists, said Lt. Cmdr. Wyman W. Briggs, executive officer of the guard's facilities in Portland. The crews of fishing boats must carry picture ID's.

For all this, much tighter seaport security may prove impossible. Seaports cannot be secured like airport, said Brian Nutter, administrator for the Maine Port Authority in Augusta. ''You can't fence off the whole state of Maine,'' Mr. Nutter said.

Mr. GRAHAM. I think what we need to do is, yes, we need to pass the Seaport Protection Act and others. But our mentality needs to be one of anticipation and prevention, not one of waiting to be hit and then respond. The adoption of the Seaport Protection Act would be an example that we have not lapsed into a defensive mode but that we are on the offensive; that we are preparing to protect the American people before they are subject to attack.

Mr. NELSON of Florida. If the Senator will yield, I only underscore the importance of his comments about the vulnerability of our deep-water seaports which are so often co-located with military facilities. As we look at the Port of Jacksonville, there are major military facilities; Pensacola, the same; Port Canaveral, right adjacent to the Cape Canaveral Air Force Test Station as well as the Trident submarine turning base.

As Senator GRAHAM has pointed out, we have a real risk. How do we go about determining what is in the container that might have started at Singapore, comes to the Port of Lisbon, is transferred around onto a different ship, and ultimately comes into one of our American ports?

On the reverse we have had quite a bit of success. Indeed, through a machine called a gamma ray machine which was set up initially to try to stop the smuggling and stealing—smuggling of stolen automobiles—the gamma ray machine takes an x-ray picture of the container without the harmful side effects of radiation from x-rays. You can see exactly what is in the container as the truck pulls up between two poles. The picture is there. The guard can check that against the manifest of what is supposed to be in the truck.

Lo and behold, on the east coast of Florida there are some four or five gamma ray machines now set up, and it has virtually stopped all of the smuggling of stolen automobiles going out of those ports.

If we can do that on the outbound cargo, clearly we have to figure out something for the inbound cargo because the vulnerability is there.

I appreciate so much the leadership of my senior Senator from Florida. It is a privilege for me to join with him and Senator HOLLINGS to try to enhance this legislation as it comes to the floor.

Mr. GRAHAM. Mr. President, if I could just conclude with, again, my appreciation for the very generous remarks of my friend and colleague, and also to relate what he has just said to the subject that is before us, which is the intelligence authorization bill.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Florida.

Mr. GRAHAM. The fact is, even with the sophisticated technology that our now-Presiding Officer just described, there is still a tremendous burden on intelligence.

I visited some time ago in the course of my interest in seaport security what is the largest port in the world at Rotterdam, which uses a very advanced level of technology. But they can only inspect a relatively small percentage of all the containers that come into that port. So they must depend upon intelligence information to allow them to identify which of those thousands of containers that are arriving every day at Rotterdam are the ones that are the most suspicious and, therefore, need to have this advanced technology applied.

While part of the Sea Port Security Act is going to give, hopefully as quickly as possible, to all of our ports significantly better technology, we are still going to be relying on intelligence to focus on which of those containers to which that technology would need to be applied. The legislation before us is a significant step in increasing our capability to provide that intelligence to seaports as well as to thousands of other American vulnerabilities.

Mr. ROCKEFELLER. Mr. President, I rise to support S. 1428, which is the intelligence authorization bill, and to congratulate particularly Senator BOB GRAHAM from the State of Florida for his excellent leadership on this whole matter.

We all know the work of the Intelligence Committee and the work of the intelligence community, more particularly, is incredibly important at all times and, obviously, after September 11, it has become a matter of national survival in many respects. So this is an extremely important bill and a very good one.

We rely on the people in the intelligence community in every way. We often do not think about it, although we have thought about it more in the last couple of months. They support the U.S. military actions in Afghanistan; they work with other countries to track down and arrest terrorists and disrupt all kinds of attacks which we may not hear about because they did not occur; they assist law enforcement agencies with the anthrax investigation; they follow the finances of terrorist organizations allowing the Department of the Treasury to freeze assets with accurate and proper information, and they are leading the hunt for the leaders of al-Qaida.

The intelligence community has surged its efforts to support this war, but it is also now obviously been called on for enormous amounts of new resources just to meet the day-to-day requirements they had before September 11.

We continue to collect and analyze counterproliferation, counternarcotics and international organized crime. We collect intelligence regarding our traditional state adversaries, such as North Korea and Cuba, and we keep a very close eye on hot spots around the world, obviously including places such as the Middle East.

There are four priorities in the bill. They should remain our priorities. The first is we revitalize the National Security Agency. That was done.

We correct deficiencies in human intelligence. That is being addressed.

We address the imbalance between collection and analysis. We have talked about that for a long time.

We provide sufficient funding for research and development. All of those are addressed.

As I indicated, we need the resources not just now, but there will be probably more needs in the future. That is being done through the supplemental appropriations process, as it should be, but I just put our colleagues on notice this is going to be a continuing situation.

This is my first year on the Intelligence Committee. I have to say I am extraordinarily impressed by the diligence of the committee, by the people who are on it, including the Presiding Officer, and the vigor and emphasis which they bring to their work. It is a committee that not a lot of people know a great deal about, but it does very important work.

I urge my colleagues to support this bill. I thank the Presiding Officer, and I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise in strong support of Senator GRAHAM's bill authorizing appropriations for intelligence for fiscal year 2002.

The Senate Select Committee on Intelligence, on which I serve, and which Senator GRAHAM chairs, is a unique expression of the vital role the United States plays in the critical field of national security. Much of our proceedings are, by necessity, secret, and our committee's business is often conducted behind closed doors. That said, I am proud of the fact that in this country the activities of the intelligence services, so important to national security, but potentially so dangerous to our precious civil liberties, are authorized by the people's representatives in Congress.

The bill before us today is the result of that process. Under the able leadership of Chairman GRAHAM and Vice Chairman SHELBY, the Intelligence Committee has delved deeply into the activities of our intelligence agencies, reviewing their operational efforts, their resource needs, and the legal and regulatory structure within which they operate. This bill was crafted in the light of that inquiry, and I believe represents a well-conceived and workable plan to support the critical intelligence needs of our country.

Many have said that, after the tragic events of September 11, ''everything changed.'' That is not completely true, for an effective and well-supervised intelligence structure was essential to our national security before September 11, and remains so after the attacks. What did change, however, is the sense of urgency, and the general understanding of the importance of intelligence, particularly in the area of terrorism. This bill addresses those needs, and I am certain will provide a framework which will allow the intelligence community to work towards protecting our Nation from those who would do it harm, whether rogue nations or sub-national terrorist groups.

The bill addresses some of the difficult issues that confronted the committee during the past year with balance and firmness.

It contains language that addresses the specific, and systemic, shortcomings which led to the tragedy last spring when a civilian airplane was accidentally shot down in the course of a CIA-sponsored counterdrug operation. It accomplishes this by requiring the President to certify that appropriate safety procedures are in place, adhered to, and that the program, should it continue, is necessary to our national security.

The bill contains language directing the Department of Justice to perform a thorough review of current law concerning the unauthorized disclosure of classified information. This will allow the administration to carefully address the pernicious problem of recurring unauthorized disclosures in a measured and thoughtful manner. Should it be necessary for the Congress to revisit this issue, our efforts will be assisted by the results of the Department of Justice review.

The bill, and its classified annex, authorizes funding appropriate to the extensive, and often expensive, responsibilities we have asked the intelligence community to carry out. There has been much said publicly about the size and scope of our intelligence budget, and there remains reasonable arguments on both sides as to whether the intelligence budget should remain classified. However, I want to take this opportunity to assure my colleagues, and all Americans, that the intelligence budget is not created in a shadowy vacuum, but in a process that allows the legislative branch meaningful insight into, and final authority on, the intelligence budget.

Finally, I look forward to working with my colleagues on the committee in performing the necessary follow-on to passage of this bill—the vigorous oversight of the operational and analytic efforts that will carry out the authorized direction contained in this bill.

The PRESIDING OFFICER. Without objection, the two reported committee amendments are agreed to.

The Senator from New Hampshire.

AMENDMENT NO. 2114

Mr. SMITH of New Hampshire. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 2114.

Mr. SMITH of New Hampshire. 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 provide for new procedures for the removal of alien terrorists and the protection of United States citizens from international terrorism)

At the appropriate place in the bill, insert the following:

SEC. ___. ALIEN TERRORIST REMOVAL ACT OF 2001

(a) SHORT TITLE.—This section may be cited as the ''Alien Terrorist Removal Act of 2001''.

(b) FINDINGS.—Congress makes the following findings:

(1) In 1993, international terrorists targeted and bombed the World Trade Center in New York City.

(2) In 1996, Congress enacted the Antiterrorism and Effective Death Penalty Act, which established the Alien Terrorist Removal Court for the purpose of removing alien terrorists from the United States based on classified information.

(3) On May 28, 1997, the Court adopted ''Rules for the Alien Terrorist Removal Court of the United States'' which was later amended on January 4, 1999.

(4) The Court is comprised of 5 United States District Judges who are designated by the Chief Justice of the United States to hear cases in which the United States seeks the removal of alien terrorists.

(5) On September 11, 2001, terrorists hijacked 4 civilian aircraft, crashing 2 of the aircraft into the towers of the World Trade Center in the New York City, and a third into the Pentagon outside Washington, D.C.

(6) Thousands of innocent Americans and citizens of other countries were killed or injured as a result of these attacks, including the passengers and crew of the 4 aircraft, workers in the World Trade center and in the Pentagon, rescue worker, and bystanders.

(7) These attacks destroyed both towers of the World Trade Center, as well as adjacent buildings, and seriously damaged the Pentagon.

(8) These attacks were by fair the deadliest terrorist attacks ever launched against the United States and, by targeting symbols of America, clearly were intended to intimidate our Nation and weaken its resolve.

(9) As of September 11, 2001, the United States had not brought any cases before the Alien Terrorist Removal Court.

(10) The Court has never been used because the United States is required to submit for judicial approval an unclassified summary of the classified evidence against the alien. If too general, this summary will be disapproved by the Judge. If too specific, this summary will compromise the underlying classified information.

(11) The notice provisions of the Alien Terrorist Removal Court should be modified to remove the barrier to the Justice Department's effective use of the Court.

(c) ALIEN TERRORIST REMOVAL HEARING.—Section 504(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1534(e)(3)) is amended—

(1) by striking ''(A) USE.—'';

(2) by striking ''other than through reference to the summary provided pursuant to this paragraph''; and

(3) by striking subparagraphs (B) through (F).

(d) REPORTS TO CONGRESS.—Beginning 6 months after the date of enactment of this Act, and every 6 months thereafter, the Attorney General shall submit a report to Congress on the utilization of the Alien Terrorist Removal Court for the purposes of removing alien terrorists from the United States through the use of classified information.

Mr. SMITH of New Hampshire. Mr. President, this amendment really has two very simple provisions. There exists now what is called an Alien Terrorist Removal Court which was set up to remove alien terrorists from our country. The problem is no one is using the court. The reason for that is we are required under the law to submit to the terrorists a summary of the intelligence we gathered on him and how we got it. Obviously, if the terrorist gets that information, then the people who provided that information are going to be killed or their lives will be at risk.

My amendment provides that an independent Federal judge would take a look at the information and decide that it could not be shared but that the person should be deported.

That is the first provision of my amendment.

The second one provides that every 6 months we get a report back from Justice on how the terrorist court is working, how often the court is being used, and so forth.

That is really all there is.

I want everyone to understand that the amendment is quite simple. We are trying to work out an agreement on both sides. So far, that has not occurred. In view of the fact that we still have not done that, I am going to ask for the yeas and nays on my amendment at this time.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a significant second.

Mr. SMITH of New Hampshire. Mr. President, in the way of introduction, I applaud the efforts of our intelligence community to fight this war against terrorism. Under very difficult circumstances, they are doing an outstanding job. They have a tough assignment, not knowing from one day to the next where a terrorist may strike. We know there is a network of terrorists right now in America. There are a lot of brave people in the intelligence community who are working night and day to make sure the events of September 11 are never repeated. Of course, we can't make those guarantees. The best way to have a situation where we can see that it doesn't happen again is to provide the support the intelligence community needs to fight this war against terrorism.

My amendment under the intelligence authorization bill is a tremendous tool in that fight against terrorism and to see to it that aliens are deported—not U.S. citizens, but aliens who are in this country participating, if you can believe it, in these networks of terrorism. All we are asking for is that they be deported—sent back home.

That is what the amendment does. It will remove provisions from the Alien Terrorist Removal Court that render the court ineffective and useless.

Let me repeat again that today under the Alien Terrorist Removal Court, if we gather information that an alien terrorist may be committing a crime, or is prepared to commit a crime, or is getting ready to do some terrorist act against the United States, that individual must have the intelligence summary presented to him, which could and many times does compromise the sources and methods of gathering intelligence.

My amendment would say that a judge would look at that summary, and that judge would say, yes, this would compromise their sources and methods. So we will deport the alien—not a U.S. citizen—based on the recommendation of the judge.

The second provision is that we get a report every 6 months on how often this court is being used. That will allow us to track the effectiveness of how this court is working. Right now it is not working at all. We have a court, and no one is using it because the intelligence community simply will not compromise their people, nor should they, nor their sources and methods.

In 1994, to provide a little history, I sponsored legislation to create this court. The legislation established specific procedures for the removal of alien terrorists without disclosing sensitive intelligence data and also protected those sources and methods. I didn't get anywhere with it in 1994. In 1996, I succeeded in getting a version of this legislation added to the Antiterrorism Act. That bill became law. The court was established.

The intent was to set up a Federal court that specialized in the identification and expulsion of aliens who are terrorists from the territories of the United States. But my idea never became reality. We created the court, and nobody used the court because of this business about the summary having to be provided under the law. We need to go to the next level beyond the court. We created the court. Now let's allow the court to work and allow the intelligence community to do what it has to do to get these people deported.

The Alien Terrorist Removal Court is staffed with judges and is empowered to prosecute alien terrorists. As you well know, since that 1996 law was passed there have been zero prosecutions.

It is hard to believe, especially today, that this mechanism to fight terrorism has yet to be utilized by the Federal Government to prosecute even one alien terrorist. That is the part that frustrates me. It is not a comment against the intelligence community. They are put in the position. They come in, and they say, we have this information that this person or that person is going to do something. They are damned if they do and damned if they don't because if they provide the information, they compromise their own

sources and methods. If they don't provide it, we can't deport them. So they stay.

I believe there are some aliens we have been able to deport. Perhaps—who knows. We will never know—some of the ones who committed that heinous act on September 11.

But there are legitimate reasons the court has not prosecuted any cases. Some of the reasons are from weakening amendments that were made prior to the bill becoming law, which also was disturbing. But I don't want to go back and criticize. Hindsight is cheap, and armchair-Monday-morning quarterbacking is not what I want to do. I don't want to go back and complain to any Senator or to any Congressman about weakening legislation. But we are in a different world now. The world has changed. September 11 changed us forever. We need to respond to that change and be willing to take a new look, a fresh look at this.

I am not casting stones at anybody. If we could all predict the future, we would probably all be doing something other than what we are doing. So I want to make it very clear, this is not about criticizing anybody's position in the past or criticizing the intelligence community at all.

But the most glaring shortfall of the court is that too many procedural protections are given to the accused alien at the expense of the rest of us. These are not U.S. citizens. I make that clear.

I have been informed that the notice requirements and other procedural obstacles that force the Federal Government to disclose classified information just basically renders the court useless. The court can be a very effective tool in our antiterrorism program, including everything we have been talking about, not only in this bill but in the other legislation that we just passed in the antiterrorism bill. We can make it so much more effective with this kind of support.

Case in point: I wrote a letter to Attorney General Ashcroft on September 17, which, of course, was right after the terrorist attacks, and informed him of this whole issue of the Alien Terrorist Removal Court and what was needed.

Mr. President, I ask unanimous consent that letter be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, September 17, 2001.

Hon. JOHN ASHCROFT,
Attorney General,
Washington, D.C. 20530.

DEAR JOHN: Please accept my heartfelt appreciation for the hard work that you and the rest of the Department are doing to hunt down the terrorists who have attacked our great nation. It is a sincere comfort to me, as I know it is for other Americans, to know that we have such a capable team in place to lead us through this trying time. My prayers are with you.

In 1994, I sponsored legislation to create an Alien Terrorist Removal Court. This legislation established specific procedures for the removal of alien terrorists without disclosing sensitive intelligence data to the terrorist and his organization. In 1996, I succeeded in getting a version of this legislation added to the Antiterrorism and Effective Death Penalty Act (8 U.S.C. 1531–1537). That bill became law and the court was established. My intent was to set up a Federal court to specialize in the identification and expulsion of alien terrorists from the territory of the United States. Unfortunately, my idea never became a reality.

The Alien Terrorist Removal Court is staffed with judges and is empowered to prosecute alien terrorists. As you well know, however, in the years since that 1996 law was passed, there have been zero prosecutions by the court. It is hard to believe, especially today, that this mechanism to fight terrorism has yet to be utilized by the Federal government to prosecute one alien terrorist.

There are legitimate reasons why this court has never prosecuted one case—many resulting from weakening amendments that were made prior to the bill becoming law. The most glaring shortfall of the court is that too many rights are given to the accused alien terrorist. I have been informed that the notice requirements and other procedural obstacles that force the Federal government to disclose classified information render this court useless. I believe this Court can be an effective tool in our terrorism program, and I want to work with you to remedy any problems with the law, and begin using the Court to rid our nation of terrorists.

I would appreciate your suggestions for improvements that would make this court an effective instrument in the fight against terrorism. Again, John, thank you for all of your exemplary work on this issue and I look forward to working with you.

Sincerely,

BOB SMITH.

Mr. SMITH of New Hampshire. Subsequent to that letter, I had a conversation with the Attorney General. The Attorney General is supportive of this provision because it will help them to do their work.

Republican Leader LOTT and I had a colloquy in this Chamber during a recent debate on antiterrorism. We had a conversation in which he agreed with me and supported my provision.

Mr. President, I ask unanimous consent that colloquy be printed in the RECORD.

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

[From the Congressional Record, Oct. 11, 2001]

ALIEN TERRORIST REMOVAL COURT

Mr. SMITH of New Hampshire. Mr. President, it had been my intention to offer an amendment which would strengthen provisions in the bill to deal with known terrorist aliens. As Senator LOTT well remembers, we worked in 1996, created the Alien Terrorist Removal Court, to hear cases against aliens who were known terrorist and to allow the Justice Department to deport these aliens without divulging classified information to the terrorist organization.

Mr. LOTT. I know the Senator from New Hampshire has been working a long time on this issue. In fact, when he sponsored this legislation back in 1995, I was a cosponsor of his bill. He has been a leader on this issue, he passed his legislation, and the Court was created.

Mr. SMITH of New Hampshire. That is correct. As the leader knows, there are some changes that are needed to improve the law, which is what my amendment was going to be about.

Mr. LOTT. I understand, and I agree that the law needs to be strengthened.

Mr. SMITH of New Hampshire. Mr. President, I would say to my colleagues, all the tools we are giving to the Justice Department in this bill are irrelevant if we cannot deport these terrorist who are living in our country preparing to terrorize American citizens. Page 162 of the bill says the Attorney General shall place an alien in removal proceedings within 7 days of catching him, or charge him with a criminal act, or else the bill says ''the Attorney General shall release the alien.'' Mr. President, the problem is that most of these terrorist have not committed criminal acts until they are ready to attack. Therefore, in most of these cases, the only option is to deport them.

Mr. LOTT. It is my opinion, that if we can deport known terrorist, we should do it. We cannot let the Justice Department be barred because the evidence was too sensitive to use in Court.

Mr. SMITH of New Hampshire. That is exactly the problem. Under current law, the Justice Department would have to give a declassified summary of all the secret evidence used in the deportation proceedings to the terrorist. Now, why would we compromise our intelligence sources and methods by revealing sensitive intelligence information to a known terrorist? The intelligence community would never allow it, and with good reason. But as a result, the Justice Department has never once used the alien terrorist removal court to deport anyone.

Mr. LOTT. That is my understanding, and it is a serious problem. I am in complete agreement with the Senator.

Mr. SMITH of New Hampshire. Mr. President, I thank the Leader. As I said, it had been my intention to offer an amendment to resolve this problem by eliminating the requirement for the Attorney General to give this sensitive information to the alien terrorist before deporting him. However, upon discussions with the Attorney General, who indicated to me that he supports this provision, and after discussions with the Leader, I have decided in the interest of moving this legislation to withhold my amendment at this time, with the assurance of the Leader and the Administration that we will work to solve this problem in conference.

Mr. LOTT. Let me say to the Senator that he can count me as a cosponsor of this amendment. It is an excellent amendment, it is needed, and I commit to the Senator that I will do my best to see that it is added in conference. I would further say to the Senator that I have also talked about this issue with

the Attorney General, and he indicated to me that the Administration supports your amendment and that he will also work to support it in conference when we get to that point. So, I appreciate his withholding at this time so we can get this bill to conference where we can work to get the Smith amendment added to greatly improve this bill.

Mr. SMITH of New Hampshire. I thank the Leader for his strong support, and I am pleased that the administration is also supportive. I know how many long hours the Attorney General is putting in on this issue, and how committed he is to winning this war on terrorism. I look forward to passing this important provision which will be an invaluable tool for the Attorney General and the President in this war.

Mr. SMITH of New Hampshire. This court was created in 1996, as I said, as part of the Antiterrorism and Effective Death Penalty Act. Since 1996, the Justice Department has used the court, as I said before, not once—not even one time—to deport any alien terrorist or suspected alien terrorist. Again, the reason is because they have to compromise their sources and methods to do it. They do not want to do that and I don't blame them. Therefore, the alien stays here, and we have to wait until he commits a crime before we can then arrest him or deport him, whatever the courts chose to do.

So, again, this amendment that I am offering strikes the provision of existing law that allows an alien terrorist to get access to a summary of classified information.

It is interesting because you will hear some critics of my amendment say: A summary is OK. We can take a summary and we can modify it, and we can take out sources and methods. We can do all these necessary things to make this good.

I submit to you, in some cases summaries are acceptable. We get them all the time. I know that the Senator from Florida, the chairman of the Intelligence Committee, gets them. We see summaries. Sometimes you can take a summary and get enough information. Oftentimes, Senators look at summaries of intelligence. We do not see the raw intelligence and that is fine.

But in this case, it is not fine because, let's say, for example—and this is a totally fictitious example—there is a conversation taking place between four people, and one of those people is a U.S. intelligence agent, and the three others are in a terrorist network. If we reference any of that conversation, even in a summary, the others are going to know that one of the four is a U.S. agent. If they know that, then a bin Laden might wipe everybody out just to be sure we get the suspect here. So it does risk our intelligence personnel, and we cannot afford that.

So my intent is to prevent the so-called ''sleeper cell'' of alien terrorists from committing an act of terrorism. A ''sleeper cell'' means they are out there; they have not committed an act yet, but we know who they are. Why not deport them. These are not U.S. citizens. We are not taking away their rights. We are taking away their visas. They are guests in our country. They have visas.

Those terrorists who committed those crimes were guests in our country, if you can believe that. They were guests. So why can't we take their visas and send them back to some other place where, if they want to commit it wherever they came from, fine, but keep them out of here. That is what we need to do. Let the other countries they came from take care of them and stop them, but don't let them come in here with their visas and do these kinds of horrible things. That is what I am trying to do, get at this sleeper cell, the network out there. Frankly, we are spying on them. Of course we are. And it is the right thing to do. But they are aliens. We do it with good reason—because we have specific information from our intelligence community.

The intelligence community gets this, and they cannot act on it because to act on it would compromise their own people and their methods of collection. To not act on it means they stay here. So that is where we are. That is why not one case has been brought to court since my legislation created it in 1996.

Who are these sleeper cells? We have seen a lot of them. These are guys that took flying lessons in Florida, who seemed to be reputable people, with families, just going about their business. They could be a student here on a visa. They could be here on a work visa. And they are very careful; they do not break any laws. They do not want to bring any attention to themselves. They do not get speeding tickets or rob banks or commit murders. They stay nice and cool and stay out of trouble. They are good. They keep their hands clean. Then they focus on the horrible act of terrorism, as we saw on September 11.

These are smart people. They know what they are doing. And we have smart people who know how to catch them. But we have to give the intelligence community the tools to do that.

So how does the Government prosecute an alien who is planning an act of terrorism—an alien who has committed no criminal act, nor has that alien violated his or her visa? How do we get them? Again, with the Alien Terrorist Removal Court. They have good Federal judges. Our court has one judge. If somebody wants to make that two or three judges, I do not object to that. I trust that the Federal judge can look at that intelligence and say: Whoops, wait a minute, we cannot provide that. We have to get this guy out of Dodge, get him out of here.

These sleeper cells are law-abiding. That is the interesting part. They are law-abiding. I want to make sure they are not given access to any classified information at that hearing which is going to cause them to take the lives of those who have provided that information or somehow compromise the methods of collection.

I also want to make sure they do not get to do the terrible things that they are planning to do, as they did on September 11.

So my amendment provides for reports to Congress on the Justice Department's utilization of the court. If we can put a provision in there that says—I want my chairman to understand this because I know he may have a concern or two—if we can say to the court, report back to Congress and let us know how you are utilizing the court, if it is abused, we are going to know that. If we do not think the alien got the right decision from the judge, we are going to hear about that.

We are going to be able to monitor this every 6 months. If we can trust Federal judges to enforce our Federal laws in our country, we ought to be able to trust them to look at a piece of intelligence and decide whether somebody should be removed or not without sharing that intelligence. So I am hopeful we can get this done.

Let me address the issue of due process because this always comes up. I have been criticized for being somebody who wants to take the civil liberties from every American. I am not trying to take anybody's rights. I am trying to take their visas before they take our lives. Is there anything wrong with that?

Let me repeat that because it is very important. I am not taking away anybody's due process. I am not taking away their rights. I am taking their visas. They are guests in our country. They have been law-abiding people who have not committed a crime but are plotting one—as we saw on September 11, a big crime, a massive crime, a horrible, detestable act against innocent Americans.

If we had a court—and we don't know that we would have gotten those people—that had the ability, maybe we would have broken up that network. I am not saying we would have or could have, but we might have. That is really the issue: Are there any more plans such as this? Who can we monitor? How many people are out there who we are watching right now that we would like to deport but cannot deport without compromising those methods?

I think this passes constitutional muster. There will be some who will differ. That is the beauty of the Senate. We have people who differ on everything. It is like two lawyers. They won't agree on everything. They always find something to disagree about. I respect that, but I believe it passes constitutional muster. I believe others do as well and who have said so.

Remember, we are talking about a civil and not a criminal matter. We are talking about aliens who have no constitutional right to a quasi-criminal

proceeding to remove that alien if that alien is involved in terrorism. That is important to understand. We are not talking about U.S. citizens. That is another issue. That is another venue, another court, another methodology. That does not apply. Both the fifth and fourteenth amendments prohibit Government actions which would deprive ''any person of life, liberty or property without due process of law.'' The Alien Terrorist Removal Court has the necessary procedural safeguards to protect an alien terrorist's due process rights.

If life, liberty, or property is at stake, the individual has a right to a fair procedure. Again, this is not about his life. This is not about his liberty. This is not about his property. It is about his visa.

The interesting irony is that—and I hesitate to use the term ''law-abiding citizens''—but these horrible people who did these things on September 11, at the time, were law-abiding citizens. They were very careful to keep their noses clean in America until they did what they did. That is why we must deport them when we know they are involved in planning, plotting, thinking about plotting, or are involved in meetings that are plotting, or whatever, terrorist acts.

So this court has the necessary procedural safeguards to protect an alien's due process. And I am very confident about that.

Liberty is freedom of action by physically restraining an individual—deporting or imprisoning—or a denial of a right with special constitutional protection, such as freedom of speech.

From the case Mathews v. Eldridge, 1976, there is a procedural due process test. There are three factors: No. 1, private interest; No. 2, risk of deprivation of interest; and, No. 3, Government's interest.

The Government's interest in these cases is our interest. The Government has an interest in deporting terrorists who may commit these crimes because the Government's interest is to protects us. That is what we have a Government for, to protect us, and they cannot because they cannot use the tool that we have given them, which is the court. They cannot use it because they have to compromise their sources and methods to do it.

So the Alien Terrorist Removal Court does provide these protections. An alien terrorist gets the evidentiary hearing before a Federal judge. Even though he is an alien, he gets an evidentiary hearing. This hearing is afforded to the alien terrorist, and the judge is allowed to see all classified information—the judge, not the terrorist. This is under my amendment. But the way it is now, the terrorist gets to see the classified information. Can you believe that? That is true. But they do not see it because the intelligence community does not give it to them. Therefore, the terrorist stays in America, and we wait for the acts to be committed.

The Federal judge, not the alien terrorist, has access to view all the classified information, and he or she can make a determination on the merits of the Government's claim. The Government's interest in not disclosing highly classified and sensitive information is outweighed by the alien terrorist's right to see the evidence. Think about that. Let me repeat that: Under current law, the Government's interest in not disclosing highly classified and sensitive information is outweighed by the alien terrorist's right to see the evidence. That shouldn't be. It should be the other way around. The Government's interest should outweigh the terrorist's interest. It is the people's interest, not just the Government. It is the interest of 260 million American people.

When one balances the interest of the alien terrorist versus the interest of the Government to prevent the disclosure of sources and methods to terrorist cells, such as al-Qaeda, and to prevent the killing of human resources by these terrorist organizations, that is when this should kick in. It is the rights of the terrorist versus the rights of the Government and the people. Sometimes they clash. In the case of a person committing or persons wanting to commit a terrorist act, they have clashed. It is more important that we protect the information and err on the side of caution, that we don't cost more lives. That is what my amendment is about.

I have an article which I ask unanimous consent to print in the RECORD.

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

[From U.S. News, Oct. 1, 2001]

FINGER-POINTING, FINGERPRINTS

THE HUNT FOR EVIDENCE AND, HARD ON ITS HEELS, CHARGES ABOUT WHO SCREWED UP

(By Edward T. Pound and Chitra Ragavan)

In the spring of 1996, Congress gave law enforcement officials a new and seemingly important tool to combat terrorism. It created the Alien Terrorist Removal Court, assigning the special federal court the task of deporting terrorists operating on American soil. After the World Trade Center bombing in 1993, and the growing suspicion that foot soldiers for Osama bin Laden were slipping into the United States, the establishment of the court seemed an eminently sensible thing to do.

But terrorists had nothing to worry about—because the court is a court in name only. In the five years since its creation, U.S. News has learned, the five-judge panel has never deported a single terrorist. For that matter, it has never even heard a case. The Justice Department, the agency principally responsible for monitoring terrorists' movements within the United States, has never filed an application with the court seeking to deport a terrorist.

Former Justice Department officials say the agency couldn't use the court because the law requires disclosure of sensitive information to terrorists—evidence, they say, that would compromise intelligence gathering and identify sources. But critics say the government's refusal to bring suspected terrorists before the special court is a glaring example of its inability to use its vast counterterrorism resources effectively. In the past few years, Congress has authorized billions of dollars for new equipment and for thousands of personnel in law enforcement and intelligence agencies. This year alone Congress authorized $10 billion before the attacks for counterterrorism efforts.

American law enforcement and intelligence agencies have scored several big wins against terrorists, jailing some and foiling the plots of others, Michael Cherkasky, a former New York state prosecutor who investigated terrorist activities, says federal agents have known for years that suicide bombers had changed their habits, living seemingly normal lives here, but says agents failed to understand the terrorists' deadly intentions.

Cherkasky cites the evidence introduced in a recent terrorist trial in New York—a training manual from bin Laden's al Qaeda terrorist network. ''The al Qaeda manual says you have to act nonreligious,'' Cherkasky explains, ''shave your beards, fit in as middle class.''

But it wasn't just behavior, it was targets that went undetected. The government was caught flat-footed in several major terrorist attacks, current and former intelligence official say. Among them; the bombing of the USS Cole last year, the bombings of the two East African embassies in 1998, and the September 11 attacks on the World Trade Center and the Pentagon. A review of the government's efforts against international terrorism shows that they have been hobbled by bungled investigations and poor intelligence analysis—or, in some cases, no analysis at all of critical documents accumulated by investigators.

That disturbs several former senior Justice Department and FBI officials who were actively involved in counterterrorism investigations during their careers. They believe that U.S. intelligence agencies may have had sufficient information to prevent the deadly attacks on the World Trade Center and the Pentagon—if only they had understood what they had. John Martin, the former top national security prosecutor for the Justice Department, says the government eventually will get to the bottom of why intelligence and law enforcement agencies did not prevent the attack. And, he thinks, they will conclude that government agencies ''were collecting the intelligence, they were deciphering it, but they were sending it to the field late and in muddled, ambiguous terms.'' Jamie Gorelick, the No. 2 Justice Department official in President Clinton's first term, sounds a similar theme. ''We have a very robust intelligence collection effort,'' she says. ''But we don't have a commensurate analytical capability. I am certain that when we are able to digest what we have collected, we will find information which surely could have or might have prevented'' the attacks.

Red alert. That may be, and there's growing evidence that Washington should have been better prepared. There were warning signs, say former counterterrorism officials. Court files show that operatives linked to bin Laden or other militants have been planning for some time to make the United States their primary theater of operations. Now the FBI is finding that its failure to analyze the intelligence amassed during earlier investigations is slowing its efforts to locate conspirators or associates of the hijackers.

With many leads not producing much, U.S. law enforcement agencies are looking overseas for help. One big break came late last week when an Algerian pilot named Lotfi Raissi, 27, was arrested in London for allegedly lying on his application for a pilot's license in the United States. British authorities say they have linked him to four of the

hijackers. A prosecutor told a London court that Raissi's job was to ensure that the hijackers were ''capable and trained.''

The United States has the most sophisticated intelligence collection capability in the world, but it appears to have failed utterly in this instance. The supersecret National Security Agency intercepts phone calls and messages thousands of miles from its sprawling complex in suburban Maryland near Washington. Yet there has been no indication from U.S. officials that the NSA intercepted any information on the alleged hijackers who were operating in its shadow, just a few miles away, in the days before the attacks.

When the dust settles, Congress undoubtedly will examine what U.S. intelligence and law enforcement agencies knew before the hijackers produced their carnage. The Bush administration says it had no advance warning that the attacks would take place. But it is clear that the FBI and Justice Department had developed information on some of the hijackers before the attacks—just how much isn't known, and the government isn't saying.

Three former top intelligence officials say it is clear that some of the hijackers and possible associates were on FBI watch lists prior to the September 11 attacks. There seems to be little doubt of that. On August 23, the CIA sent the FBI the names of two suspected terrorists, Khalid Almihdhar and Nawaf Alhazmi. But the bureau was unable to apprehend them before they helped hijack the airliner that crashed into the Pentagon. FBI officials did not respond to several requests for interviews.

Officials say the CIA and FBI now are rushing to improve their intelligence capabilities. One intelligence source says the CIA is bringing back retirees to fill the massive demand for qualified help. Meanwhile, the FBI has put out the word that it badly needs people who can translate Arabic, Farsi, and Pashto. ''They are scouting everywhere for translators,'' says a law enforcement involved in the government's massive manhunt. One reason: In the past, the bureau hasn't had sufficient personnel to translate and interpret critical documents, or vast amounts of intelligence, that could have shed light on terrorist plots. In some ways, the FBI must shoulder the blame. The bureau has very few Arab-American agents and translators, and funds intended for hiring translators were diverted to hiring more agents to fight street crime, several former Justice Department officials say. ''The language problem is prodigious,'' says the intelligence source, ''at both the CIA and the FBI.''

That's true, too, at other intelligence agencies in the Defense Department, including the NSA. In a report issued last week, the House Intelligence Committee said American spy agencies ''have all admitted they do not have the language talents . . . to fully and effectively accomplish their missions.''

Surveillance. Apart from the language needs, Attorney General John Ashcroft now wants Congress—in addition to the $20 billion more in counterterrorism funding it has committed since the attacks—to give law enforcement even more powers to wiretap immigrants and monitor their activities in the United States. At the same time, some lawmakers are pushing the government to use the Washington-based Alien Terrorist Removal Court, composed of sitting judges, to help rid the country of suspected terrorists. Sen. Bob Smith, a Republican from New Hampshire, is spearheading that effort.

Under the current law, a suspected terrorist brought before the court must be given an unclassified summary of the deportation charges. Smith plans to introduce a provision this week that would allow the government to use classified information in the court proceeding without sharing any information with the suspect. The proposal is likely to spark a hot debate in Congress, *where some members deplore the use of secret evidence and have been trying to outlaw the practice.* Smith couldn't care less. ''We need to bring these terrorists to court and deport them,'' he says. Smith persuaded Congress to approve the creation of the court in April 1996. But its powers were weakened, he adds, by amendments requiring suspected terrorists to be given a summary of the charges against them. As a result, the Justice Department never used the court, fearing that disclosure of intelligence would expose sources. Current officials would not comment for this story.

Civil libertarians say the department has found it easier to deport or imprison suspected terrorists through other administrative immigration proceedings. Secret evidence, which is anathema to Arab-Americans and civil rights activists, can be used in those proceedings when the government seeks to deport aliens on other grounds, such as ''garden variety'' immigration violations, says a former top immigration official. In the terrorist court, suspects would have more safeguards—the right to counsel and the option to challenge the constitutionality of the secret evidence, says Timothy Edgar, a top lawyer for the American Civil Liberties Union. No such rights are available in immigration court proceedings, he says. Given the choice, he says, the terrorist court is the least distasteful.

Immigration officials say that secret evidence is seldom used, perhaps only 10 to 12 times a year out of 300,000 cases in the immigration courts. Steven R. Valentine, a former Justice Department official who oversaw the Office of Immigration Litigation, says the government must deport or detain terrorist suspects—especially in light of the recent tragic attacks. In the past, he says, because of legal challenges, the Justice Department has been unable to deport known terrorists. ''That,'' he adds, ''is insane.''

Mr. SMITH of New Hampshire. This was written by Ed Pound and Chitra Ragavan. It is a U.S. News article of a few weeks back.

In the article, which is entitled ''Finger-pointing, fingerprints,'' Mr. Pound goes into a lot of detail and history about the fact that the court has not been used. I hope my colleagues will read it. It is a good history and a summation.

It is pretty simple. This provides that the court we now have created to remove alien terrorists can be used. That is what I am hoping.

I ask again for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GRAHAM. Mr. President, could the request be restated?

Mr. SMITH of New Hampshire. I asked for the yeas and nays.

The PRESIDING OFFICER. The Senator asked for the yeas and nays on his amendment. Is there a sufficient second?

At the moment, there is not a sufficient second.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

Mr. NELSON of Florida. Madam President, I ask unanimous consent that I be allowed to speak for about 5 minutes as in morning business.

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

(The remarks of Mr. NELSON of Florida are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I have listened closely to some aspects of this debate, especially the amendment presently pending, raised by my distinguished colleague from my neighboring State of New Hampshire.

I had the honor of serving for 8 years on the Senate Intelligence Committee, where I was vice chairman. I have enormous regard for the current chairman and vice chairman of the committee. I have also served as both ranking member and chairman of the Judiciary Committee.

As I listened to the debate, something sounded familiar. Indeed, this amendment was raised during the debate in preparation of the antiterrorism bill that the Congress passed and the President signed last month. There was no enthusiasm for it from Republicans or Democrats. We looked at it, the White House looked at it, and the Justice Department looked at it. None of us were interested in including it in what became the USA Patriot Act.

The idea of having a quasi-secret court, and making only limited evidence available to the defendant, as is true under existing law, is constitutionally questionable enough. But to say that we will not tell the defendant any of the evidence against him in the court, as Senator SMITH proposes, is the kind of thing we rail against when other countries do it. Our government officials have gone all the way to the head of state level to register complaints when Americans have been held in other countries without being informed of the charges against them. Every President I have known has been forced at one time or another to raise such issues with another head of state. We should not make this task more difficult by approving of the amendment Senator SMITH has offered here.

Let us look at a little bit of history. The Alien Terrorist Removal Court was created in 1996. It was done largely through the efforts of Senators HATCH and Dole. It exists to provide a way for the Government to remove terrorist aliens whom it believes it cannot attempt to remove through public hearings, to balance the Government's need

to maintain its existing intelligence sources while giving some rights to the accused.

Under the law as it presently exists, the accused does not see the actual evidence against him but does receive an unclassified summary of that evidence. The law states very clearly that that unclassified summary has to be ''sufficient to enable the alien to prepare a defense.''

Under the amendment that Senator SMITH has presented, an alien accused of being a terrorist would receive no information about the basis of the charges against him, not even the limited summary provided in existing law.

If we were to pass something of this nature, there is no way the President of the United States or the Secretary of State or the Attorney General could go to any other country holding an American on undisclosed evidence and demand to see that evidence. That nation could simply say that it is doing what the United States, the country seen as the bulwark of freedom, is doing, the United States that has had a written Constitution that has survived for all these years. The U.S. Constitution, as written and interpreted over the last two centuries, makes it clear that the government cannot bring somebody into a court and say: ''We have all this information against you, but we are not going to tell you what it is. Are you guilty of what we have against you? I am not going to tell you what it is we have against you, but I want to know, are you guilty or not? And, if you are not guilty, then defend yourself against these charges we have brought. Sorry, you can't see the charges. Sorry, you can't hear the evidence. Sorry, we can't let you know what is going on. But we will give you a chance to defend yourself.''

It doesn't quite work that way. Anybody in this body who has been either a prosecutor or defense attorney, on either side, would not want that.

The distinguished Presiding Officer knows as well as any Senator here the terrible nature of September 11. Her State was impacted in a horrible way, as were the surrounding States of New Jersey and Connecticut, just as the State of Virginia has been horribly harmed by the attack on the Pentagon. Nobody has stated the horror, the anger, and the feelings left in the wake of the September 11 attacks in a more articulate way than the distinguished Presiding Officer. We all share those feelings. But nobody here has ever suggested that we somehow abandon all our laws, all our rules, our Constitution and everything we stand for, the very democracy that got the terrorists to attack us. In effect, we would say, ''We surrender.''

The Senator from New York, the Senator from Vermont, the Senator from Florida, all 100 of us—none of us is about to surrender. We understand there is a problem with terrorism. I suspect throughout my lifetime we will face threats. But let's answer the threats in the ways that comport with what our constitutional history and our history as a nation.

The Alien Terrorist Removal Court has not been used, but that is not because an unclassified summary has to be provided to the defendant. The Justice Department talked to us about why the court is not being used, and did not mention this. When the Department was given the opportunity to consider this amendment at the time of the terrorism bill, it did not want it. I suspect that this lack of interest is related to concerns within the Justice Department about constitutional challenges to the court itself, as it is formulated under existing law. Surely the Justice Department knows that if we approve this amendment those constitutional challenges will basically be irrefutable.

We provide substantial new powers to the Justice Department with regard to terrorist aliens through the antiterrorism legislation we just passed, legislation I voted for, the distinguished senior Senator from Florida voted for, his colleague, the other Senator from Florida voted for; the distinguished Presiding Officer voted for it—98 of us voted for it. That legislation should make it easier for the Justice Department to use this court.

But as chairman of the Judiciary Committee, I could never support this amendment, which has already been rejected once by the administration and by Republicans and Democrats who negotiated the antiterrorism bill. I certainly could not accept it absent any showing of why it is needed.

I say to my friend from Florida, the distinguished chairman, that I have no problem calling upon the administration to notify the Judiciary Committee if it really believes a change in the law is needed. The administration did not believe this a couple of weeks ago. But if the Attorney General now believes he needs something such as this, I will be glad to hold hearings on the issue and bring his concerns forward. But to do something of such constitutional magnitude in an amendment on the floor, without any hearings in the Judiciary Committee or Intelligence Committee, is simply inappropriate.

Madam President, we need to go back to basic constitutional law 101 here. The idea of giving the government the ability to bring removal proceedings against someone and force him to defend himself without telling him of the evidence against him flies in the face of all of our principles.

We must not tell the rest of the world that the only way we can defend ourselves is to accuse somebody but not tell him what the evidence is against him. Back in the 1700s, we fought a revolution to ensure a much different principle. All of us share the terror of what happened. All of us are opposed to terrorists. All of us want to defend the United States. But we must not let our enthusiasm to defend our Nation lead us to do things that will hurt us further.

Frankly, I would be delighted to have the Attorney General take a look at Senator SMITH's amendment and see what he thinks. But I tell my friend from Florida that I certainly do not support this amendment, because the constitutional questions raised are of such enormous magnitude. To do so without any request from the administration and without any hearings would not be a responsible action for this body to take.

I yield the floor.

Mr. GRAHAM. Madam President, it is our hope that we will develop a second-degree amendment to this amendment which essentially would ask the Attorney General to review this legislation that has been part of our statute since 1996, which the Senator from New Hampshire has stated has not been effective, and to give us his assessment as to the effectiveness of this legislation, if he believes that changes are needed. They might be changes in the law. They might be changes in the resources that are devoted to carrying out this law or for any other impediments.

I note, as has the Senator from Vermont, that in the antiterrorism act which was just signed last Friday of October by President Bush, there are changes in the underlying definition of what constitutes an alien terrorist and an alien terrorist activity. Those changes have been stated to potentially have an effect on the efficacy of this 1996 act. That would be another subject on which we would ask the Attorney General's opinion.

We are today taking up a very major change in our law without the kind of prudent, thoughtful consideration for which the Senate is established to provide. I believe this process of requesting a review and then making the judgment based on the response to that request as to whether legislative, appropriations, or other activity is called for would be consistent with the history of this body.

Speaking of history, I point out that one of the first controversies which politically helped to establish that we would have a two-party system was called the Alien and Sedition Acts which was enacted in the late 1790s. I refer to the biography of John Adams. He was the President when the Alien and Sedition Acts was passed by the Congress. He had not supported the Alien and Sedition Acts, but he signed it into law as our second President and paid a very heavy price, including his defeat when he ran for reelection in 1800 with this being one of the major issues used against his reelection.

This is an issue of how to treat aliens in this country, which has a very long political history. It is an issue about Americans, whether they are citizens or any of the variety of categories that come under the generic term ''alien.'' They might be defined as a permanent resident who has been in the country for decades, as well as a refugee who just recently arrived seeking protection against political persecution in

their home country. That whole wide range of people come under the generic term of ''alien.'' How aliens should be treated has a long history in this country.

We are now participating in a debate on the most current topic of that. When it is available, I believe that our second-degree amendment, which will call for a temperate, thoughtful review of this by the highest legal officer in our executive branch, would be an appropriate manner for those of us who are privileged to serve in the Senate to proceed to determine whether, and if so, what changes in this law or the circumstances that surround this law, we should undertake.

Awaiting the completion of the drafting of that amendment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2115 TO AMENDMENT NO. 2114

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

The amendment is in the nature of a second-degree amendment to the amendment of the Senator from New Hampshire.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Florida (Mr. GRAHAM), for himself and Mr. SHELBY, proposes an amendment numbere 2115 to amendment No. 2114.

Mr. GRAHAM. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the word ''sec'' and insert the following:

Section 504 of the Immigration and Nationality Act (8 U.S.C. 1534) is amended by adding the following subsection after subsection (K):

''(L) No later than 3 months from the date of enactment of this Act, the Attorney General shall submit a report to Congress concerning the effect and efficacy of Alien Terrorist Removal proceedings, including the reasons why proceedings pursuant to this section have not been used by the Attorney General in the past and the effect on the use of these proceedings after the enactment of the U.S.A. PATRIOT Act of 2001.''

Mr. GRAHAM. Madam President, as I indicated in my preliminary remarks, this amendment calls upon the Attorney General, within 3 months of the enactment of this legislation, to report to the Congress on the 1996 Alien Act—that is the act that provides the procedure that the Senator from New Hampshire has outlined for the deportation of aliens—and within that report to indicate what recommendations the Attorney General would make to the Congress relative to any changes in the law.

It draws particular attention to the fact that we have just enacted a major antiterrorism act, which contains modifications of the definition of ''alien terrorists'' which have in the past been cited as a reason why this 1996 statute has not been utilized.

I offer this amendment on behalf of myself and the vice chairman of the committee, Senator SHELBY, and ask for its immediate consideration. The Senator from New Hampshire has remarks he would like to make.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Madam President, I thank the chairman for his cooperation. I will not take more than a minute or two and will not ask for any recorded vote.

I also thank the chairman of the Judiciary Committee for making a commitment to me that we can have a hearing on this, if the Attorney General chooses to come and talk about the issue after the report comes back.

To summarize, the amendment I offered dealt with this terrorist removal court which is not being used because of the fact that it would compromise intelligence if we did use it.

I had hoped we could pass it to change that court, but given the fact that there is some information coming in on different views as to who believes what way about this and the issue as to how this court would or should work, I am prepared to and will accept the second-degree language offered by the Senator from Florida.

I hope we can get this done. It is a 3-month report. I am a little concerned about the length of time, but realizing it takes time to do a report, I am also worried about the fact that something else could happen. Given the circumstances, it is good that we now have the attention of not only the Senate and the Congress but also the Justice Department, and I hope we can hear from the intelligence community as well on this issue, which we will do in the hearings when we have them.

I thank my colleagues for their cooperation and look forward to passage of the amendment and yield the floor.

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

If not, the question is on agreeing to amendment No. 2115.

The amendment (No. 2115) was agreed to.

Mr. GRAHAM. Madam President, I ask now for a vote on the underlying Smith amendment, as amended.

The PRESIDING OFFICER. The question is on agreeing to the Smith amendment No. 2114, as amended.

The amendment (No. 2114), as amended, was agreed to.

Mr. GRAHAM. Madam President, I move to reconsider the vote on the Smith amendment.

Mr. SMITH of New Hampshire. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2116

Mr. GRAHAM. Madam President, I am not aware of any other amendments to be offered to the bill. I have a managers' amendment I offer at this time.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Florida (Mr. GRAHAM) proposes an amendment numbered 2116.

The amendment is as follows:

Insert at the appropriate place in the bill:
The DCI shall provide, prior to conference, any technical modifications to existing legal authorities needed to facilitate Intelligence Community counterterrorism efforts.

Mr. GRAHAM. Madam President, the purpose of this amendment, which has been suggested by Senator KYL, is to assure that if, in light of the rapidly changing world in which we are living, there are other proposals that need to be considered during the course of the conference, the conference committee will have the liberty to do so. I urge adoption of the amendment.

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

The question is on agreeing to the amendment.

The amendment (No. 2116) was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Senator GRAHAM has mentioned there are no further amendments to the bill. I ask that the bill be read a third time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 2883, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2883) to authorize appropriations for fiscal year 2002 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 2883 is stricken, the text of the Senate bill S. 1428, as amended, is inserted in lieu thereof, and the bill is deemed read the third time.

Mr. REID. I know the House bill has been read a third time. I ask for the yeas and nays on H.R. 2883, as amended.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. REID. I further ask unanimous consent that the vote on passage of the

bill occur at 2 p.m. today, with rule XII, paragraph 4, being waived.

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

MORNING BUSINESS

Mr. REID. Madam President, if the manager of the bill has nothing further, I ask unanimous consent that the Senate be in a period of morning business until 2 p.m. with Senators permitted to speak therein for a period of up to 10 minutes each.

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

THERE IS A NEED FOR IMPROVED AIRLINE SECURITY

Mr. NELSON of Florida. Madam President, as we are locked in this deadlock with the House of Representatives over the question of airport passenger screening security, basically the deadlock is the Senate has passed a bill 100–0 that would provide for federalizing the screening process of passengers; that is, attaches to the Justice Department that these would be Federal employees who have specific training in law enforcement so we can heighten the feeling of confidence of the American flying public that they will be safe when they get in an airliner to take their travel.

Why is this important? It is obvious the airline industry is one of the important economic components of our national economic engine, and as long as people are scared to get into a plane and fly, then we are not going to rev up that economic engine and get it functioning on all cylinders as is so necessary.

There are parts of this country that are certainly more affected than others by the diminution of airline travel. Clearly, the city of New York, the State of the Presiding Officer, is drastically affected; clearly, cities in my State, such as Miami, or Orlando, the No. 1 tourist destination in the world. I have talked to the owners of hotels—not the business hotels; the business hotels are doing OK, not good but OK—and the tourist-oriented hotels now have an occupancy rate in the range of 40 to 45 percent.

I talked to the owner of one hotel with 800 rooms; they shut down 600 rooms. It does not take a rocket scientist to recognize with that diminished revenue they will not be able to pay mortgage payments, taxes. They have already laid off a significant portion of their staff.

We understand what happens as the ripples run through the economy. What do we do? We want to give a feeling of confidence, of safety, to the American flying public. What better way to do that than for the public to know, when they go through that passenger screening process, in fact, if there are people trying to do dastardly things to them by sneaking through implements of destruction, they will get caught.

The fact is, recently they have not been caught. We heard this rather astounding story a couple of days ago about in the Chicago area a person had two knives, got on the plane, and had in their carryon luggage other implements of destruction. This is several weeks now, after September 11.

We read the story last week about the fellow sitting on the airplane, in flight, horrified to suddenly realize someone had given him a pistol as a present, and he forgot it was in his carry-on luggage. He had the presence of mind to call over the flight attendant in the midst of the flight to say what happened. The fact is, airline passenger security had failed again.

Does this engender confidence in the American flying public? Of course, it doesn't. We are undercutting the very thing we need to be doing for those desperately needing the airlines back in robust business again—the hotel operators, the service personnel, the gift stores in the hotels, the restaurants, the tourist destinations, and the multiplicity of industries and businesses, both large and small, that spawn from this wonderful, robust transportation network we have had in the skies.

Why am I saying this? It took 4 weeks in the Senate to pass this bill because people in this Chamber were filibustering it because they wanted that passenger security screening operation to continue as it is, privately contracted out. That is not going to cut it. Yet we were held up 4 weeks. By the time it got around to the final passage, there was no Senator who was going to vote against it. It was 100–0 in this Chamber. Now we are at loggerheads with the House of Representatives, which by a very narrow margin of one or two votes passed a highly partisan bill that says it is still going to be contracted out. They say: Don't worry; we will federally oversee the contracting. But if the whole Nation's economy hinges on getting the public to believe it is safe to get back into an airliner and fly, are we not wasting precious minutes every day we are at loggerheads with the House of Representatives? We have a 100–0 vote here; they have virtually a split vote of 215 each. Why not look at what is best for the country?

How many more newspaper stories do we have to read, as we have in the last couple of days, about the stun guns, the knives, and the box cutters getting through security. How much more do we have to read before it convinces us and convinces the body at the other end of this United States Capitol that it is time to put aside their philosophical positions, their partisan positions, and pass something into law so we can restore the confidence of the American people.

I share these thoughts after considering this very important intelligence legislation, all of which is very necessary to the security of this country, as is the airline security bill important to the security of this country, both economically and as we take on the terrorists.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

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

The senior assistant bill 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.

UNANIMOUS CONSENT AGREEMENT

Mr. REID. Mr. President, I ask unanimous consent that the previous order entered setting the vote at 2 p.m. be modified to allow the vote to occur at 1:55 p.m.

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

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. 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. MURKOWSKI. Mr. President, I ask unanimous consent that I may be allowed to speak as in morning business for about 20 minutes.

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

ENERGY POLICY

Mr. MURKOWSKI. Mr. President, I do not think there is any question about the condition of this country. We are clearly a nation at war. As we look at the instability, the uncertainty of regions of the world, regions where many of the nations that want to destroy Israel and the U.S. reside, the reality is these particular areas of the world are ones on which we are growing more dependent all the time.

It is no secret to the occupant of the chair that we are now 57 percent dependent on imported oil. However, during the 1970s, we were about 34 percent dependent on oil. Some remember the inconvenience of the gas lines around the block. This was at a time of conflict in the Mideast, the Yom Kippur War. Americans were outraged. They were indignant. How could it possibly happen in our Nation that we should be so inconvenienced?

So there we were, in the 1970s, 33 percent dependent; today we 57 percent dependent, and the Department of Energy indicates by the year 2010 we are going to be somewhere in the area of 66 percent dependent.

We are, in my opinion, held hostage by the same interests that seek to destroy and uproot Israel. Through our energy policies of dependence, we have