

areas; they do the bare minimum: Let's have a study and let it take 2 years. Let's decide on what to do down the road.

For every year we wait, we become more vulnerable.

Mr. REID. Being more specific, is the Senator aware we have tried to address rail security and Amtrak security? Turned down. On several occasions, port security, turned down. Is he aware we have tried to get specific money to first responders? Turned down. The Senator is aware of this and other measures—for example, hazardous chemicals security, which Senator CORZINE has pushed so much. The Senator is aware of each of these, and we have had votes and have been turned down on the floor by the majority on all requests.

Mr. SCHUMER. Mr. President, I am aware, to answer my good friend from Nevada, of this. I am frustrated by it, and, frankly, I am befuddled by it because an administration that is so aggressive when it comes to taking the war overseas and will ask us for billions and billions more at the drop of a hat—

The PRESIDING OFFICER. All time has expired.

Mr. SCHUMER. I thank the Presiding Officer.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

#### NATIONAL INTELLIGENCE REFORM ACT OF 2004—Continued

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### AMENDMENT NO. 3702

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the McCain amendment.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, this amendment is designed to address transportation security-related recommendations of the 9/11 Commission. The amendment is almost identical to Title VII of S. 2774, the 9/11 Commission Report Implementation Act of 2004, which Senator LIEBERMAN and I introduced earlier this month.

The amendment implements the Commission's recommendations on

transportation security in the following three ways: One, establishing a national strategy for transportation security; two, assigning responsibility for the "no-fly list" to the Transportation Security Administration; and, three, enhancing passenger and cargo screening.

This amendment is the next step in fulfilling the mandate of the 9/11 Commission recommendations and ensuring we move forward in addressing the vulnerabilities in our transportation systems. These provisions should not be controversial, and I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment which I cosponsored with Senator McCRAIN. This is the first of several he and I will be introducing, along with other Members, which would implement recommendations of the 9/11 Commission not included in the underlying bill that Senator COLLINS and I have introduced which focuses on intelligence reform.

Mr. ROCKEFELLER. Mr. President, I am pleased to support my colleague's amendment to implement the 9/11 Commission's recommendations on improving aviation security. Senator McCRAIN and I have worked closely over the last several years to strengthen our aviation security network. Although I strongly agree with the 9/11 Commission's recommendations for improving aviation security, I believe that Congress must go further than the Commission's recommendations if we are to continue to improve our aviation security system.

It is for this reason that I have filed my bill, S. 2393, the Aviation Security Advancement Act, as an amendment to this legislation as well. I would note that Senator McCRAIN is a cosponsor of my bill. In addition, to incorporating the recommendations of the 9/11 Commission, my bill also includes specific requirements to improve air cargo and general aviation security, which I have long felt to be significant gaps in our security system and the 9/11 Commission specifically cited as a weakness. My bill also authorizes funding for these new security requirements.

This legislation was passed unanimously out of the Commerce Committee last week. This legislation is also supported by the airline industry. I hope that the Senate will consider this legislation later this week. My amendment is cosponsored by Senators HOLLINGS, LAUTENBERG, SNOWE, and SCHUMER.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to amendment No. 3702.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massa-

chusetts (Mr. KERRY) are necessarily absent.

The result was announced—yeas 97, nays, 0, as follows:

[Rollcall Vote No. 189 Leg.]

#### YEAS—97

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

#### NOT VOTING—3

AKAKA	EDWARDS	KERRY
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The amendment (No. 3702) was agreed to.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, it is my understanding that Senator STEVENS no longer needs to use his time at this time. I believe he will be speaking later. So I ask unanimous consent to vitiate the order that reserved time for Senator STEVENS and instead have Senator HUTCHISON recognized to offer an amendment.

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

The Senator from Texas.

#### AMENDMENT NO. 3711

Mrs. HUTCHISON. Mr. President, I call up amendment No. 3711, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 3711.

Mrs. HUTCHISON. 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 air cargo safety, and for other purposes)

At the appropriate place, insert the following:

#### TITLE —AIR CARGO SAFETY

##### SEC. —01. SHORT TITLE.

This title may be cited as the "Air Cargo Security Improvement Act".

##### SEC. —02. INSPECTION OF CARGO CARRIED ABOARD PASSENGER AIRCRAFT.

Section 44901(f) of title 49, United States Code, is amended to read as follows:

## “(f) CARGO.—

“(1) IN GENERAL.—The Secretary of Homeland Security shall establish systems to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in—

“(A) passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation; or

“(B) all-cargo aircraft in air transportation and intrastate air transportation.

“(2) STRATEGIC PLAN.—The Secretary shall develop a strategic plan to carry out paragraph (1) within 6 months after the date of enactment of the Air Cargo Security Improvement Act.

“(3) PILOT PROGRAM.—The Secretary shall conduct a pilot program of screening of cargo to assess the effectiveness of different screening measures, including the use of random screening. The Secretary shall attempt to achieve a distribution of airport participation in terms of geographic location and size.”.

**SEC. —03. AIR CARGO SHIPPING.**

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

**“§ 44925. Regular inspections of air cargo shipping facilities**

“The Secretary of Homeland Security shall establish a system for the regular inspection of shipping facilities for shipments of cargo transported in air transportation or intrastate air transportation to ensure that appropriate security controls, systems, and protocols are observed, and shall enter into arrangements with the civil aviation authorities, or other appropriate officials, of foreign countries to ensure that inspections are conducted on a regular basis at shipping facilities for cargo transported in air transportation to the United States.”.

(b) ADDITIONAL INSPECTORS.—The Secretary may increase the number of inspectors as necessary to implement the requirements of title 49, United States Code, as amended by this subtitle.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by adding at the end the following:

“44925. Regular inspections of air cargo shipping facilities”.

**SEC. —04. CARGO CARRIED ABOARD PASSENGER AIRCRAFT.**

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is further amended by adding at the end the following:

**“§ 44926. Air cargo security**

“(a) DATABASE.—The Secretary of Homeland Security shall establish an industry-wide pilot program database of known shippers of cargo that is to be transported in passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. The Secretary shall use the results of the pilot program to improve the known shipper program.

## “(b) INDIRECT AIR CARRIERS.—

“(1) RANDOM INSPECTIONS.—The Secretary shall conduct random audits, investigations, and inspections of indirect air carrier facilities to determine if the indirect air carriers are meeting the security requirements of this title.

“(2) ENSURING COMPLIANCE.—The Secretary may take such actions as may be appropriate to promote and ensure compliance with the security standards established under this title.

“(3) NOTICE OF FAILURES.—The Secretary shall notify the Secretary of Transportation of any indirect air carrier that fails to meet security standards established under this title.

## (4) WITHDRAWAL OF SECURITY PROGRAM APPROVAL.—The Secretary may issue an order amending, modifying, suspending, or revoking approval of a security program of an indirect air carrier that fails to meet security requirements imposed by the Secretary if such failure threatens the security of air transportation or commerce. The affected indirect air carrier shall be given notice and the opportunity to correct its noncompliance unless the Secretary determines that an emergency exists. Any indirect air carrier that has the approval of its security program amended, modified, suspended, or revoked under this section may appeal the action in accordance with procedures established by the Secretary under this title.

“(5) INDIRECT AIR CARRIER.—In this subsection, the term ‘indirect air carrier’ has the meaning given that term in part 1548 of title 49, Code of Federal Regulations.

“(c) CONSIDERATION OF COMMUNITY NEEDS.—In implementing air cargo security requirements under this title, the Secretary may take into consideration the extraordinary air transportation needs of small or isolated communities and unique operational characteristics of carriers that serve those communities.”.

(b) ASSESSMENT OF INDIRECT AIR CARRIER PROGRAM.—The Secretary of Homeland Security shall assess the security aspects of the indirect air carrier program under part 1548 of title 49, Code of Federal Regulations, and report the result of the assessment, together with any recommendations for necessary modifications of the program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 60 days after the date of enactment of this Act. The Secretary may submit the report and recommendations in classified form.

(c) REPORT TO CONGRESS ON RANDOM AUDITS.—The Secretary of Homeland Security shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on random screening, audits, and investigations of air cargo security programs based on threat assessments and other relevant information. The report may be submitted in classified form.

(d) CONFORMING AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, as amended by section 3, is amended by adding at the end the following: “44926. Air cargo security”.

**SEC. —05. TRAINING PROGRAM FOR CARGO HANDLERS.**

The Secretary of Homeland Security shall establish a training program for any persons that handle air cargo to ensure that the cargo is properly handled and safe-guarded from security breaches.

**SEC. —06. CARGO CARRIED ABOARD ALL-CARGO AIRCRAFT.**

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program requiring that air carriers operating all-cargo aircraft have an approved plan for the security of their air operations area, the cargo placed aboard such aircraft, and persons having access to their aircraft on the ground or in flight.

(b) PLAN REQUIREMENTS.—The plan shall include provisions for—

(1) security of each carrier’s air operations areas and cargo acceptance areas at the airports served;

(2) background security checks for all employees with access to the air operations area;

(3) appropriate training for all employees and contractors with security responsibilities;

(4) appropriate screening of all flight crews and persons transported aboard all-cargo aircraft;

(5) security procedures for cargo placed on all-cargo aircraft as provided in section 44901(f)(1)(B) of title 49, United States Code; and

(6) additional measures deemed necessary and appropriate by the Secretary.

(c) CONFIDENTIAL INDUSTRY REVIEW AND COMMENT.—

(1) CIRCULATION OF PROPOSED PROGRAM.—The Secretary shall—

(A) propose a program under subsection (a) within 90 days after the date of enactment of this Act; and

(B) distribute the proposed program, on a confidential basis, to those air carriers and other employers to which the program will apply.

(2) COMMENT PERIOD.—Any person to which the proposed program is distributed under paragraph (1) may provide comments on the proposed program to the Secretary not more than 60 days after it was received.

(3) FINAL PROGRAM.—The Secretary of Homeland Security shall issue a final program under subsection (a) not later than 90 days after the last date on which comments may be provided under paragraph (2). The final program shall contain time frames for the plans to be implemented by each air carrier or employer to which it applies.

(4) SUSPENSION OF PROCEDURAL NORMS.—Neither chapter 5 of title 5, United States Code, nor the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the program required by this section.

**SEC. —07. PASSENGER IDENTIFICATION VERIFICATION.**

(a) PROGRAM REQUIRED.—The Secretary of Homeland Security may establish and carry out a program to require the installation and use at airports in the United States of the identification verification technologies the Secretary considers appropriate to assist in the screening of passengers boarding aircraft at such airports.

(b) TECHNOLOGIES EMPLOYED.—The identification verification technologies required as part of the program under subsection (a) may include identification scanners, biometrics, retinal, iris, or facial scanners, or any other technologies that the Secretary considers appropriate for purposes of the program.

(c) COMMENCEMENT.—If the Secretary determines that the implementation of such a program is appropriate, the installation and use of identification verification technologies under the program shall commence as soon as practicable after the date of that determination.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that Senator SNOWE be added as a cosponsor of the amendment.

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

Mrs. HUTCHISON. Mr. President, I rise today to offer the Air Cargo Security Act as an amendment to the Intelligence Reform Act. This is a measure that we need to pass to answer some of the criticisms in the 9/11 Commission Report regarding cargo security.

I am going to talk further about this bill, but I would like to offer Senator McCAIN some of the time to also talk because he was one of the cosponsors. It went through the Commerce Committee with his chairmanship. We all agree this is a bill that is needed to add to the security that is in the bill in accordance with the 9/11 Commission Report.

I yield to Senator McCAIN for his remarks, and then I will finish my presentation.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank the Senator from Texas. She has been on this issue for at least 3 years that I know of. We passed this bill twice through the Senate. Under the chairmanship of Senator HUTCHISON, we had extensive hearings on this issue in the Commerce Committee.

I believe this is a very important issue. Senator HUTCHISON has many important aviation assets in her State, including major airports that are not only for passengers but for ports of entry as well.

I say to Senator HUTCHISON, thank you, because I think this is a very important bill. I tell my colleagues, it has been passed twice through the Senate. It is unfortunate that we have to go back and revisit it.

Finally, we made a commitment that we would try to address all 41 of the recommendations of the 9/11 Commission, not always in a positive fashion but at least have them addressed. This is one of the recommendations of the 9/11 Commission.

I thank Senator HUTCHISON, and I urge my colleagues to support this very important amendment. Air cargo, according to many experts, is a subject that certainly needs increased security and increased attention. I think this amendment does that. I thank my colleague from Texas, Senator HUTCHISON.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Commerce Committee, Senator McCAIN, for adding his support to this bill. We would not have gotten it through the Commerce Committee without his support. I think it adds immeasurably to the bill that is before us today.

Congressional action following 9/11 quickly created the Transportation Security Administration to address the appalling security gaps exposed by terrorists. We took drastic but appropriate steps to considerably increase security of our airports and planes, and 3 years later we are light-years ahead of where we were on that horrific day.

I am pleased that the 9/11 Commission raises issues that are similar to those I have discussed since we enacted the Aviation and Transportation Security Act. The Commission report states:

Concerns also remain regarding the screening and transport of checked bags and cargo. More attention and resources should be directed to reducing or mitigating the threat posed by explosives in vessels' cargo holds.

I have worked since 2001 to enact stringent air cargo security standards and, along with Senator FEINSTEIN, introduced the Air Cargo Security Act to create a comprehensive system to secure shippers, freight forwarders, and

carriers. The Senate has twice passed this bill unanimously, but it remains stalled in the House of Representatives.

The bottom line is this: Are we safer than on September 11? Absolutely. But have we done enough? Not yet. So I think we can do more. I think this is an opportunity for us to address this issue.

The Air Cargo Security Act will make a difference in our Nation's air security. One thing we have not provided since 9/11 is security in the belly of the aircraft equal to protections for passenger areas and airports. Cargo is shipped on passenger aircraft, in some cases, without being screened. That is why we need this amendment.

The Air Cargo Security Act would establish a reliable known-shipper program, mandate inspections of cargo facilities, and direct the Transportation Security Agency to work with foreign countries to institute regular inspections at facilities that bring cargo into the United States.

The legislation would develop a training program for air cargo handlers and give TSA the power to revoke the license of a shipper or freight forwarder whose practices are unsound. These provisions will go a long way toward further securing aircraft in our country. All of us want America to have the safest aviation system in the world. Closing the cargo loophole is an important step.

There is no doubt in my mind that the traveling public is considerably safer. We have made changes to ensure our screeners undergo background checks, training, and testing. Checked bags are scrutinized, flight crew training is constantly being improved, and we are traveling in a more secure system. But we must address the cargo issue.

Mr. President, 22 percent of all air cargo in the United States is carried on passenger flights, only a tiny fraction of which is inspected.

Beyond transport on passenger planes, there are other issues in the cargo arena. Identification cards used by workers are generally not secured with fingerprints or other biometric identifiers. Background checks for cargo employees are still inadequate.

Perhaps the weakest link in the cargo security chain is the freight forwarder. These are the middlemen who collect cargo from the shippers and deliver it to the air carrier. Regulations governing these companies are lax, and the TSA is finding security violations when it conducts inspections. Under current law, however, TSA lacks the authority to revoke the shipping privileges of freight forwarders that repeatedly violate security procedures. This air cargo security amendment would give TSA that power.

Air cargo security is not a new problem. In 1988, Pan Am 103 went down over Lockerbie, Scotland, because of explosives planted inside a radio in the cargo hold of a passenger airplane. The

1996 ValuJet crash in the Everglades was caused by high-pressure tanks that never should have been put on a passenger aircraft in the first place.

My amendment will strengthen air cargo security on all commercial flights. It establishes a more reliable known shipper program by requiring inspections of facilities, creating an accessible shipper database, and providing for tamper-proof identification cards for airport personnel. It gives TSA the tools required to hold shippers accountable for the contents they ship by allowing the administration to revoke the license of a shipper or freight forwarder engaged in unsound or illegal practices. This is the most important part of the bill. The TSA has told me time and again they need to have this capability in order to revoke licenses when they find an unsafe situation.

I have had the support of my colleagues, such as Senator McCAIN. Senator LOTT, the chairman of the Aviation Subcommittee, has worked with me on this bill. We have passed this bill twice in the Senate. It is a bill we have looked at, we have vetted. We have had hearings.

I see my colleague Senator LOTT, the chairman of the Aviation Subcommittee, is on the floor of the Senate. He knows this bill. He worked with me to perfect it. If we can put this amendment on this very important piece of legislation, it will add immeasurably to our aviation security. We will have the most secure aviation system in the world with this amendment on this particular legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I congratulate the Senator from Texas for her determination in this area. It is one of the places where there was a gap in our aviation security. It is one that she has been working on, thinking about, going back to the last Congress. I think one of the last things we did in the last Congress was the Senate let this issue go through, but we didn't get it completed. She has continued to work on it. There were some concerns. Those concerns have been worked on and developed and straightened out, and this is a good piece of legislation. It passed the full Commerce Committee overwhelmingly last week. It is supported by the industry. I want the record to show that it would not be happening if it were not for her determination and her leadership. It is good legislation.

The title of this bill is National Intelligence Reform Act. I want us to concentrate on the intelligence area and the reforms that are necessary to give the national intelligence director the real strength he or she may need to make sure our intelligence community does its job. It talks about the national counterintelligence center. This was done at the recommendation of the 9/11 Commission for intelligence and security reforms. So while I don't want this to just become a debate about various

security areas, I would like us to focus on intelligence. This is an area where there clearly was a gap. This is an area where thoughtful legislation was available. I believe it is appropriate to be added.

I hope we will support the chairman of the committee and the ranking member who have worked hard to get this legislation through in a reasonable time. We will have some good debates, and we will have some disagreements. We will have some votes. But at the end of the day, we need to get this done because the Commission has made it clear where there are gaps and where there are problems, both in the executive branch and in the legislative branch. We also have to have the follow-on congressional reforms that will allow us to do a better job on oversight because we are part of the problem.

For those who have questions or have concerns or have amendments, my argument is, come forth. Let's have the amendments. Let's debate them in the light of day. Let's have a full debate and let's vote. But let's get this done because this is about real issues. A lot of times we debate, we vote on things that won't affect our lives immediately or affect people's ability to do the job under national security. But this legislation is about lives. It is about what happened on 9/11. It is about what will happen again if we don't step up to this important issue and make sure that our executive branch is set up in such a way as to do the job, that they have the right chain of command and that somebody is in charge, somebody who reports only to the President, somebody who can make a decision about the placement of satellites, somebody who will give us the information we need to know, not only about how much money is spent but where it is spent.

That has been one of our problems. The Congress has not been putting money in many instances where it should have gone so that our intelligence community would have had what they needed to do the job. Just this very day, we understand the FBI does not have the linguists they need to translate intercepts. Now it has become so voluminous it is uncontrollable. That is scary. But it is a real problem. We are not going to solve it just with this bill or just in this week. If we don't begin now, it will make the day even more inevitable or closer that we are going to have another disaster on our hands.

I am here today to tell the committee members I support their effort. They have done a good job. We can make it stronger, I believe. But I am going to be supporting getting this work completed.

I thank the chairman of the committee and I thank the sponsor of this amendment for the work she has done on this cargo security issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Aviation Subcommittee, the Senator from Mississippi. In fact, one of the unanimous consents we had when we took this intelligence reform bill to the floor was that all the amendments would have to be relevant to the 9/11 Commission. The amendment before us is relevant. I think because the Senate has acted on this, it will be a valuable contribution to the bill.

I appreciate the help and counsel of the Senator from Mississippi. I thank the distinguished chairman and ranking member of the Governmental Affairs Committee for bringing this bill to the Senate floor. We will pass this bill, and it will be a good bill. We are all going to work together to make that happen, which the distinguished chairman and ranking member have already proven.

I ask for the yeas and nays at the appropriate time for whenever it can be scheduled along the lines that the chairman and ranking member would schedule.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, before the Senator from Mississippi has to leave the floor, I want to thank him for his advice and his support as we bring this very important legislation before the Senate for consideration. I very much value the advice and support of the Senator, and I appreciate all he is doing to help move this legislation forward. He has been a very early voice in identifying the flaws in our current intelligence system and has been stalwart in his support for significant reform. I thank the Senator from Mississippi.

I also commend the Senator from Texas for her continued effort to examine the recommendations of the 9/11 Commission and to pursue legislative solutions, particularly in the area of improving the security of cargo and general aviation security in general. Senator HUTCHISON has been a long-time leader in this area. Her amendment encompasses a significant portion of S. 165 that the Senate passed by unanimous consent in May. I commend her for her foresight in recognizing areas of concern that have been singled out by the 9/11 Commission.

In the Commission's report, for example, the Commission noted that:

Major vulnerabilities still exist in cargo and general aviation security.

The Commission went on to say that:

The TSA and Congress must give priority attention to improving the ability of screening checkpoints to detect explosives.

The Commission says:

More attention and resources should be directed to reducing or mitigating the threat posed by explosives in vessels' cargo holds.

These are all areas of weakness identified by the Commission that the Sen-

ator from Texas would address in her amendment. It will assist in implementing several of the Commission's recommendations and as a whole will help to make our Nation's air passengers, air carriers, and air cargo more secure. I would note that the Department of Homeland Security has no objections to the Senator's amendment. When the roll call does occur, I will be urging our colleagues to support her efforts.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment of Senator HUTCHISON. I thank her for proposing it. She was ahead of her time because she has been on this case, along with members of the Commerce Committee, at least since March of last year, when the bill came out of the Commerce Committee; in fact, the Senate passed this bill unanimously in May of 2003.

Unfortunately, there has been no action that meets up with this bill in the House. So Senator HUTCHISON is quite right to introduce this as an amendment to our underlying reform of the intelligence community. This is directly relevant to the 9/11 Commission's conclusion that "major vulnerability still exists in cargo and general aviation security. These, together within adequate screening and access controls, continue to present aviation security challenges." That comes from the 9/11 Commission.

The Commission concluded that we are safer than we were on September 11, 2001, but we are not yet safe. This underlying bill is aimed at reforming our intelligence community so we will be safe, so we can see the threats coming at us, hear them, and stop them before the terrorists are able to strike, but also that we may adopt other provisions of the 9/11 Commission report.

Senator McCAIN and I introduced an amendment that was the first to pass a short while ago. I hope this amendment will pass as well, because it tightens existing weaknesses, loopholes in the screening of cargo transported in passenger aircraft, opening up a vulnerability that we all fear terrorists may exploit to strike at us.

I thank the Senator from Texas for not only being foresighted last year in seeing this weakness in our defenses to terrorism but for coming forth and introducing this amendment. It will strengthen the bill Senator COLLINS and I and other members of the Governmental Affairs Committee have brought out and, therefore, I urge its adoption.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. 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. FRIST. Mr. President, we are making very good progress on this significant bill that does focus on the

safety and security of the American people. This morning the Democratic leader and I opened up stressing the importance of making very efficient use of our time on the floor.

A lot has been accomplished even since this morning, but we have a lot to do. This morning the leadership on both sides of the aisle talked, and we have talked in our caucuses, of the importance of collecting today all of the amendments that might potentially be offered on this bill. People have been studying the issue since August. The bill was marked up in committee in a very thorough way. A lot of amendments were offered and debated, some of which will be debated again on the floor. Because we need to finish the bill this week, if at all possible, it means, given the fact that there are a lot of evening commitments which will preclude us from doing a lot of voting tonight, we have to get this universe of amendments today.

Thus, I ask all of our colleagues to give us, through the managers, their potential amendments today, and if they plan on offering amendments, we absolutely must have them today.

We are not looking for amendments, but if people have serious amendments they feel need to be debated, if we have that list, and shortly thereafter—and it would be in all likelihood some time tomorrow—we will ask to have the complete language of each of those amendments.

The initial reaction by some is: you are moving too fast. Again, this is something we announced several weeks ago, that we would be going to the bill yesterday. We have made progress. The bill has been out, and people have had time to address it. We ask people over the next hour or couple of hours to let us know what amendments they may want to offer so we can have that list, and then shortly thereafter—not tonight, but shortly thereafter—we will have a deadline by which we need to have those amendments, to have the language. It is the only way we will have an orderly process to address the substance of this very important bill.

Mr. REID. Mr. President, will the Republican leader yield?

Mr. FRIST. I will.

Mr. REID. Mr. President, Senator DASCHLE announced in our caucus that he was in agreement with the majority leader. In conjunction with the Republican cloakroom, we are going to hotline this and tentatively have 9:30 or 10 o'clock in the morning—whenever the two cloakrooms agree they can get their work done, we will have a time for Members to let us know what amendments they might want to offer.

Senator DASCHLE is always very cautious to make sure we have ample time to offer amendments, but this is an extraordinary piece of legislation, and Senator DASCHLE agrees with the Republican leader that we should set a time shortly thereafter, either tomorrow evening—or I assume tomorrow evening, when Members will actually have to file their amendments.

The concept of the majority leader is certainly one with which Senator DASCHLE agrees. So we are ready to have our hotline go out, and theirs. We will look at amendments in the morning and find out what the universe of those amendments is, and then those people are going to have to step forward and offer amendments at a later time and enter into a consent agreement if at all possible later on tomorrow.

Mr. FRIST. Good. Mr. President, as you can hear, this is a bipartisan effort, with full cooperation back and forth between the managers and the leadership. We felt it was important to restate the sense of efficiency with which we have to address this bill. That is what we would like to see happen.

Again, please let us know your amendments in the next several hours.

Mr. President, I ask unanimous consent that the vote occur in relation to the pending amendment, that is, the Hutchison amendment No. 3711, at 4:30 p.m. today, with no amendments in order to the amendment prior to the vote; further, that there be 2 minutes equally divided for closing remarks prior to the vote.

Mr. REID. Reserving the right to object, if the leader can withhold for a minute, unless there is something that would cause us to vote at 4:30 p.m., we might be able to get that done a half hour earlier.

Mr. FRIST. From our side, because of various commitments, 4:30 p.m. is the best time.

Mr. REID. No objection.

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

Mr. FRIST. Mr. President, part of the scheduling is to do just that, so we can have another amendment fully considered and then yet even another amendment. For planning purposes, 4:30 p.m. seems to be the most appropriate time. We will continue to debate and vote on amendments. Then hopefully by 4:30 p.m., we will be able to schedule additional votes as well.

Again, I encourage all Members to come forward now and notify us of their amendments and to work through the managers to offer appropriate amendments.

Mr. REID. Mr. President, if the distinguished majority leader is finished, Senator NELSON is here and wishes to be recognized for 5 minutes to talk about the situation in Florida. Is that all right with the two managers?

Mr. LIEBERMAN. Mr. President, if I might say a word before that and then I will be happy to yield the floor to Senator NELSON. Maybe I should yield to the chairman who will probably say the same thing I will be saying.

I am very grateful to the Senate majority leader and to the Senate Democratic leader for this agreement and for the pace they are setting for consideration of this bill on a bipartisan basis. These are not ordinary times. This is not ordinary legislation. It goes to the

heart of our security. We want to have thoughtful debate.

The chairman of the committee, Senator COLLINS, and I found in the committee that when we let some time for debate occur, people came to very thoughtful conclusions, totally without regard to party. The votes on all the amendments went all around the lot. I think people ultimately felt good about the process.

By setting these deadlines now for amendments to be noticed and then filed, we are going to expedite exactly that kind of thoughtful consideration so we can get this done with the same feeling of, well, confidence that we are doing the right thing. We are not only doing something we need to do quickly, but we are doing it the right way. So I thank the majority leader and Senator DASCHLE for their help on that matter and the help they have given to Senator COLLINS and me.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I, too, thank our leaders for their cooperation in moving this bill forward. The process they have outlined is a fair one. It will help us know how many amendments there are, and we will work with the sponsors of those amendments to ensure adequate debate.

If the Senator from Florida could tell me how much time he anticipates needing.

Mr. NELSON of Florida. Mr. President, if I take 1 minute per hurricane in Florida, that would be a total of 4 minutes.

Ms. COLLINS. Mr. President, we would be happy, in light of the devastation to his State, to give the Senator from Florida 10 minutes, if that would be helpful.

Mr. NELSON of Florida. Mr. President, to the distinguished Senator from Maine, it will not be necessary for 10 minutes, but the Chair of the committee is very gracious.

It seems all I talk about on the floor of the Senate is the hurricanes that have ravaged Florida. I would like to say to the leadership of the committee, I support their legislation. I am looking forward to voting for it. They have done a magnificent job. It is very timely, and I hope the wisdom they have displayed will be displayed by the House of Representatives so we can get a quick agreement and a conference and go about the process of reforming our intelligence apparatus. My congratulations.

#### FLORIDA HURRICANES

It does seem that I have spoken over and over about hurricanes and about the need for disaster assistance. Indeed, I am making that plea again. When we passed the Department of Homeland Security funding bill 2 weeks ago, the chairman of the Appropriations Committee had committed, in a colloquy on the Senate floor, that he would address it. I take him at his word, and I am sure his word is good.

Now that the President has requested additional funds, the question for us

and Florida is speed in enacting this legislation quickly so that money can get to the people who desperately need it in direct, outright FEMA grants. They need assistance to rebuild their homes. They need Small Business Administration loans so that they can rebuild their lives and their businesses. Then there are a myriad of Federal disaster assistance programs to local governments so that we can rebuild our communities, so that we can pick up the debris.

There is one part of Florida where debris is all over our communities from three hurricanes that have hit the same place. We need to rebuild our roads and bridges, our airports, our military facilities, and NASA at the Kennedy Space Center. So time is of the essence, and I implore our leadership to get that message through to the White House and to the leadership at the other end of this Capitol to get these funds.

It is the intention of the chairman of the Appropriations Committee, who just told me this a few minutes ago, to attach this money to the Homeland Security bill, but if that bill gets hung up for whatever reason, then this emergency funding needs to come out of here like a rocket taking off at the Cape Canaveral Air Force Station so that it can get to our people.

Needless to say, after two hits, one wonders just what is in store, and how they are going to pick up the pieces of their lives. But when three hit, and then four, one can imagine how distressed our people are. Help us. We need speed. We need action now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that the following cosponsors be added to Collins-Carper-Lieberman-Coleman amendment No. 3705: Senators VOINOVICH, LEAHY, AKAKA, ROCKEFELLER, NELSON of Nebraska, and HAGEL.

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

Ms. COLLINS. Mr. President, Senator VOINOVICH, along with Senator LEVIN, was very instrumental in helping to draft the compromise represented in this amendment. I talked earlier about the efforts of the Senator from Delaware and the Senator from Connecticut, but I also wanted to acknowledge that Senator VOINOVICH and Senator LEVIN worked very hard to help us strike the right balance in allocating funding so that large States with high-threat areas would receive additional funding. Yet we wanted to make sure that we recognize that every State, regardless of size or population, has certain vulnerabilities.

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

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

AMENDMENT NO. 3706

Mr. SPECTER. Mr. President, I call up amendment No. 3706 on behalf of Senator SHELBY, Senator ROBERTS, Senator BOND, Senator WYDEN, Senator BAYH, Senator FEINSTEIN, and myself.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The clerk will report.

The legislative clerk read as follows: The Senator from Pennsylvania (Mr. SPECTER), for himself, Mr. SHELBY, Mr. ROBERTS, Mr. BOND, Mr. WYDEN, Mr. BAYH, and Mrs. FEINSTEIN, proposes an amendment numbered 3706.

Mr. SPECTER. I ask unanimous consent the reading of the amendment be dispensed with.

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

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

Mr. SPECTER. Mr. President, this is one of two amendments which I intend to offer to strengthen the position of the national intelligence director. At the outset, I join many others in complimenting the chairwoman, Senator COLLINS, and the ranking member, Senator LIEBERMAN, for their leadership and their outstanding work in presenting the bill which is now on the floor.

This measure is a long time in coming for decision by the Congress. In my view, had there been a strong national intelligence director in existence prior to September 11, 2001, the attack on 9/11 might well have been prevented. There were many indicators present. Had they all been put together, I think there is a good chance we could have avoided the calamity of that day.

There is a famous FBI report from Phoenix about this suspicious character who wanted to learn how to fly an airplane but who was not interested in takeoffs or landings. That information never got to the appropriate authority in headquarters at the FBI. There were two al-Qaida suspects in Kuala Lumpur known to the Central Intelligence Agency, information not communicated to the INS, to Immigration, so that those two al-Qaida agents came into the United States and were among the 19 hijackers who perpetrated the atrocities of 9/11.

There was an extensive investigation conducted by the Minneapolis office of the FBI, the famous 13-page, single-spaced memorandum by special agent Coleen Rowley about Zacarias Moussaoui. Had those leads been followed, had there been an application for a warrant under the Foreign Intelligence Surveillance Act using the right standard—the FBI used the wrong standard—that would have produced a great deal of information which could have, in combination with other information, been pieced together to have warned us of the impending attack.

There is the information from NSA, where there was the tip that something

was going to happen on 9/11 which was either not translated or not communicated to the Intelligence Committee.

There had been the information about Murad, an al-Qaida operative back in 1996, and his plans to fly an airplane into the CIA.

Those are only some of the threats. In combination and along with others, had we had all the information together, had we known what could have been pieced together, I think the likelihood is present that 9/11 could have been prevented.

During my tenure as chairman of the Senate Intelligence Committee during the 104th Congress, the Intelligence Committee reported a bill, S. 1718, which sought to lodge effective power in the Director of Central Intelligence. That position theoretically was in charge of all the intelligence community but, because of lack of authority, lack of budget control, the Director of the Central Intelligence Agency was never able to carry out the role of being the unifier, the real leader of the intelligence community.

In section 707 of that bill, it provided for:

Enhancement of authority of Director of Central Intelligence to manage, budget, personnel, and activities of the intelligence community.

On a cross referral, by the time it got to the Armed Services Committee, the substance was taken out. There was a big turf battle and the effort to lodge authority in the Director of CIA to do effective direction and management of the Central Intelligence Agency went to naught.

Thirty days after 9/11, Senator LIEBERMAN and I introduced legislation to create the Department of Homeland Security. That was on October 11 of 2001. When special agent Coleen Rowley testified before the Judiciary Committee in June of 2002, there was finally impetus to get support from the administration to move ahead with a Department of Homeland Security, and when the matter was debated on the floor of the Senate, the effort was made to vest authority in the Secretary of Homeland Security to direct other intelligence agencies. It seemed to us that when we were creating a new department, Homeland Security, this was an opportune time to pick up the strands of what had been attempted by S. 1718 back in 1996, and by many others.

It wasn't my idea alone. The Scowcroft Commission had come up with similar recommendations. Others had called for real power and real authority in a national director. It seemed to us that that was the time, with the new Department of Homeland Security, to give this effective power to the newly created Secretary of Homeland Security.

Our efforts, again, were unsuccessful because of the turf battles, because of the interests of the CIA and the Department of Intelligence, DIA, Defense Intelligence Agency, and the Department of Defense and the FBI, and the

other agencies to protect their own turf.

In October of 2002, the House of Representatives passed a bill and went home leaving the Senate with the alternative of either taking the bill or letting the matter go over until the next year. I was prepared at that time to offer the amendment to give the Secretary of Homeland Security authority to direct some real power. After talking to Secretary Ridge, talking with the Vice President, and talking with the President, rather than have no bill at all, it was decided to proceed and let the matter stand without having that kind of authority for the Secretary of Homeland Security.

There the matter languished until the families of the victims of September 11 became a powerful advocacy group, which led to the creation of the 9/11 Commission, and the 9/11 Commission report was filed in July of this year. There was very substantial momentum finally to create a national intelligence director with some real authority to really manage the entire community.

Senator MCCAIN, Senator LIEBERMAN, Senator BAYH, and I have produced a bill as had been recommended by the 9/11 Commission and then the Governmental Affairs Committee proceeded to have hearings, came back after the recess in late July, had hearings in August, marked up the bill, and passed it out of committee last week. So it is now on the floor in a context where there is considerable public pressure created by the 9/11 Commission report and what the families of the victims have done. And the momentum is present.

There has been very substantial opposition to moving at this time. There are those who say this legislation is precipitous, that it ought not to be passed on the eve of an election, that we have more of an eye on 11/2, the election date, than we have on 9/11.

I reject those contentions. This issue has been under study for decades, and personally on my behalf since I spent 8 years on the Intelligence Committee and chaired the committee during the 104th Congress.

The 9/11 Commission unanimously and emphatically has called for the creation of a national intelligence director. It is my view that is a proposition whose time has come.

When I offered the amendment in committee, which was rejected although we received five votes in the committee, there was very intense lobbying coming, as I understand it—you can never present competent evidence which would stand up in court but a lot of lobbying from the protectors of their turf.

My amendment to create the strength of the national intelligence director was deferred until this day. It is my hope and expectation that from this bill we will have a national intelligence director if it is the one proposed by amendment or if it is the one

which is in the bill which has been reported by the committee.

It is my conclusion after very substantial study and after very substantial thought and after very substantial consideration that we need a very strong national intelligence director. We need an independent national intelligence director who will stand up to the executive branch, who will stand up to the Congress, who will tell the Congress exactly what is needed by way of resources, and who will have the stature and strength to get that job done.

There is an enormous controversy about the resolution to authorize the use of force which Congress passed and the President acted on—a lot of concern about the adequacy of the intelligence which led to that judgment, the 77 votes in this body joined by a majority of Democrats as well as Republicans. But there is no doubt that however one views the resolution for use of force, it would have been highly desirable to have better intelligence.

The amendment which is embodied in amendment No. 3706 would give substantial additional authority to the national intelligence director than is contained in the committee bill. It would put the CIA under the national intelligence director. The national intelligence director would have the authority to manage and oversee the intelligence community, including the CIA, the NSA, the National Security Agency, the NRO, the National Reconnaissance Office, the NGA, the National Geospatial Agency, and national collection from the Defense Intelligence Agency leaving tactical intelligence within the Department of Defense as it is now.

Valid considerations have been raised that tactical intelligence ought to be left in the Department of Defense so the Department of Defense can carry out its functions. My amendment would leave that important facet with the Department of Defense.

The national intelligence director under the committee bill has budget authority over the Federal Bureau of Investigation. After a great deal of thought, this amendment No. 3706 does not include the FBI under the supervision, direction, and control of the national intelligence director as the other agencies enumerated would have the national intelligence director with the authority to supervise, direct, and control which, in my judgment, would give the national intelligence director the authority to manage and oversee the national intelligence community in an effective way.

The essence of my bill was circulated to the Governmental Affairs Committee with a letter dated August 3 of this year. I put the bill into the CONGRESSIONAL RECORD on September 7. I introduced the bill on September 15 under the caption of S. 2081. The amendment embodied in No. 3706 is somewhat different, as I have described it.

We are dealing here with agencies where there are inbred cultures of concealment. It is very difficult to get information, even as chairman of the Senate Intelligence Committee.

My experience has shown it was very difficult for the Director of the Central Intelligence Agency to know fully and adequately what has happened within his own agency. One of the matters which I referred to during the committee hearings was information which was disseminated by the CIA Chief of Reports and Requirements in the Soviet East European Division of the Central Intelligence Agency. This was a man who was in the CIA from 1950 until 1991. He had information which was tainted by the Soviet Union—information where the individual conceded that he knew the intelligence came from Soviet-controlled sources and that he disseminated that information at the highest levels of government without disclosing that fact to the individuals whom he transmitted the information that it came from controlled or tainted sources.

That information was transmitted, including transmission on January 13 of 1993. So it went to President George Herbert Walker Bush and it went to President-elect Bill Clinton.

When I took his testimony and expressed shock at what he had done, the individual confidently responded that he had acted entirely properly because disclosure of the controlled source that the information was tainted would have made it even harder, as he put it, to sell the intelligence to policymakers; that there was no reason to believe the Soviets used deception was inaccurate, and no customer would use it unless he had concealed the fact it was tainted.

This was an extraordinary approach, as I saw it, but I think revealing as to what happens within the Central Intelligence Agency, within the Bureau, where the individuals have their empires, where they know better than anybody else, and transmit information to the President of the United States and the President-elect, knowing it to be tainted and not telling the President or President-elect that it was tainted because they then would not use it, and saying that the information was given because the CIA agent, the CIA individual, knew that it was correct. That is just the height of audacity but I think indicative of the kinds of problems we face with the cultures of concealment that we have in the intelligence agencies.

Another matter which I refer to, in the course of the committee hearings, is relevant for presentation; that is, the difficulty of having adequate oversight over the intelligence agencies and the duties that the intelligence agencies have to make disclosures to the oversight committee.

In the spring of 2002, when I chaired a subcommittee of oversight on the Department of Justice and had a wide-ranging subpoena, a document was presented which I ask unanimous consent

be printed in the RECORD, Mr. President.

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

DECEMBER 9, 1996.

To: Mr. Esposito.  
From: Director.  
Subject: Democratic National Campaign Matter.

As I related to you this morning, I met with the Attorney General on Friday, 12/6/96, to discuss the above-captioned matter.

I stated that DOJ had not yet referred the matter to the FBI to conduct a full, criminal investigation. It was my recommendation that this referral take place as soon as possible.

I also told the Attorney General that since she had declined to refer the matter to an Independent Counsel it was my recommendation that she select a first rate DOJ legal team from outside Main Justice to conduct that inquiry. In fact, I said that these prosecutors should be "junk-yard dogs" and that in my view, PIS was not capable of conducting the thorough, aggressive kind of investigation which was required.

I also advised the Attorney General of Lee Radek's comment to you that there was a lot of "pressure" on him and PIS regarding this case because the "Attorney General's job might hang in the balance" (or words to that effect). I stated that those comments would be enough for me to take him and the Criminal Division off the case completely.

I also stated that it didn't make sense for PIS to call the FBI the "lead agency" in this matter while operating a "task force" with DOC IGs who were conducting interviews of key witnesses without the knowledge or participation of the FBI.

I strongly recommended that the FBI and hand-picked DOJ attorneys from outside Main Justice run this case as we would any matter of such importance and complexity.

We left the conversation on Friday with arrangements to discuss the matter again on Monday. The Attorney General and I spoke today and she asked for a meeting to discuss the "investigative team" and hear our recommendations. The meeting is now scheduled for Wednesday, 12/11/96, which you and Bob Litt will also attend.

I intend to repeat my recommendations from Friday's meeting. We should present all of our recommendations for setting up the investigation—both AUSAs and other resources. You and I should also discuss and consider whether on the basis of all the facts and circumstances—including Huang's recently released letters to the President as well as Radek's comments—whether I should recommend that the Attorney General reconsider referral to an Independent Counsel.

It was unfortunate that DOJ declined to allow the FBI to play any role in the Independent Counsel referral deliberations. I agree with you that based on the DOJ's experience with the Cisneros matter—which was only referred to an Independent Counsel because the FBI and I intervened directly with the Attorney General—it was decided to exclude us from this decision-making process.

Nevertheless, based on information recently reviewed from PIS/DOC, we should determine whether or not an Independent Counsel referral should be made at this time. If so, I will make the recommendation to the Attorney General.

**Mr. SPECTER.** The essence of the document disclosed that there had been an effort by ranking officials in the Department of Justice to try to influence the FBI not to pursue an investigation on campaign finance irregularities in

December of 1996 because at that time Attorney General Reno was under consideration for reappointment. The relevant part of this document from Director Freeh to Mr. Esposito, who was his deputy handling this matter:

I also advised the Attorney General of Lee Radek's comment to you that there was a lot of "pressure" on him and PIS [Public Integrity Section] regarding this case because the "Attorney General's job might hang in the balance" (or words to that effect). I stated that those comments would be enough for me to take him and the Criminal Division off the case completely.

This matter was not brought to the attention of the Judiciary Committee as a matter of oversight. In my judgment, this is the kind of a matter which the Director, on his own, without request, without knowledge by the oversight committee, without subpoena, as it was disclosed some 4 years later, should have turned over as a matter of oversight.

Another amendment which I intend to offer would give the national intelligence director a 10-year term on the analogy to the Director of the Federal Bureau of Investigation. That would enable the director of national intelligence to have a substantial degree of independence since his term would outlast the term of the President—4 years or, with reelection, a total of 8 years.

We have seen in today's press reports of very substantial problems in the FBI, where there are inadequate translators and a great deal of information from al-Qaida has gone untranslated. I have talked to FBI Director Mueller, who tells me the information is dated, but there is still a significant problem in having sufficient translators to handle that important matter so we have our intelligence in hand.

The national intelligence director is going to have to be strong and independent, with enough stature, with a tenure of a 10-year term, to come to the Congress and be able to see to it that adequate funds are provided for the intelligence community.

The media reports are full of information that show very substantial problems on what would happen in Iraq after a military victory with the insurgents. The national intelligence director is going to have to be strong and independent and bring those matters to the attention of the Congress as well as to the executive branch.

It is my hope that in this legislation we will do a complete job and structure the responsibilities of the national intelligence director to give him the authority on budget and the authority on supervision, direction, and control to effectively manage and oversee the entire intelligence community.

That is an abbreviated statement of a great many considerations. At this time, I yield the floor.

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

**Ms. COLLINS.** Mr. President, Senator SPECTER is offering the first of what I anticipate will be many amendments to alter the authority of the na-

tional intelligence director. He is arguing that the Collins-Lieberman bill does not go far enough. Later on in this debate you will hear from those who believe our bill empowers the NID too far, with too much authority in the NID.

Our approach gives the national intelligence director full budget authority, including the authority to execute, reprogram, and transfer funds over the entire budgets of the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office, which are all now located within the Department of Defense.

Our bill also gives the NID enhanced tasking authority, the power to transfer personnel and authority over the selections of the heads of these agencies with concurrence from the Secretary of Defense.

What it does not do is sever the link between these agencies and the Secretary of Defense, nor does it give the NID exclusive control over these agencies. And that would be the impact of Senator SPECTER's amendment. He would sever the link between these agencies and the Secretary of Defense, and he would give the NID exclusive control over these agencies. I think that would be a mistake.

I believe our legislation strikes the right balance in the relationship that it sets forth between the NID and these agencies. I note that our approach is consistent with the recommendations of the 9/11 Commission. It is consistent with the recommendations of the administration. The 9/11 Commission, indeed, opposes adoption of Senator SPECTER's amendment. The Commission believes it would be a mistake to sever that link between these agencies and the Secretary of Defense.

In deciding to keep these agencies—the NSA, the NGA, and the NRO—with-in the Department of Defense, we were cognizant of the fact that the NSA and the NGA are designated as combat support agencies. We did not want to in any way weaken or break the bonds between these agencies and the military forces that serve in that capacity. Indeed, many current and former defense officials warned that taking such a step would be counterproductive and would risk breaking something that is working well for the military today.

For example, at our hearings, Secretary Powell said:

We should not break the link between these intelligence organizations and the organizations that they are supporting, especially within the military context and the direct kind of support that the NRO and similar organizations give to the warfighter.

I would note that by severing that link, the Specter amendment would create some real anomalies. For example, in his proposal, he requires that every 2 years, the chairman of the Joint Chiefs of Staff would submit to the national intelligence director a report on the combat readiness of these organizations. Why would a report on

combat readiness go to the national intelligence director rather than to the Secretary of Defense?

There are some other unanticipated consequences of the Specter amendment that illustrate how wholesale changes to the status of NGA, NRO, and the NSA might have completely unintended consequences. For example, title X, section 442(b) now provides that the National Geospatial-Intelligence Agency shall improve means of navigating vessels of the Navy and the merchant marine by providing, under the authority of the Secretary of Defense, accurate and inexpensive nautical charts, sailing directions, books on navigation, and manuals of instructions for the use of all vessels in the United States and of navigators generally. The Specter amendment, in changing the Secretary of Defense to the national intelligence director, would make the national intelligence director responsible for a navigation mapping responsibility that has nothing to do with intelligence. That is just an example of some of the unintended consequences.

Again, the approach taken by Senator SPECTER—and I know he has given this matter a great deal of thought—does not have the support of the 9/11 Commission. It does not have the support of the administration. It would sever the link between these combat support agencies and the Secretary of Defense.

I will note that these three agencies within the Pentagon do serve customers other than the Secretary of Defense. There are other consumers, such as the CIA, for the intelligence information they produce. That is why our legislation does give the NID significant authority over these agencies, including budget authority, the ability to transfer personnel, and the ability, with the concurrence of the Secretary of Defense, to name the heads of these agencies. That is the right balance. But to break that link between these agencies and the Secretary of Defense simply, in my judgment, does not make sense.

I urge opposition to the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, with great respect for Senator SPECTER, friend and colleague, I rise to oppose this amendment.

I want to say that Senator SPECTER has been a very constructive member of the Governmental Affairs Committee, not just on this matter but on so many others that come before the committee. He has contributed substantially to the strength of the bill that is before the Senate that Senator COLLINS and I have offered. He and I talked quite seriously about this earlier in the year, and ultimately my conclusion was that it would construct a bridge too far.

We have a crisis, which the 9/11 Commission documents, which is that we have an intelligence community, as we

discussed yesterday and showed on the graphs, without a leader, without anyone in charge. It is so frustrating to the point of being infuriating to read the lengthy narrative at the beginning of the 9/11 Report to see documented the failure to connect the dots. The cases that Senator SPECTER mentioned—one agency knowing something, not telling it to another agency, which might well have either kept out some of the terrorists who struck us on September 11—should have—or would have opened our eyes to the plot that was being hatched that FBI agents came face to face with, this is a system, the American intelligence community, without a leader.

The most urgent recommendation, according to Governor Kean and Congressman Hamilton, that the Commission makes to us is to create a strong national intelligence director and then, right alongside that, a strong counterterrorism center—connect the dots. We have done this. Senator COLLINS documented the various powers we have given to the national intelligence director.

First, this has been a recommendation of commission after commission. Going back to the late 1940s, when the National Security Act was adopted and the Central Intelligence Agency was created, post Second World War, there was the creation of the Director of Central Intelligence who was supposed to be not just the head of the CIA but the overseer of our entire intelligence community. The position was taken but hamstrung. It was not given the power. The DCI was the same person as the head of the CIA. That contributed to the community being without a leader.

In this bill we separate these two positions. We create the overarching national intelligence director, separate from the head of the CIA, and we give that national intelligence director real budget authority, personnel authority and tasking, assignment coordinating authority, which we are convinced will make us a lot safer and stronger against the threat of terrorism here at home and against Americans and others throughout the world.

The Specter amendment goes further than that and would provide that not only would the national intelligence director in the underlying bill direct, oversee, and execute the budgets of these agencies, but he or she would also supervise, direct, and control their day-to-day operations. That approach would create a department in everything but name and put the national intelligence director in charge of multiple agencies on a day-to-day basis.

One of the witnesses before our committee was Philip Zelikow, Executive Director of the 9/11 Commission. We asked Dr. Zelikow: Did the Commission consider creating a department of intelligence, giving the national intelligence director the powers that the Specter amendment would give?

Dr. Zelikow said: Yes, the Commission considered creating such a depart-

ment but decided against it on several bases.

And they are the bases of my opposition to the Specter amendment. First, the current job that the Director of Central Intelligence had—which was CIA Director, director of presumably the overall intelligence community and principle intelligence adviser to the President—was in itself more than one person could do. To give powers to the national intelligence director for day-to-day operations of the agencies under his or her control would again give more authority, more responsibility than the Commission decided was appropriate and manageable.

The Commission also opted for what they considered to be a more modern management approach. They didn't want to create another big Federal bureaucracy; they wanted to create, really patterned after some very large and very successful private corporations in this country, a central management system, strong as our national intelligence director would be, with budget, personnel, tasking authority, but not top heavy, agile, and not in response or in charge of the day-to-day decisions of all of the agencies under that position. That is what we have in the approach we are taking in this bill.

Senator COLLINS said some people will say—and you will hear of amendments on this floor, as the debate goes on, from Members and those outside the Chamber who feel the bill Senator COLLINS and I have put before the Senate gives the national intelligence director too much power. They will try to strip away that power or fuzz it up so that it is not clear and the status quo can remain. There will be plenty of opportunity to argue against that when those amendments are filed.

But here we are in the middle of a war on terrorism, struck as we were on September 11, under a continuing threat of attack, alerts all over, particularly in Washington and New York—real concern—and to do what looks like protecting the status quo of the particular authority of existing agencies doesn't make sense. There will be those who feel our bill goes too far.

I don't mean to put words into Senator SPECTER's mouth because he is very eloquent, but this amendment suggests we have not gone far enough. The Commission deliberately decided not to take the National Security Agency, National Geospatial Intelligence Agency, and National Reconnaissance Organization out of the Department of Defense. The Commission was concerned, Dr. Zelikow said, about the balance between national and departmental guidance, and they didn't want to tilt the balance too far away from defense. The Commission's executive director portrayed the Commission's idea of a lean, creative command center this way:

Since terrorism poses such a revolutionary challenge to old ways of executive management in our national security bureaucracy,

counterterrorism requires an innovative response.

I believe the underlying bill does exactly that: real authority, decision-making authority, but lean and, may I add, mean, because the people who are threatening us are very mean.

The other thing the kind of structure we have created does is make it harder for the problems that many in the Senate and Committee on Intelligence cited in its report on prewar intelligence are worried about, which is group-think. There is an increased danger that persons at the top of the daily operations of the organizations—there is a danger that you will begin to have not the competition of ideas we want to see in our intelligence community and that we feel strongly will be encouraged by the national intelligence director we are creating by the language in the bill, the focus on independence and objectivity of intelligence and by the national counterterrorism center, which is ultimately the place where everybody who knows anything about a particular problem—in this case terrorism—and maybe the director will create other centers on weapons of mass destruction for particularly problematic countries like Iran or North Korea. Everybody in the Government who knows anything about that will sit down together to share what they have collected in the way of intelligence, share their analysis of it, and then plan jointly on how to stop it, how to deal with the threat represented by those situations.

So I believe Senator SPECTER's intentions are very good, and I admire him for them. But I think at this moment they are a bridge too far, both in the substance of where he would take us and also, frankly, in terms of the probability of any such measure passing Congress. There is an urgency to our deliberations, as we have said over and over again. I think if we reach too far, we may end up with nothing and nothing maintains the status quo, which failed us on September 11 and will fail us again unless we act.

I oppose the amendment. I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, by way of a very brief reply at this time, others will say the committee bill goes too far, and the committee bill stands between others who would reject any reorganization of the national intelligence community. The amendment I have offered doesn't go to that point.

The question is, what is the best way to reorganize the national intelligence community? When reference is made to the comments by Mr. Zelikow, the executive director of the 9/11 Commission, he made an analysis of S. 2811, which is a bill similar to the amendment now pending, but it is not the same. I think it is an overstatement to say that the 9/11 Commission rejects the amendment I have offered because it hasn't been considered by the Commission.

Former Senator Bob Kerrey, who was chairman of the Intelligence Committee during my tenure as chairman, called me, unsolicited, and said that he favored the elements which I had offered and thought it was preferable to have the national intelligence director with greater authority, which I was proposing.

I believe it is a fair statement to say that the 9/11 Commission would be pleased to see us move to establish a national intelligence director, whether it was along the lines of the committee report or whether it was along the lines of my amendment. I say, too, that it is important to establish a national intelligence director with as many powers as we can reasonably give the national intelligence director. I think that is what the 9/11 Commission is looking for. I don't think it can be accurately said that the 9/11 Commission rejects the substance of my amendment. Certainly, former Senator Bob Kerrey, who was a member of the 9/11 Commission, was not, as far as I can say from an unsolicited call. He said he liked the substance of what I was offering.

I think other Senators are going to be interested in participating in the debate. It was unknown, generally, what sequence would occur as to the offering of the amendment. But I think others will want to come and be heard.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I rise to oppose the amendment offered by Senator SPECTER. I do so with regret but with conviction. Regarding the phrase "direct and control their day-to-day operations," if somebody wants to make the national intelligence director strong, that will certainly do it. The question is, what does that mean? What are the implications? That goes into the law, and then people have to interpret what that law means. I think if there is anywhere we want to be quite clear, we want the American people, through public law, to understand how far the national intelligence director can go, and, on the other hand, to what point can that particular person not go.

We give that person all kinds of authority, and I think the appropriate authority, but when we get into managing and direct control of the day-to-day operations, that is a phrase which concerns me greatly, and I say so not as one Senator from West Virginia but as vice chairman of the Intelligence Committee.

My understanding is that this was brought up in the Governmental Affairs Committee and was defeated by a vote of 12 to 5, which is not nip and tuck.

I think the recommendations that were central to the 9/11 Commission were very forthright, and Senator COLLINS and Senator LIEBERMAN have reflected in their bill, which I am proud to cosponsor, very strong measures: a

unified budget—oh, there are some people around town who are not very happy about that, which is all right—personnel, management authority over the national intelligence programs.

But then we come back to the phrase "direct and control their day-to-day operations," and that makes me go to an argument which I am quite sure, since I was not on the floor, was used by both good Senators who are managing this bill. And that is, what I think they tried to do is they figured some people would want to have the national intelligence director stronger than what they proposed, and others would want to have the national intelligence director weaker than what they proposed. I heard cases on both sides.

As I hear those cases, I am drawn more back to the possibility of the one I think is the more sensible approach as a person who has been in government for a long time but also, quite frankly, I am interested in passing a bill and passing a bill that we are pretty sure will be doing no harm as a result of the passing of that bill. I am not sure the Specter amendment meets that particular test.

We have all these agencies, and we want to create some sense of order, but we do not want to get unnecessarily in the way in places where we should not of the combatant commanders, which Senator COLLINS mentioned in her excellent opening statement yesterday. There are some things which the military should be able to make decisions about outside of the national intelligence director, and they are allowed to do so on a modest basis, but on an important basis, by this bill.

The Collins-Lieberman bill strikes exactly the correct balance on this matter, and I think balance, generally speaking, is what works in this country and balance is generally what gets bills passed in a closely divided Senate.

Their bill explicitly acknowledges the connection and, at times, the tension with what I have just spoken about, and that is the needs of the military and the needs of the intelligence community.

The Collins-Lieberman bill accommodates the uniformed military's legitimate need to control its operations. I think that is right without short-changing the consumers of the intelligence, such as the President of the United States, Congress, and senior officials throughout the Government, such as the Secretary of State and the Secretary of Homeland Security.

Their bill correctly recognizes the new national intelligence director will have to rely on the expertise of his newly created deputies which are left, to my way of thinking, in their bill very intelligently just floating a bit so that he can decide wisely how best to do that rather than decide everything in a period of a week or two.

I think Chairman Kean and Vice Chairman Hamilton have endorsed the approach contained in the Collins-Lieberman bill. That would be good

enough for me on most matters, and it certainly is on this matter. The notion that the national intelligence director established under this bill would not be sufficiently empowered to effectively manage the intelligence community is not borne out when one reads this legislation, and that is what they are doing. They are doing the managing of the national intelligence aspect.

Without going on at great length, I like the balance. It is the nature of this body to seek out that kind of balance. We have to be realistic that we are faced in the days ahead with some fairly strong probable assaults upon this bill by those from the Armed Services Committee and perhaps some from other committees, and our strength in being able to get a bill passed, in knowing we passed a good bill, is by sticking to a moderate and centrist course which, in fact, is quite radical in terms of everything which has taken place since the National Security Act of 1947. This bill is an enormous update.

I just wish to be understood as being strongly for the approach of Senator COLLINS and Senator LIEBERMAN. I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from West Virginia for his excellent comments. He states the case very well.

There are two final points that I would like to make on Senator SPECTER's amendment, and that is, when we asked Philip Zelikow, the executive director of the 9/11 Commission, to comment on this, he gave us a history of why the Commission specifically rejected this approach, and we talked about many of the reasons.

But one other that he mentioned is that one damaging consequence of stripping NSA, NGA, and NRO out of the Department of Defense is that then the Pentagon might well feel obligated to recreate the capabilities within the Department at great expense and creating many more opportunities for bureaucratic conflict. That was a point made by the executive director in expressing his opposition to Senator SPECTER's amendment and in giving us an insight into why the Commission specifically rejected the route taken in this amendment.

I also note that Senator SPECTER's amendment, while it is intended to create clear lines of authority between the NID and the combat support agencies, in reality could well create much ambiguity and confusion. While the amendment gives the NID supervision, direction, and control over these combat support agencies, it keeps them housed in DOD buildings, on DOD land, and the amendment does not take away from the Secretary of Defense the direction and control he currently has over these agencies.

For example, the law that created the National Imagery and Mapping Agency, which is now the National Geospatial-Intelligence Agency, estab-

lishes that Agency under the authority, direction, and control of the Secretary of Defense. Yet under the Specter amendment, the NSA, the NGA, and the NRO would fall under the line authority of both Agencies. I think that would create tremendous confusion and ambiguity.

Mr. President, I see the time for the vote has arrived.

The PRESIDING OFFICER. The next 2 minutes will be equally divided by the proponents and opponents prior to the vote occurring at 4:30.

Mr. SPECTER. Parliamentary inquiry: I believe we have 2 more minutes until 4:30.

The PRESIDING OFFICER. And those 2 minutes will be equally divided.

Mr. SPECTER. I seek recognition to make a comment about the pending amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, we can get more into the details on rebuttal as to what Senator COLLINS has said. I do not think it is accurate that we are taking away key authority from the Department of Defense, but I want to print in the RECORD a letter signed by 14 Senators objecting to the committee bill saying that it "does not give the NID additional authorities will be required to provide the unity of leadership and accountability necessary for real intelligence reform. In particular, we feel strongly that the NID must have day-to-day operational control of all elements of the Intelligence Community performing national missions." It is signed by Senators ROBERTS, SHELBY, DEWINE, HATCH, LOTT, SNOWE, VOINOVICH, BAYH, GRAHAM, WYDEN, BOND, HAGEL, CHAMBLISS, and myself. There is the current chairman, Senator ROBERTS, and three prior chairmen, Senator SHELBY, Senator GRAHAM, and myself.

I ask unanimous consent that this be printed in the RECORD together with a memorandum from me to the members of the Senate Intelligence Committee dated December 5, 1995.

A December 9, 1996 memorandum has already been printed in the RECORD.

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

U.S. SENATE,  
Washington, DC, September 20, 2004.  
Hon. SUSAN COLLINS, Chairman,  
Hon. JOSEPH LIEBERMAN, Ranking Member,  
Committee on Governmental Affairs,  
U.S. Senate, Washington, DC.

DEAR CHAIRMAN COLLINS AND SENATOR LIEBERMAN: We would like to congratulate both of you for your hard work to draft legislation to reform and strengthen the Intelligence Community. We have covered much ground over the last few months, unraveling the complicated issue of intelligence reform. As a result of your outstanding leadership, we are close to enacting meaningful reform. We understand that your bill includes many important provisions, particularly the creation of a National Intelligence Director (NID) with strong budget authority.

We are writing to you, however, to express our serious concern that the current draft of

the bill, as described by your summary and after review by Governmental Affairs Committee members and staff, does not give the NID additional authorities that will be required to provide the unity of leadership and accountability necessary for real intelligence reform. In particular, we feel strongly that the NID must have day-to-day operational control of all elements of the Intelligence Community performing national missions. To fulfill the historic intent of the National Security Act of 1947, we must provide the NID—as head of the Intelligence Community—the additional authorities necessary to match the position's responsibilities and to ensure accountability. To address these concerns, we request the opportunity to meet with you prior to any further committee action on the legislation.

In addition to day-to-day operational control of all elements of the Intelligence Community performing national missions, some members also believe that we must either explicitly create a new agency, or at least provide the NID with supervision, direction, and control similar to a department or independent agency head.

Clear lines of authority between the NID and our national intelligence agencies, extending beyond budgetary control, are critical to our success in countering 21st Century national security threats. There must be no doubt in anyone's mind that the NID is in charge and is accountable.

Thank you for your leadership under very challenging circumstances, and we look forward to meeting with you prior to the committee mark-up of intelligence reform legislation. Working together, we can achieve the real intelligence reform that we all seek.

Sincerely,  
Pat Roberts, Mike DeWine, Trent Lott,  
George V. Voinovich, Bob Graham,  
Christopher S. Bond, Saxby Chambliss,  
Richard Shelby, Orrin Hatch, Olympia  
Snowe, Evan Bayh, Ron Wyden, Chuck  
Hagel, Arlen Specter.

U.S. SENATE,  
SELECT COMMITTEE ON INTELLIGENCE,  
Washington, DC, December 5, 1995.

To: Members, Senate Select Committee on Intelligence.  
From: Arlen Specter.  
Re Ames Damage Assessment Inquiry.

On November 29, 1995, Charlie Battaglia, Fred Ward and I and Gerry Prevost, from CIA's Office of Inspector General, went to the home of L in Springfield, VA, to take his testimony because L advised that his medical condition was such that he could not come to the Committee. The deposition lasted about one hour and 45 minutes. The transcript is available for your review.

L began working for the CIA in 1950 and during the period from 1980 to 1991, L was Chief of Reports and Requirements in CIA's Soviet East European Division. He was responsible for determining the quality of Soviet sources, assessing the authenticity of the intelligence, and disseminating those reports to policymakers.

L readily conceded that he knew intelligence data came from Soviet controlled sources and that he disseminated such data to the highest levels of our government without disclosing the fact that it came from such controlled sources.

When I expressed shock at this, L confidently responded that he had acted entirely properly because disclosure of the controlled source would have made it even harder to "sell" the intelligence to policy makers, there was no reason to believe the Soviets used deception, no customer could use it unless his unit gave permission, and no customer would make any decision based on one or two documents.

AMENDMENT NO. 3706

L boasted that often U.S. general officers came to him directly for assessments of Soviet information much to the consternation of his division director.

When L was told that his successor, Z, denied knowing that such intelligence data came from a source known to be controlled by the Soviets, L responded “bullshit.” Z received only a letter of reprimand for passing on intelligence data from Soviet controlled sources without appropriate disclosures.

It is had to comprehend: (1) how L failed to understand that his conduct posed a grave threat to U.S. national security and was an unconscionable arrogation of power unto himself; (2) how his superiors (some of whom reportedly knew what he was doing) could permit him to function in this manner for so long; and (3) why the Agency has not turned heaven and earth to root out this kind of attitude and conduct. From the Ames case and other matters, L’s conduct and attitude appears to represent a deep-seated institutional problem for the Agency.

Detailed questioning must be undertaken of the supervisors of L and Z, including the Directors, to determine how this could have gone on so long. Extensive work remains to be done to trace to whom the controlled data went, what decisions such data influenced and what damage the U.S. sustained from such decisions.

AMENDMENT NO. 3711

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, do I have 1 minute remaining before the vote begins?

The PRESIDING OFFICER. The Senator has 1 minute.

Mrs. HUTCHISON. Mr. President, I hope my colleagues will support this air cargo security amendment. This is an amendment that the Senate has voted on twice and passed. It will add significantly to the security of our aviation community. The airports and the top of the airplane are very safe. We have done a super job of creating those safe areas, but what we have not done is matched that with cargo security, what is in the belly of the airplane. We want a seamless aviation system, and with this amendment I think we will have the safest aviation system in the world.

I am very proud to have the support of so many of my colleagues, and I hope we send a strong message that this amendment should be added to the final bill. I appreciate the support of the chairman, the ranking member, the chairman of the Commerce Committee, and the Aviation Subcommittee as well.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I urge support for Senator HUTCHISON’s amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I ask unanimous consent to speak for not more than 1 minute.

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

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to support Senator HUTCHISON’s amendment. It really

strengthens the basic bill that we brought before the Chamber. It would reorganize our intelligence community to better deal with the threat of terrorism. We want this core proposal to be a vehicle for responding to the other recommendations of the 9/11 Commission and to close as many of the points of vulnerability that we have in America to terrorists as we possibly can.

The Commission said major vulnerabilities still exist in cargo and general aviation security. This amendment would go a long way toward ending those vulnerabilities. I thank the Senator from Texas, and I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask unanimous consent that following the conclusion of the vote I be recognized to speak in opposition to the Specter amendment for 10 minutes.

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

The question is on agreeing to Hutchison amendment No. 3711. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 190 Leg.]

## YEAS—96

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

## NOT VOTING—4

Akaka	Edwards
Corzine	Kerry

The amendment (No. 3711) was agreed to.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 10 minutes.

Mr. WARNER. Mr. President, I rise in opposition to the Specter amendment. I wish to compliment the managers of the bill, Senators COLLINS and LIEBERMAN. I thought their arguments were overwhelmingly persuasive in support of the President’s position and indeed the 9/11 Commission that these agencies—the National Security Agency; the National Geospatial-Intelligence Agency, the former Mapping Agency, as we knew it; and the National Reconnaissance Office—have important intelligence functions. They are collection agencies. They must remain under the managerial supervision of the Secretary of Defense. I feel ever so strongly about that.

These three agencies are designated in law as combat support agencies, servicing our troops, the men and women of the Armed Forces wherever they are in the world facing harm’s way, today, tomorrow, and in the future.

The President announced, on September 8, that these three agencies would not—I repeat, would not—be moved from the Department of Defense. This decision was based on two very important principles: One, no reform measures that the President advocates should disrupt ongoing operations in the war on terrorism. I am certain all colleagues fully appreciate the sensitivity of that extremely important decision and principle not to move these three agencies. Secondly, no ambiguity should be introduced in the chain of command, from the President through the Secretary of Defense down to the combatant commanders. That is vital to the war on terrorism and indeed other military operations.

These three agencies are designated combat support agencies providing direct intelligence support to the unified combatant commanders currently fighting in Iraq, Afghanistan, and in other theaters.

The Secretary of Defense is accountable to the President. Under law—I shall turn to the law momentarily. To ensure that these agencies provide the proper intelligence to our military customers, the Secretary of Defense must be able to direct them in executing their operational missions.

I would like to pause for a minute and draw to my colleagues’ attention the law. It reads, for the Secretary of Defense:

The Secretary of Defense, in consultation with the Director of Central Intelligence, shall—

(1) ensure that the budgets of the elements of the intelligence community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense. . . .

Further on down it reads:

(4) ensure that the elements of the intelligence community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces. . . .

I do not see how the amendment of my colleague from Pennsylvania modifies the existing law, and that is imperative if this amendment is to be effective.

I draw my colleagues' attention further to the law, and that is title 10 with respect to the Chairman of the Joint Chiefs. I read from section 193:

(a) COMBAT READINESS.—(1) Periodically (and not less often than every two years), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense a report on the combat support agencies. Each such report shall include—

(A) a determination with respect to the responsiveness and readiness of each such agency to support operating forces in the event of a war or threat to national security; and

(B) any recommendations that the Chairman considers appropriate.

That law would have to be modified in some way were this amendment to be adopted.

So, in conclusion, Mr. President and colleagues, I foresee a potential disruption to operations were this amendment to become law. Numbers are classified, but approximately one-half of the employees of these agencies are Active-Duty military personnel.

In addition to national requirements, these agencies provide great volumes of tactical-level support to the warfighter.

Also, in existing law, I draw to my colleagues' attention that the Under Secretary of the Air Force is dual-hatted as a Director for the NRO. So that, too, would have to be amended and changed. Furthermore, the Director of the NSA is dual-hatted. He is a Deputy Commander of Strategic Command for Information, warfighting responsibility.

So in conclusion, I strongly support the position of the distinguished chairman and ranking member and urge colleagues to vote against this amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have listened with a keen interest, as I always do, when the Senator from Virginia speaks. The concerns which I have seen in my tenure on the Intelligence Committee and as chair—and I served with the Senator from Virginia on the Intelligence Committee—is the dominance of the Department of Defense on the budget and the lack of co-ordination with the other intelligence agencies, the Central Intelligence Agency, and the counterintelligence branch of the FBI.

The citations of authority which the Senator from Virginia raises can all be accommodated. In a very careful way, very carefully crafted, we have left the Department of Defense with the necessary intelligence gathering for them to perform their mission and their function.

When the national intelligence director has overall supervision and management, it does not mean that the Secretary of Defense will not have ac-

cess to information from the NRO or the NSA or the other branches. When we hear those citations of authority, they can all be molded consistent with the amendment I have offered, which, as the most recent enactment, governs and dominates.

So I know the sincerity and I know the perspective of the chairman of the Armed Services Committee. When I had introduced S. 1718 back in April of 1996, and it was referred to the Armed Services Committee, it was emasculated, really, on a turf struggle. I think there is a very heavy overtone of the turf battle which is present here this afternoon at this moment.

Mr. WARNER. Mr. President, the one thing we want to avoid is patchwork legislation. I have drawn to the attention of my colleague—

Mr. SPECTER. Mr. President, I yield the floor. I had the floor, but I do yield it.

Mr. WARNER. I thank my colleague. But, I say to the Senator, I would be happy to enter into a colloquy with you on this point.

Mr. SPECTER. Then in that event I will stay standing.

Mr. WARNER. I would hope you do so.

I pointed out specific provisions of the law requiring certain accountability of the Secretary of Defense and the Chairman of the Joint Chiefs. We do not want to do patchwork legislation.

My understanding, after reading and studying your amendment, is you take these three entities out of the Department of Defense. I do not read into the amendment where there is a residual authority left in the Secretary to perform the functions as prescribed in title 10 and, to some extent, title 50.

Mr. SPECTER. Mr. President, through the Chair, I would inquire of the Senator from Virginia, what does he see which would stop those various officers from complying with those requirements and still allow the national intelligence director to have overall management? That is my question to the Senator from Virginia.

Mr. WARNER. I will wait for the Senator from West Virginia to answer. You directed it to the Senator from West Virginia.

Mr. SPECTER. I hadn't meant to promote Senator WARNER.

Mr. WARNER. I am trying to inject a little lightheartedness.

Mr. SPECTER. If you are confused on the substance of the question, maybe the court reporter could repeat it.

Mr. WARNER. I say to my good friend, a little humor now and then is well advised. But I understand precisely the question directed to me. Let us read your amendment. Would you read your amendment and show me where that residual authority under titles 10 and 50 are left in the Secretary of Defense?

Mr. SPECTER. There is nothing in the amendment which takes the so-called residual authority from the Sec-

retary of Defense. The amendment gives to the national intelligence director management and supervision, but it does not undercut the directions of the statutes to which you have referred.

Mr. WARNER. I would draw that argument to the attention of the distinguished manager of the bill. My understanding, in reading some of your comments, is that I do not find in this amendment where there is a clear delineation of authority and that managerial responsibility, as required under titles 10 and 50, remains in the Secretary of Defense.

Ms. COLLINS. If the Senator will yield on that point, I think this points out the confusion and ambiguity I pointed out earlier due to the way the Specter amendment is drafted. I agree that it creates confusion and also that the implications of substituting the national intelligence director for the Secretary of Defense throughout the laws creating these agencies creates a lot of unintended problems. That is one reason I believe this amendment should be defeated.

Mr. SPECTER. Mr. President, the concept of unintended consequences is not an unusual argument. It can be attenuated in many directions. My submission to this body is that the amendment is plain on its face, that it seeks to create a national intelligence director who has the authority to manage the intelligence community. When the Senator from Virginia cites responsibilities in existing law, there is nothing in my amendment which undercuts that law, nothing at all. Ambiguity, like beauty, is in the eye of the beholder, and in this situation, on the face of the amendment, there is no ambiguity.

Mr. WARNER. Mr. President, I am reading from section 305, Defense Intelligence Agency. I believe that is clear on the DIA, but I do not see it with reference to the National Reconnaissance Office. "The Director of the National Reconnaissance Office shall be under the direction, supervision, and control of the NID." I just see no residual managerial authority left in the Secretary of Defense to fulfill his statutory requirements under titles 10 and 50.

"Line of authority: The Director of National Reconnaissance shall report directly to the national intelligence director regarding the activities of the National Reconnaissance Office." I mean, there is the clear English language.

I say to my good friend, he may be well intentioned, but I am somewhat at a loss to find any reference in this amendment that preserves that residual responsibility which you have represented to the Senate.

Mr. SPECTER. Mr. President, I regret the Senator from Virginia is at a loss, but that doesn't affect the plain language of the amendment and the fact that it doesn't disturb the responsibilities under the section cited by the Senator from Virginia.

Mr. WARNER. Might I just hand you the amendment and ask you to point to the language which you feel leaves the residual authority in the Secretary of Defense?

Mr. SPECTER. I think the amendment speaks for itself, I say to Senator WARNER.

Mr. WARNER. I have given every opportunity to my colleague. I stand by my representations to my colleagues and I support the managers of the bill in having this amendment defeated.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the bottom line of the Specter amendment is that it would sever the reporting relationship between the heads of these three combat support agencies and the Secretary of Defense. I don't think that makes sense. I understand these three agencies serve consumers of intelligence other than the Pentagon, other than the war fighters, but the Pentagon, the war fighter, is a very important consumer of the intelligence produced by these agencies, and that is why in our legislation we gave a lot of thought to how to handle the organization of these agencies and the reporting requirements.

We followed the advice of the 9/11 Commission. We kept a reporting relationship to the Secretary of Defense in acknowledgment of the combat support agency role played by these organizations. But in recognition of the fact that they also provide critical intelligence to the CIA and to a host of other agencies and to the President, we recognized that they are national as well.

What we have is a dual reporting responsibility to both the Secretary of Defense and the new national intelligence director. We do strengthen the control of the national intelligence director in significant ways in acknowledgment that these are national assets. We give the director control over the budget of these agencies. We allow the director to appoint the heads of these agencies with concurrence from the Secretary of Defense. The new national intelligence director can transfer personnel and funds. But we should not sever the link between those agencies and the Secretary of Defense. That would be a big mistake.

I urge my colleagues to oppose the Specter amendment.

I appreciate the support of the chairman of the Armed Services Committee.

Mr. WARNER. Mr. President, if the distinguished manager would yield for a question, the distinguished Senator from Pennsylvania, in support of his amendment, submitted for the record a letter dated September 20, 2004, signed by a number of colleagues. Here is a statement that I believe confirms the proposition I just enunciated, that the amendment would strip the Secretary of all of his responsibilities as existing in other statutes. I will read it:

We are writing to you, however, to express our serious concern that current draft of the

bill, as described by your summary and after review—

It is addressed to the chairman.

—by the Governmental Affairs Committee members and staff, does not give the NID additional authorities that will be required to provide the unity of leadership and accountability necessary for real intelligence reform. In particular—

This is the operative sentence.

—we feel strongly that the NID must have day-to-day operational control of all elements of the intelligence community performing national missions.

It goes on. So it is very clear.

I would say that they do single out the term “national missions,” but these combat support agencies perform both national missions and tactical combat missions. They are not clearly separable. I mean the soldier, sailor, airman, and marine in the field today relies on satellite intelligence, which is a national mission of, say, the NRO, as well as the tactical support the NRO gives in various ways.

So I feel that as I read the amendment, it is totally contradictory of the desire of the 9/11 Commission, totally contradictory of the advice and counsel that the President has given the Congress, am I not correct?

Ms. COLLINS. The Senator is correct and his points are well taken. In reading to me the statement from that letter, the Senator has brought up another important point. Do we really believe that the national intelligence director should have line authority, day-to-day operational authority over all of those agencies? We know that the 9/11 Commission found that one reason the CIA Director was not as effective as he should be was he had too many jobs. He is head of the intelligence community, he runs the CIA, and he is the principal adviser to the President.

Under the formulation proposed by the Senator from Pennsylvania, we would be worsening that problem by giving the NID line authority, day-to-day operational authority. That person cannot possibly run all of those agencies and still coordinate, oversee, and manage the intelligence community.

So I believe this amendment goes too far. The Specter amendment essentially creates a de facto department of intelligence, as my colleague from Connecticut has pointed out, and that approach was specifically rejected by the 9/11 Commission. They specifically considered what should be the reporting relationships of these three combat support agencies. They rejected the approach taken by the Specter amendment. The administration also opposes that approach. Our committee rejected that approach. Our witnesses did not think that approach was wise.

I urge my colleagues to join in opposition to the amendment offered by Senator SPECTER.

Mr. WARNER. Mr. President, may I ask my distinguished colleague another question? This is a letter which is now submitted for the RECORD. It contains the names of about eight or

nine other Senators. Have any of those Senators come to clarify this point? I would like to study what they have said.

Ms. COLLINS. Mr. President, in committee, some of the Senators who signed that letter participated in the debate. They did not convince the majority of the committee members. So far in this debate today, I don't believe that other advocates of this approach have yet been heard, but they may well be heard tomorrow. I know Senator BOND wants to speak. I think there are both proponents and opponents who still wish to be heard.

Mr. WARNER. I hope to be on the Senate floor when they do that. I wonder if the managers of the bill might acquaint them with the title 10 and title 50 provisions and ask where in the amendment those provisions are modified; otherwise, we are going to end up with a patchwork. That is one thing I know this chairman and ranking member do not wish to have.

Ms. COLLINS. The Senator's point is well taken.

Mr. LIEBERMAN. Mr. President, I thank Senator WARNER, who chairs the Armed Services Committee, which the chairman of our committee and this ranking member are privileged to serve on, for his statement, his reference to sections of statute that could be compromised and indeed overridden if this amendment of the Senator from Pennsylvania were adopted.

I thought that the colloquy between Senator WARNER and Senator COLLINS was very illuminating. I hope our colleagues had a chance to listen to it because it did, I believe, ultimately explain why this is a bridge too far, a motto from the Second World War, where the troops were sent to take one bridge too far—I have the feeling that Senator WARNER is going to know the background of this “bridge too far” reference—to far to hold the bridge and, as a result, the overall effort collapsed.

I am afraid this stretches too far and it weighs down the reforms we are trying to make. I believe the colloquy between Senator WARNER and Senator COLLINS is a great argument for the balance we have struck. We leave the line authority over these national intelligence agencies with the Defense Department. Without going into details—because it is classified—thousands of men and women in uniform serve in these agencies. So we want to leave that line authority with the Secretary of Defense but create a reporting authority to the national intelligence director because the NID will oversee the entire intelligence community.

This has been a wonderful learning experience for Senator COLLINS and me. We met with the head of the NSA, General Hayden, and the head of the NGA, General Clapper, and it was fascinating to hear the extent to which they are not only providing day-to-day technical military intelligence to help their personnel in the field at Central

Command today, and other commands, but the way in which they are also providing, because of their extraordinary capabilities, daily assistance and intelligence security to law enforcement agencies. That is the balance we tried to strike.

Mr. WARNER. Mr. President, I will pose a question to both managers, also members of the Armed Services Committee. As we proceed with this legislation, I am sure you are bearing in mind that we recall the aftermath of the 1991 war in which we participated in liberating Kuwait. You will recall as a member of the committee that General Schwarzkopf came before us at that time as sort of an after-action report. He talked in some detail about what he felt were shortcomings, particularly in the tactical intelligence, as to what he needed as a warfighter, as commander of the forces. That sounded alarms throughout the system. It startled many of us that that shortfall existed to that extent. Immediately the then Secretary of Defense and the successive Secretary of Defense—particularly Secretary Rumsfeld—have done everything possible to strengthen and remove the weaknesses that were in the system at that time.

As we proceed on this bill, I hope we have been mindful of particular tactical strengths that have been built into the existing system. It would be my fervent hope that nothing in this bill would roll back that progress. I wonder if the managers might address that, since both are members of the Armed Services Committee and have experience with the gulf war and what has been done in the ensuing years.

Mr. LIEBERMAN. I thank the Senator for his question, my chairman of the Armed Services Committee. It is an important question, one that Senator COLLINS and I weighed as we went through this process of accepting the assignment from the bipartisan leadership to consider and recommend to the Senate on the 9/11 Commission Report. We both take not only our responsibility to protect America's security under the Constitution seriously, we take our membership on the Armed Services Committee seriously. We have a purpose here. We want to put somebody in charge. The 9/11 Commission Report says the intelligence community doesn't have a leader. They are not coordinating their effort. As we do that, we said we want to make sure we don't compromise the quality and availability of intelligence to our warfighters. In fact, we believe our proposal not only doesn't compromise the quality of intelligence, but will ultimately improve it because there will be better coordination.

Even from within some of these agencies, national assets under the Defense Department, high officials said to us that they don't benefit, they don't think the military benefits, the warfighters benefit from the current ambiguity. Make those lines clear, and all the customers, if I can use that

term, of intelligence will benefit, including the military.

Senator WARNER knows that in specific regard to the so-called TIARA, or tactical intelligence budget of the military, that remains totally within the Defense Department, and so do most of the joint military intelligence programs. So the answer is a resounding yes. We understand the uncertainty, the anxiety because of our bill. The 9/11 Commission recommendations represent change. It does take the budget authority and put it under the national intelligence director for national intelligence programs, including these three within the Defense Department. So we understand the anxiety. But we think we put together a balanced system that will not only first provide the No. 1 customer of intelligence, the President of the United States, with the best intelligence, with the coordinated unity of effort that he requires, but do the same for the warfighters. That is our firm belief.

Mr. WARNER. Mr. President, that is reassuring. If I might further inquire of my distinguished colleague, I was given today, and I expect the managers maybe earlier received this, in any event, this is the September 28 communication from the Executive Office of the President to the Senate. It is entitled "Statement of Administration Policy." Has that been printed in the RECORD as yet today?

Ms. COLLINS. It has not.

Mr. WARNER. Mr. President, I ask unanimous consent, at this point in the debate or at the conclusion of our colloquy, to print this Statement of Administration Policy in the RECORD.

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

#### STATEMENT OF ADMINISTRATION POLICY

The Administration supports Senate passage of S. 2845, commends the Committee for its expeditious attention to these important intelligence reform issues, appreciates the Committee's efforts to include important provisions proposed by the Administration, including specific and detailed budget authorities for the National Intelligence Director (NID), and looks forward to working with the Congress to address the Administration's concerns outlined below. This measure will build upon actions already taken by the Administration, including in the President's recently issued Executive Orders, as well as upon the recommendations of the National Commission on Terrorist Attacks Upon the United States (9/11 Commission).

The Administration supports, in particular, the establishment of a NID with full, effective, and meaningful budget authorities and other authorities to manage the Intelligence Community including statutory authority for the newly created National Counterterrorism Center. The Administration will oppose any amendments that would weaken the full budget authority or any other authorities that the President has requested for the NID. The Administration will work in the legislative process to continue to strengthen and streamline intelligence reform legislation and to make adjustments to ensure that the President continues to have flexibility in combating terrorism and conducting intelligence activities.

The Administration is concerned about the excessive and unnecessary detail in the structure of the Office of the NID. In particular, provisions of S. 2845 would, in the aggregate, construct a cumbersome new bureaucracy in the office of the NID and in the Executive Office of the President with overlapping authorities. Legislatively mandated bureaucracy will hinder, not help, in the effort to strengthen U.S. intelligence capabilities and to preserve our constitutional rights. The Administration urges the Senate to delete or significantly revise these problematic provisions.

The Administration opposes the Committee's attempt to define in statute the programs that should be included in the National Intelligence Program; the Administration believes that further review is required. The Administration also believes that the Committee bill's provision relating to the NID's role in acquisition in major systems needs further study to ensure that the requirements of major consumers are met.

The Administration supports the strong information-sharing authorities granted to the NID in the bill. The Administration is concerned that the extensive authorities and responsibilities granted to the Office of Management and Budget (OMB) to implement an information sharing network are both outside of OMB's usual responsibilities and are inconsistent with the goal of ensuring a NID with effective authority to manage the Intelligence Community. These responsibilities should be granted to the NID in such a way as to remain consistent with section 892 of the Homeland Security Act of 2002. The Administration also believes that the detail in which the legislation prescribes the network is excessive; the network would be more likely to accomplish its beneficial goal if the bill simply provided the authority necessary for its establishment while leaving the details to be worked out and altered as circumstances require.

The Administration is also very concerned about the provisions that would purport to reorganize the President's internal policy staff by merging the National Security Council and the Homeland Security Council. Based on the constitutional doctrine of separation of powers, the Congress should not legislate and make permanent the internal organization of the President's own Executive offices or otherwise limit the flexibility needed to respond quickly to threats or attacks.

The Administration is also concerned that the Committee bill mandates disclosure of sensitive information about the intelligence budget. The legislation should not compel disclosure, including to the Nation's enemies in war, for the amounts requested by the President, and provided by the Congress, for the conduct of the Nation's intelligence activities.

The Administration opposes the provision in the Committee bill purporting to require the President to select a single department or agency to conduct all security clearance investigations. Although the Administration supports improvements to the security clearance process, this provision would impermissibly interfere with the President's need for flexibility in conducting security clearance investigations and does not recognize the special needs of individual intelligence agencies.

The 9/11 Commission found that the creation of a NID and National Counterterrorism Center, "will not work if congressional oversight does not change too." The Administration notes that the bill does not address this vital reform component or the parallel recommendation to consolidate oversight for the Department of Homeland Security. The Administration believes the legislation

should also address the Commission's recommendation to ensure rapid consideration by the Senate of national security appointments.

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

Mr. WARNER. Mr. President, I think it is a document that will be of value to all Members of the Senate if they have not received it.

I would like to draw the attention of the two managers to that operative paragraph 2:

The Administration supports, in particular, the establishment of a NID with full, effective, and meaningful budget authorities and other authorities to manage the Intelligence Community including statutory authority for the newly created National Counterterrorism Center. The Administration will oppose any amendments that would weaken the full budget authority or any other authorities that the President has requested for the NID. The Administration will work in the legislative process to continue to strengthen and streamline intelligence reform legislation and to make adjustments to ensure that the President continues to have flexibility in combating terrorism and conducting intelligence activities.

It is the operative phrase that "the Administration will oppose any amendments that would weaken the full budget authority," and the preceding sentence where they said "a NID with full, effective, and meaningful budget authorities."

Mr. President, first, I would like to ask the two managers, is the purport of this paragraph consistent with all the several provisions in the bill that refer to budget authority, in their judgment?

Ms. COLLINS. Mr. President, to answer the question of the Senator from Virginia, I believe it is consistent. I direct the Senator's attention to the very first sentence of this Statement of Administration Policy where it states: "The Administration supports Senate passage of S. 2845." That is the bill before us. That is the bill that is also known as the Collins-Lieberman bill.

Mr. WARNER. Without diminishing in any way that very encouraging sentence, if you go on to read the totality of this communication, there are expressly in here some reservations, but I will not get into that at this point in time.

I want to go back to these words, "full, effective, and meaningful budget authorities." We just had a debate on the Specter amendment, which I believe, with no disrespect to my good

friend and colleague, is an extreme viewpoint on this, and I am hopeful the Senate will not adopt it, but we do come back to this pivotal question, and tomorrow I hope to bring forth some amendments. Now that I see the expressed language and the Senator assured me her bill tracks this, I have to have some clarification—at least I shall seek clarification—of what is the remaining role of the Secretary of Defense with regard to those portions; namely, these three combat agencies, together with DIA, what is the residual area of collaboration, jointness, in the preparation of the budget—preparation is part 1—and then the execution of the budget after it goes through the authorization and appropriations process and begins to come back to the several departments and agencies.

So let's talk about what the Senator believes this language—which is consistent, as she says, with the language in the bill—I presume the Senator's language would not be modified or changed by this—what is left to the Secretary of Defense in regard to the budget authority?

Ms. COLLINS. Mr. President, to respond to the question of the Senator from Virginia, our bill makes very clear that the budgets for the tactical intelligence programs remain under the authority of the Secretary of Defense. That is consistent with the position of the administration, and it is also consistent with the position of the 9/11 Commission.

What we are seeking to do is to put national intelligence assets—the budget for those programs—under the national intelligence director and, indeed, much of the budget for these agencies is currently within the National Intelligence Program, or what is now known as the NFIP, the National Foreign Intelligence Program, because as the Senator is well aware, these agencies are providing intelligence not just to the combatant commanders, the troops, DOD, but as one of the generals with whom we met told us, he talks far more often to the Director of the CIA than he does to the Secretary of Defense.

Mr. WARNER. Mr. President, I really think that is an important representation the Senator has made, but I do not read in this language of the communication from the White House the distinction that she draws between tactical and national. Can I refer the Senator again to this language?

Ms. COLLINS. If we look at the administration's legislative language they have sent up, they, too, exclude the tactical intelligence assets. I think what this language is intended to convey is, as one of our witnesses said—as many of our witnesses said—the worst thing we could do is to create a national intelligence director who did not have budget authority. That power of the purse is arguably the most important authority given to the NID, but no one, to my knowledge, has advocated giving the NID authority over the tac-

tical intelligence in the Department of Defense.

Mr. WARNER. I draw the attention of the distinguished managers to the words "the Administration will oppose any amendments that would weaken the full budget authority. . . ." It is the word "full."

Ms. COLLINS. Yes, that the President has requested for the NID.

Mr. WARNER. To me "full" is the whole basket. It could be interpreted that way.

Ms. COLLINS. What I am telling the Senator is that if he looks at the language sent up by the administration, he will see—and if he looks at the language in our bill, he will see there has never been discussion in putting tactical intelligence—

Mr. WARNER. Mr. President, I acknowledge that, the JMIP and the TIARA in the language sent up. But it seems to me the writer of this could have been somewhat more explicit in the communication because this is an important communication to guide Senators desiring to establish their voting pattern in connection with the Senator's bill.

Ms. COLLINS. Mr. President, I say to the Senator, I, obviously, am not the author—

Mr. WARNER. I think I pressed the point far enough and I think the Senator from Maine has been very courteous in her responses. I just want to bring to the attention of colleagues, when this says "full," it is your understanding it did not include the JMIP, the TIARA, and those programs; is that correct?

Ms. COLLINS. That is correct, other than there may be some programs that are now part of the JMIP that are not principally for—and I see my colleague from Michigan joined us; we had a long debate in committee about this—that are not principally used for joint military purposes, but rather are national intelligence assets, and an example of that would be DIA.

Mr. WARNER. I am privileged to be in this colloquy with my friends. I would like to have the assurance of the ranking member of the committee that he concurs in the statements just made by our distinguished Chair.

Mr. LIEBERMANN. Mr. President, my reflex is to say I do, but I must say I was distracted for a while, so I do not know everything the Senator said.

Mr. WARNER. The question is the language sent up by the administration did have a breakout of the budget authority as relates to certain parts of the overall programs performed by these combat agencies.

I ask our distinguished manager of the bill whether this language in the communication today which said the administration opposed any amendments, because I proposed to have an amendment tomorrow—it may be opposed by the administration, but I want to make sure that the phrase "full budget authorities" is not amending what they sent up by way of language.

Mr. LIEBERMAN. Mr. President, the sentence is subject to more than one interpretation. So I am not sure what the meaning of it is, but I can assure the Senator about what the intention of the underlying bill is and that is the way in which I look forward to continuing this discussion and debating any amendments the Senator might have.

I found a quote that may be reassuring to the Senator. It is from General Hayden, Director of the National Security Agency, when he testified before the House Select Committee on Intelligence on August 18 of this year about the 9/11 Commission recommendations. He said an empowered national intelligence director, with direct authority over the national agencies, including his own, should not be viewed as diminishing our ability or willingness to fulfill our responsibility as combat support agencies, which I found reassuring. That is certainly our intention and I hope the Senator from Virginia will find that reassuring as well. That, combined with the possibility that the administration might oppose one of the Senator's amendments, I hope will lead the Senator to reconsider.

Mr. WARNER. Well, time will tell. I ask unanimous consent to have printed at this point in the RECORD a copy of the administration—I think the Senator referred to it as a bill although it was never introduced—language they sent up which made a clear reference and distinction to what budget authority was given to the NID and what residual remains in the Secretary of Defense. Am I correct on that?

The PRESIDING OFFICER. Is there objection?

Ms. COLLINS. Mr. President, I have no objection. I think that would be helpful.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Reserving the right to object, and I will not object, my understanding is, as the Senator said, this is not a complete bill. It was legislative language for parts of what ultimately have been covered in our bill.

Mr. WARNER. Yes.

Mr. LIEBERMAN. I have no objection.

Mr. WARNER. It was a communication from the administration—

Mr. LIEBERMAN. Absolutely.

Mr. WARNER. I guess to the managers of the bill or the committee. Nevertheless, it is a document expressing the intentions, and the distinguished chairman has clearly indicated that her bill tracks that.

Ms. COLLINS. Mr. President, if the Senator will yield?

Mr. WARNER. Yes.

Ms. COLLINS. I do not want to give the impression that our legislation tracks the administration's legislation in all respects, because it does not. What I was saying to the Chair and to the Senator from Virginia is there has

never been support for bringing the tactical intelligence assets, bringing the budget for those programs under the national intelligence director's control. Our legislation specifically carves them out and keeps them under the control of the Pentagon. So I am a bit perplexed by this debate because nobody is proposing what the Senator seems to be fearing.

Mr. WARNER. I asked that if a construction of this language we received today is full budget authority, it could lead someone to the conclusion that everything was transferred.

Ms. COLLINS. The full budget authority, in my view, applies to the national intelligence assets.

Mr. WARNER. Good. And if they had inserted that in there, it would have been clearer, I hasten to add. We are not going to debate this further. In fairness, having raised this question, I think the Senator has brought considerable clarification. It may be the administration may be more forthcoming about what they precisely meant by the use of full budget authority in the use of this communication, but let me proceed in my questioning with regard to the residual authority of the Secretary of Defense over those budgets in the combat agencies, and I would like to add DIA, which is also a combat agency.

As the Senator says in her bill, those sections which are tactical are in the discretion of the Secretary in the preparation of the budget, and he would collaborate with the NID in preparing those sections. Now, on the national intelligence collection, I think the chairman agrees with me that the soldiers, sailors, airmen, and marines utilize that in carrying out their tactical missions, although it classifies the NRO and the gathering in space as the national program. Am I correct? It does feed into the tactical portion?

Ms. COLLINS. The Senator is correct.

Mr. WARNER. So, therefore, should not the Secretary of Defense have a voice—and I would like to see how we can describe that voice—in the compilation of that budget for the national program which in part supports the efforts of the forces in the tactical missions?

Ms. COLLINS. I would say to the Senator that the Secretary already does have a voice. There is a requirement that as the national intelligence director develops the budget to be recommended to the President, he must do it in consultation with the Secretary of Defense and the Secretary of Energy for the part of the intelligence community that is under the Secretary of Energy's control, et cetera.

In addition, we create a new entity called the joint intelligence community council, which I think already has an acronym, on which the Secretary of Defense will serve, which serves as an advisory board to the national intelligence director.

I also point out to the distinguished Senator from Virginia that ultimately

it is the President's call on the budget. These are recommendations made by the national intelligence director. It is the President who ultimately decides.

Mr. WARNER. Mr. President, that is very helpful. I wonder if the Senator's staff would provide for the RECORD at this point an insertion of those references in the bill which supports the Senator's very important representation to the Senate just now, that the Senator feels he has the consultation role and such other roles as to assure the Secretary of Defense that he has a voice in the preparation of the budget.

Ms. COLLINS. Those provisions are extremely clear in the bill. I do not see how they can be ambiguous.

Mr. WARNER. I just wanted to have the pages annotated. I think my colleague witnessed several colleagues today saying it would be helpful if we could get a clearer understanding of some things, and I think the RECORD today could be of help to those who want to see in the Senator's bill precisely those sections which underpin the Senator's important representation. I ask if the Senator might consider putting that into the RECORD.

Ms. COLLINS. I would be happy to put the provisions in the RECORD. I question why it is necessary when everybody has the bill available. It is on page 12, for example, lines 20 through 25, in describing what the national intelligence director shall do. It says:

Developing and presenting to the President an annual budget for the National Intelligence Program after consultation with the heads of agencies or elements, and the heads of their respective departments . . .

I do not see how it could be clearer.

Mr. WARNER. Mr. President, I was not challenging the language. I was simply trying to get a reference. The Senator provided it, and I thank the chairman.

If I could transition to the second part of this, the budget is prepared and approved by the President. It is then acted upon by the Congress by authorization and appropriation and it goes to the NID. Am I correct?

Ms. COLLINS. After Congress acts.

Mr. WARNER. Yes.

Ms. COLLINS. And the law is signed by the President.

Mr. WARNER. Right.

Ms. COLLINS. The appropriation is received by the NID for the national intelligence program.

Mr. WARNER. Right.

Ms. COLLINS. Not for what is known as TIARA or JMIP.

Mr. WARNER. I thank the chairman. That portion of the budget then goes back to be administered by the Secretary of Defense; is that clear?

Ms. COLLINS. Which portion?

Mr. WARNER. That nonnational portion.

Ms. COLLINS. Correct.

Mr. WARNER. It goes back to the Secretary of Defense. I thank the distinguished chairman on that point.

I see on the floor my distinguished colleague, the ranking member of the

Armed Services Committee. I wondered, since he followed this colloquy and I know he has worked very hard in this area with the Senator from Virginia, have some of his concerns which he has expressed to me been touched on in this colloquy?

Mr. LEVIN. I wonder if the Senator from Virginia has the floor. Who has the floor?

Mr. WARNER. I think I have the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Virginia has the floor.

Mr. LEVIN. I ask unanimous consent I be able to respond to the Senator from Virginia without his losing the right to the floor.

Mr. WARNER. Mr. President, I think I have the floor. I am quite happy to yield to my colleague to respond to my inquiry.

Mr. LEVIN. On the first part of the inquiry, what is interesting to me, and ironic, is the Director of Central Intelligence has that same authority the chairman just read from page 12, line 20, that is provided to the NID, which is to develop and present to the President the annual budget for the national intelligence program. That is the same authority as exists in current law to the intelligence director. So there is no change in terms of presenting and developing the budget.

Where the real changes take place are after the budget or after the appropriation is adopted, and then it depends—then the law will change who it is that executes that budget authority. That is where we get very complicated changes.

I think the discussion and debate is very important, that we analyze which specific programs, projects, and activities, budget execution—not presentation or preparation—but execution is transferred to the NID from where it currently is. That is where I think we all would benefit from a description of specific programs which are not transferred. There are some in the tactical area. But there are also some that are transferred—very few, perhaps 3 percent of the 80 percent of the budget that is transferred, in terms of budget execution to the NID—that in my judgment should not be transferred. A very tiny, few programs, including the intelligence—the J-2 programs that are out in the combatant commanders, including the communications infrastructure between the JCS and the combatant commanders. Those specific programs—and I know my good friend from Virginia knows these programs—those specific programs clearly belong in the Defense Department's budget execution, in my judgment. However, they are transferred.

To try to answer the Senator's question, I think it would be very illuminating, in addition to what he has asked for, if we could take some examples, and there are very few, of some programs where budget execution is transferred to the NID that should not

be. I emphasize again, so this is not mischaracterized, I am talking here about less than 3 percent of the 80 percent of the budget which is transferred.

Ms. COLLINS. Mr. President, I apologize for interrupting the Senator.

Mr. LEVIN. No, I am done.

Ms. COLLINS. The leaders have been waiting for Senator LIEBERMAN and me since 5:30 for a meeting and they have summoned us again. I did not want to walk off the floor without explaining to my distinguished colleagues the fact that we have already kept our leaders waiting for more than 20 minutes.

Mr. ROBERTS. Will the distinguished Senator yield?

Mr. WARNER. Yes, if I could make a preliminary statement, and then I will be glad to yield. As a matter of fact, I will yield the floor. If you seek the floor, I am going to yield it momentarily.

Mr. ROBERTS. I was going to ask a question of the distinguished floor manager. I thank the distinguished Senator from Virginia for his courtesy.

It is my understanding we are not going to vote on the Specter amendment as of this evening; is that right?

Ms. COLLINS. I am sorry, I couldn't hear the Senator.

Mr. ROBERTS. It is my understanding we are not going to vote on the Specter amendment as of this evening; is that correct?

Ms. COLLINS. The Senator is correct. The vote will occur tomorrow.

Mr. ROBERTS. Do we have an idea approximately what time tomorrow morning?

Ms. COLLINS. We do not. We have not been able to determine how many people still want to speak on the amendment. We are trying to accommodate those who do wish to speak.

Mr. ROBERTS. One Senator who is asking you some questions now would like to speak, and I would like to have 20 to 25 minutes, if that would be all right, speaking as the chairman of the Intelligence Committee. If I could have an understanding? I know you will work very hard and I know there has been a lot spoken tonight; I understand that. But I would like to speak in favor of the Specter amendment, if in fact that could be arranged, or have that understanding with the Senator.

Ms. COLLINS. I would certainly welcome that. Perhaps we can try with the help of the floor staff to order the series of speakers. We will make sure the distinguished chairman of the Intelligence Committee is protected in that regard.

Mr. LEVIN. I ask unanimous consent also that I be given 5 minutes in opposition to the Specter amendment tomorrow morning, and if I am not here because of the full committee meeting we have at Armed Services, that my statement be made part of the record at that time.

Ms. COLLINS. We hope the Senator will be here.

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

Mr. WARNER. Mr. President, first I thank the distinguished manager and ranking member for engaging in I think a very important colloquy. I wanted to make a record for some colleagues who have asked a number of questions, and I think we made an interesting record here that will help in their deliberations and thought processes.

I will have amendments tomorrow, hopefully to clarify some things which I feel should be clarified. They are constructive amendments, I say to the distinguished chair and ranking member, because I want to be cooperative and supportive of the President and your efforts. But I do feel very strongly that there are some amendments.

My colleague, Senator LEVIN, and I have worked together. It may well be we will jointly put in some amendments tomorrow on this subject. Not in a manner of a turf battle. I am really quite in temper that that word continues to be brought up, because I personally am striving to do what is best for this country and to make our intelligence system stronger as a consequence of this legislative process. I think it can be achievable. But I have to get clarifications. The language in this message that came up today about full budget authority seems to be somewhat contradictory of some other things. But we will work it out.

I thank the distinguished managers and I yield the floor.

Mr. LIEBERMAN. Briefly, I thank Senator WARNER for his statement in opposition to the Specter amendment and for the questions which he raised which I think have been helpful and clarifying. No doubt this discussion will continue in the days ahead.

I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. Mr. President, it is not very often that things come up that require an immediate fix, but I think one has.

First, I ask unanimous consent I be recognized to speak as in morning business.

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

(The remarks of Mr. INHOFE pertaining to the introduction of S. 2855 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. INHOFE. 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. VOINOVICH. 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. VOINOVICH.** Mr. President, I rise to address the critical issue that is before the Senate—reform of our intelligence community and restructuring of the Federal Government to enhance our ability to wage the global war on terror and protect our Nation from other threats.

I commend Senators COLLINS and LIEBERMAN and their staffs for their hard work and leadership on this issue, and I am proud to be a cosponsor of this legislation.

I also thank the Senate leadership for making this a priority. There is no issue more important for us to address. In fact, I believe this legislation is the most important I have worked on since coming to the Senate in 1999.

The war on terror is unlike any conflict we have fought—covert holy warriors seeking to infiltrate our society and those of our allies to do us grievous harm. Against this radical enemy, intelligence is of the greatest importance. We must do everything we can to strengthen our intelligence capabilities. If you think of what we need to do about terrorism, we need to attack, we need to prevent, and we need to prepare. Intelligence is the greatest weapon we have in all three of those categories.

Before I comment on this legislation before us, however, I would like to first offer some principles and thoughts that have guided my deliberations.

First, we must do no harm. Great progress has been made since September 11, 2001, to improve the operations of our intelligence community and make our country more secure. There is no greater evidence of that than when I travel in Ohio to various large urban areas. I am so impressed with the cooperation that now exists as contrasted to what was there before 9/11. Because we are making progress, we must be sure that we do not inadvertently set back our current efforts. We must implement additional improvements.

Second, we must not restructure the intelligence community to deal solely with the threat of terrorism caused by Islamic extremists, as pressing a concern as that is. There are many other threats that require close scrutiny by the intelligence community. Reform must address the threats that will confront America 10 and 20 years in the future in addition to those faced today.

For example, the United States must continue to monitor regional conflicts which have the potential to undermine stability in various parts of the world such as India, Pakistan, China, and Taiwan. Regional conflicts, such as between India and Pakistan, are motivated by political, social, and historical reasons unique to their own countries. In the event that regional conflicts should escalate to such proportions that chemical, biological, or even nuclear weapons would be used, as would be possible in the event of a con-

flict between India and Pakistan, U.S. interests certainly would be threatened. The intelligence community must remain keenly aware of what is happening in other areas of the world so that the U.S. is not only prepared and able to respond but so that we can do everything in our power to prevent such a crisis from happening.

The United States must also monitor threats presented by rogue nations such as North Korea, rogue states that have the ability to foster regional instability and harm U.S. interests. They, too, must be closely monitored as dictators such as Kim Chong-il look to enhance their power and position. If not, the U.S. risks strategic surprise which would be devastating to our national security interests.

Additionally, the United States must address the proliferation of weapons of mass destruction. These weapons have the ability to cause grave harm to Americans and life as we know it if found in the wrong hands. They could be used by terrorists against cities in the United States, they could be used in regional conflict, or they could be used by a rogue state to enhance its power.

Third, we should make it clear to the American people that the different perspectives presented on the Senate floor are legitimate. A review of the hearings held by various congressional committees during August and September demonstrated that many former Government officials who have had distinguished careers in senior national security posts hold contradictory opinions on the 9/11 Commission recommendations and related national security issues.

Fourth, reforming the Federal Government to address the challenges of global terrorism is going to take several years to accomplish. It is not going to happen that fast. It is my hope that during the next Congress we will address the critical challenges confronting the Federal law enforcement community, for example. For example, rationalizing responsibility and missions and personnel systems is vital to ensure that Federal law enforcement is best equipped to confront foreign terrorists operating in the United States.

I am pleased that we have addressed some of the needs of the Federal Bureau of Investigation in the legislation we are considering today. But much more remains to be done, and it is important for our national security to finish this job.

As my colleagues may know, I sponsored legislation that became law that requires the Office of Personnel Management to study Federal law enforcement personnel systems and recommend improvements. I was concerned that we were going forward with personnel changes and getting some coordination between those law enforcement agencies and the homeland security, but we were failing to do the same thing with law enforcement agencies

that were outside of the Department of Homeland Security. The Office of Personnel Management has implemented that legislation. They have made some significant recommendations on how we can improve the relationships, classifications, and so forth, with those outside of Homeland Security. It would be my hope that we implement those recommendations.

Regarding the National Intelligence Reform Act of 2004, I strongly support creating a robust national intelligence director, but I have been wrestling with exactly how much authority we should give the new national intelligence director. I appreciate the balance that Senators COLLINS and LIEBERMAN were trying to achieve in their legislation. It is clear to me that these authorities should not be diminished.

In fact, in committee I offered an amendment that would give the national intelligence director reorganization authority over the national intelligence program so that the director could identify efficiencies and eliminate unnecessary duplication of effort. It is unfortunate that my amendment was weakened in committee, and I am still considering amendments to strengthen the management authority of the national intelligence director.

The intelligence community budget process is extremely complex. Indeed, the manner in which these agencies interact with each other is probably the most complicated interagency process in the Federal Government. The budgets of the 15 intelligence community agencies, including all those of the Armed Forces, are intertwined in the National Foreign Intelligence Program, the Joint Military Intelligence Program, the tactical intelligence and related activities.

The Collins-Lieberman legislation seeks to bring clarity to the situation by defining a national intelligence program. However, we may be able to improve this budget definition, and I will weigh all amendments to do so carefully.

At the same time, we must be careful not to erode the budget authority of the national intelligence director. I understand that some of my colleagues may offer amendments to give the national intelligence director a fixed term in an attempt to immunize this individual from political pressure. I would note that a host of other provisions, including a strong inspector general for the intelligence community and an ombudsman to specifically guard against political concerns, have been created to do exactly that.

Quite the contrary, a fixed term is unnecessary and could diminish the effectiveness of the national intelligence director. A close and trusting working relationship with the President is going to be key to the success of the effectiveness of the national intelligence director. We should not weaken this relationship by mandating a fixed-term appointment.

The Governmental Affairs Committee heard testimony from three former Directors of Central Intelligence, and all agreed that the national intelligence director should serve at the pleasure of the President. An incoming President should not be stuck with a national intelligence director from a previous administration.

I know that the Presiding Officer, in his former capacity as Governor of the State of Tennessee and as a member of the Bush Cabinet, understands that if this individual doesn't have the confidence of the President of the United States, his or her effectiveness is going to be diminished a great deal. So much of what this person can accomplish will have a lot to do with that relationship with the President because there are going to be situations where there are going to be differences of opinion. Finally, the boss has to decide them. If you have somebody there that has the job and doesn't have the confidence of the boss, we are in trouble.

Mr. President, although this legislation deals primarily with improving structured roles and missions, the human capital challenges confronting our intelligence community must not be overlooked.

In March of 2001—it seems like a long time ago—my Government Management Subcommittee held a hearing entitled ‘‘The National Security Implications of the Human Capital Crisis.’’ The panel of distinguished witnesses that day included former Defense Secretary James Schlesinger, a member of the U.S. Commission on National Security in the 21st Century. Secretary Schlesinger concluded his testimony with these remarks:

As it enters the 21st century, the United States finds itself on the brink of an unprecedented crisis of competence in Government. The maintenance of American power in the world depends on the quality of U.S. Government personnel, civil and military, at all levels. We must take immediate action in the personnel area to ensure that the United States can meet future challenges. That fixing of the personnel problem is a precondition for fixing virtually everything else that needs repair in the institutional edifice of U.S. national security policy.

He was so right. Secretary Schlesinger's insightful comments were reinforced by the 9/11 Commission on page 399 of the report. The Commission said ‘‘significant changes in the organization of the Government.’’ The Commission went on to say:

We know that the quality of people is more important than the quality of the wiring diagrams. Some of the saddest aspects of the 9/11 story are the outstanding efforts of so many individuals straining, often without success, against the boundaries of the possible. Good people can overcome bad structures, but they should not have to.

I will never forget that after 9/11 the first thing that came to my mind was we didn't have the right people with the right knowledge and skills at the right place at the right time. If you go back and look at all of the report, it gets back to that situation and also

the fact that they weren't communicating with each other.

I am pleased that the Collins-Lieberman legislation includes some important human capital provisions. I offered an amendment in committee, which was unanimously accepted, that provides enhanced classification and pay flexibilities for intelligence analysts at the Federal Bureau of Investigation.

Specifically, my amendment enables the FBI to work with the OPM to develop new classification standards and pay rates for intelligence analysts. The amendment also allows the bureau to improve their performance management system for their intelligence analysts and establishes two congressional reporting requirements. The amendment was completely within the spirit of the 9/11 recommendations, which noted that the FBI should create a specialized and integrated national security workforce consisting of agents, analysts, linguists, and surveillance specialists who are recruited, trained, rewarded, and retained to ensure the development of an institutional culture with strong experience in intelligence and national security throughout the organization.

I thought the other incredible thing after 9/11 was the cry that went out: Can anybody speak Farsi? Can anybody speak Arabic? You would have thought that after the Persian Gulf war there would have been a very aggressive effort, because of the instability of the area, for us to bring in people who could speak Farsi and Arabic. If you looked at the State Department a couple years ago, you would have found we had all kinds of linguists who could speak fluent Russian. But the threat had changed. We didn't have the capacity to change with that threat. Hopefully, with this new national intelligence director, we are going to be able to have that flexibility.

It is my hope that this amendment will provide the Federal Bureau of Investigation with essential human capital flexibilities specifically targeted to building an elite cadre of intelligence analysts. In addition, Senator LUGAR and I will offer another amendment to the bill to improve the Presidential appointment process, which has been broken for decades. Over the coming days, I want to work with Senators COLLINS and LIEBERMAN on this amendment.

This amendment addresses a critical recommendation in the 9/11 Commission Report. It is a problem I have been examining for years. During my time in the Senate, I have found political appointees to be dedicated and diligent professionals who want to make a difference for our country. They often leave high-paying corporate jobs only to find their commitment to our Nation requires an increase in workload and a decrease in salary.

I talked to one individual who filled out the financial disclosure form and all that was required. He said that it

cost him \$200,000 to pay the professional people to do all the things that were required in this disclosure form that is now currently in effect with the Federal Government. I suspect that the President, when he appointed the Secretary of Education, had to go through all these forms, and so forth, and wondered to himself whether he ought to do it. Before they even begin to work for the Government, however, as I mentioned, they must first navigate the complex, turbulent, and outdated Presidential appointment process—an area where reviews and recommendations for improvement have gone unheeded far too long.

In 1937, a committee issued the first report on improving the Presidential appointment process. During the 67 years since this inaugural report, the appointment process has been formally examined 14 additional times. After such extensive reviews, it is disconcerting for this Senator that we have not been able to enact meaningful reform in this area.

To capture the essence of the problem, understand first that the number of politically appointed positions has grown from 286 to 3,361 over the past 4 decades. This increase is straining an already overburdened system. And the time it takes to complete an appointment has increased through the years from just over 2 months during the Kennedy administration to 8 months in the current administration. I think Secretary Rumsfeld said his team didn't go into place until 6 months after he had been appointed as Secretary of Defense.

Mr. President, 8 months is simply too long to fill an appointed position. I am afraid that if we do not update the current system for processing Presidential appointees, we run the risk of driving good people away from appointed Government service. Progress has been made on this issue during the last several years.

First, on February 15, the Hart-Rudman commission issued their report entitled ‘‘The Roadmap for National Security Imperative for Change,’’ which in part examined the Presidential appointment process. The Commission's final report observes: The ordeals to which outside nominees are subjected are so great, above and beyond whatever financial or career sacrifice is involved, so as to make it prohibitive for many individuals of talent and experience to accept public service.

Then on April 4 and 5, the Senate Committee on Governmental Affairs held 2 days of hearings on the state of the Presidential appointment process. During those hearings Paul Light from the Brookings Institution said:

Past and potential Presidential appointees alike view the process of entering office with disdain, describing it as embarrassing, confusing, and unfair. They see the process as far more cumbersome and lengthy than it needs to be.

By the way, I held a hearing a couple weeks ago, and Paul Light was there,

and he reiterated that same statement he made in 2001.

On May 16, 2001, the Governmental Affairs Committee passed Senator Fred Thompson's bipartisan bill to streamline the Presidential appointments process that I cosponsored with Senators AKAKA, DURBIN, LIEBERMAN, and LUGAR. Although it passed the Governmental Affairs Committee in the 107th Congress, it did not pass the full Senate. When Senator Fred Thompson left the Senate, I promised him I would continue to push for appointments reform. Therefore, in April of last year, I reintroduced the Presidential Appointments Improvement Act, and today I urge my colleagues to pass this important proposal.

What happens is that after the President comes in and he goes through this line of getting people appointed, they get off on other things, and they forget about the problems they went through to get all their appointees. So it kind of goes to the bottom of the stack in terms of priorities. This 9/11 Commission implementation by the Senate gives us a wonderful opportunity to do something about this problem that has lingered for so many years.

I am certain all my colleagues have read the recommendations in the 9/11 Commission report. As you recall, one of the recommendations underscored the importance of improving the Presidential appointment process. Specifically on page 422, the report states:

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

The 9/11 Commission report also noted that in 2001, the new administration, like others before it, did not have its team on the job until at least 6 months after it took office. In fact, I commented to people that after the length it took for the President to finally know he was President, we lost that period of time once the President was elected and started building his team; they were just concentrating on who was going to be the President. Once that was done, then they started to concentrate on who the people were going to be in the administration.

They did a great job of taking care of the initial people, but, as you know, it took a long time for them to start filling in that organization.

My amendment offers realistic governmentwide solutions to the problems identified by the 9/11 Commission and the 14 other Commission studies and reports that have detailed the importance of streamlining the Presidential appointment process.

The four main provisions of the amendment include streamlining the financial disclosure forms for executive branch employees. Two, requiring

agencies to examine the number of Presidential-appointed positions and recommending to Congress which positions could be eliminated. We are asking them to do it. Three, allowing Presidential candidates to obtain a list of appointee positions 15 days after they receive their party's nomination so they will have an idea of the kind of people they have to look for if they are elected President of the United States. And four, requiring the Office of Government Ethics to review the conflict-of-interest laws.

The principles behind this amendment are simple, and given the bipartisan nature in which the original bill passed the Governmental Affairs Committee last Congress, I ask my colleagues to adopt this amendment. Although it will not solve all the problems with the appointments process outlined in the 9/11 Commission report, the amendment is an important first step for updating an outdated system.

I urge the Senate to support its adoption. Senator LUGAR and I will be working with Senator COLLINS and Senator LIEBERMAN to try to obtain their support for this amendment and to also work out any of the problems they may have with it.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I know the Senator from Kansas is waiting. I need to make a couple of very brief announcements, with the Senator's indulgence.

AMENDMENT NO. 3731 TO AMENDMENT NO. 3705

Ms. COLLINS. Mr. President, I have two amendments that have been cleared on both sides. Both of these amendments are second-degree amendments to my underlying amendment No. 3705 regarding Homeland Security grants. Therefore, I ask unanimous consent that the Inhofe-Jeffords second-degree amendment No. 3731, which is at the desk, be considered and agreed to, with the motion to reconsider laid upon the table.

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

The amendment (No. 3731) was agreed to, as follows:

(Purpose: To ensure the participation of the Under Secretary for Emergency Preparedness and Response in the Threat-Based Homeland Security Grant Program grantmaking process for nonlaw enforcement related grants)

In section 406 of the amendment, redesignate subsections (i) and (j) as subsections (j) and (k), respectively.

In section 406 of the amendment, insert after subsection (h) the following:

(i) PARTICIPATION OF UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.—

(1) PARTICIPATION.—The Under Secretary for Emergency Preparedness and Response shall participate in the grantmaking process for the Threat-Based Homeland Security Grant Program for nonlaw enforcement-related grants in order to ensure that preparedness grants where appropriate, are consistent, and are not in conflict, with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) REPORTS.—The Under Secretary for Emergency Preparedness and Response shall

submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that describes—

(A) the status of the Threat-Based Homeland Security Grant Program; and

(B) the impact of that program on programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

AMENDMENT NO. 3732 TO AMENDMENT NO. 3705

Ms. COLLINS. Mr. President, I further ask unanimous consent that the Levin second-degree amendment No. 3732, which is at the desk, now be considered and agreed to, with the motion to reconsider laid upon the table.

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

The amendment (No. 3732) was agreed to, as follows:

(Purpose: To give the Secretary of Homeland Security greater flexibility in allocating funds for discretionary grants to local governments)

On page 36, strike lines 3 through 21, and insert the following:

**SEC. 409. CERTIFICATION RELATIVE TO THE SCREENING OF MUNICIPAL SOLID WASTE TRANSPORTED INTO THE UNITED STATES.**

(a) DEFINED TERM.—In this section, the term “municipal solid waste” includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Bureau of Customs and Border Protection of the Department of Homeland Security shall submit a report to Congress that—

(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport; and

(2) if the methodologies and technologies used to screen solid waste are less effective than those used to screen other commercial items, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of solid waste, including the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Bureau of Customs and Border Protection fails to fully implement the actions described in subsection (b)(2) before the earlier of 6 months after the date on which the report is due under subsection (b) or 6 months after the date on which such report is submitted, the Secretary of Homeland Security shall deny entry into the United States of any commercial motor vehicle (as defined in section 31101(1) of title 49, United States Code) carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in such waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport.

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

Ms. COLLINS. Mr. President, I hope we can continue to work on the underlying amendment with the goal of having a vote on it shortly. I also want to announce to all of my colleagues that we do intend to vote on Senator SPECTER's amendment tomorrow. I recognize there are a few Senators who have not been heard on it who desire to be heard, but we do intend to conclude the debate and vote on Senator SPECTER's amendment tomorrow.

I thank the Chair.

AMENDMENT NO. 3731

Mr. JEFFORDS. Mr. President, I will never forget my visit to Ground Zero. I hope that September 11 is an event that will never be repeated, on any scale, in our country or anywhere in the world.

I share the goal of all my colleagues that our Nation be as prepared as possible, should such an event occur. However, in seeking to improve our capability to respond to terrorism, it is critical that we do not lose our capability to respond to natural disasters, which happen much more frequently than terrorist events.

The Inhofe-Jeffords second degree amendment to the Collins' amendment will ensure that as we seek to enhance our ability to respond to terrorist events, we do not lose our ability to respond to natural disasters.

I thank my colleagues, the chair and ranking member of the Government Affairs Committee and Senator CARPER, a cosponsor of the Collins amendment for agreeing to accept this amendment.

The role of a first responder, whether responding to a terrorist event or a natural disaster is, for the most part, the same. For decades, the Federal, State, and local governments in this Nation have partnered together to plan, prepare, respond, and recover from both minor and major natural disasters.

We have a robust system for responding to these events, authorized through the Stafford Act and executed through FEMA. My home State of Vermont has a long history with emergency management.

My colleague and friend, Senator Bob Stafford of Vermont, served as chairman of the Environment and Public Works Committee for many years and ushered the Stafford Act through Congress in 1974. The Stafford Act is the authorizing statute for emergency response activities at the Federal level, and it forms the basis for the emergency management system in this Nation. The Stafford Act gave structure to an emergency response process where virtually none existed in the past.

FEMA, which was formed in 1979 and incorporated into the Department of Homeland Security in the Homeland Security Act, is a robust agency, with extensive experience in all-hazards planning, preparing, response, and recovery. It has a tradition of providing quick response to people in immediate need.

As Chairman of the Environment and Public Works Committee during the 107th Congress, I recognized the need to provide assistance to our first responders. I was struck during my visits to the Pentagon and the World Trade Center in particular at the inability of first responders to communicate with each other. To combat this and the other shortcomings we observed, I introduced S. 2664, the Emergency Preparedness and Response Act of 2003 with my colleague Senator Bob Smith. The EPW Committee reported that bill on June 27, 2002.

During this Congress, Senator INHOFE and I worked together to introduce S. 930, the Emergency Preparedness and Response Act of 2003. The EPW Committee reported that bill favorably on July 30, 2003, by voice vote.

Before the formation of the Department of Homeland Security, I expressed grave concerns about the proposal to incorporate FEMA into the Department of Homeland Security. I was concerned at that time that the robust agency we saw jumping every hurdle after September 11, 2001 to provide assistance to World Trade Center and the Pentagon, and to hundreds of natural disasters each year, would give way under the pressure of the enormous bureaucracy of the Department of Homeland Security and lose its ability to respond quickly and effectively to disasters.

I remain concerned today. However, the administration prevailed and incorporated FEMA in DHS with the enactment of the Homeland Security Act of 2002.

Since the formation of DHS, FEMA has administered aid for 169 major disasters, 29 emergency declarations, and 172 fire management assistance declarations—all natural disasters. That is 370 communities that have received emergency assistance from the Federal Government and our Nation's first responders for natural disasters.

Over the last several weeks, we have seen record-breaking hurricanes rip through the southeast bringing high winds, flooding, tornadoes, and beach erosion. In my home State of Vermont, we recently had a disaster declared for extensive flooding throughout the State.

The Inhofe-Jeffords second degree amendment ensures that FEMA, the agency responsible for administering our Nation's disaster response programs, is involved in the distribution of funds to first responders and that grants made are consistent with the Stafford Act. This ensures that we will not lose the level of preparedness and response that we have seen at work in States like Florida over the last few weeks.

We obviously need to be prepared for the small percentage of the time when a terrorist event may occur, but we cannot ignore the day-to-day operations, which affect so many lives.

I thank my colleagues, the distinguished chair and ranking member of

the subcommittee as well as Senator CARPER, a cosponsor of the Collins amendment, for working with us to incorporate our second degree into the underlying amendment.

The PRESIDING OFFICER. The Senator from Kansas.

#### NORTH KOREAN HUMAN RIGHTS ACT OF 2004

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the pending business be set aside and that the Foreign Relations Committee be discharged from further consideration of H. R. 4011 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4011) to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Brownback amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3728) was agreed to.

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

The bill (H. R. 4011), as amended, was read the third time and passed.

Mr. BROWNBACK. Mr. President, for the information of my colleagues, what we are considering is something that has been negotiated extensively. It has passed the House of Representatives. It has been negotiated extensively in the Foreign Relations Committee amongst the members interested. It is on the issue of North Korean human rights, or the lack thereof, and U.S. policy.

This bill establishes for the first time—the first time in at least a generation—a human rights principle toward North Korea. Everybody is familiar with the six-party talks that are going on regarding North Korea and nuclear weapons and the threatening nature of the North Korean Government, of its testing missiles, of it moving military operations to threaten people around the country, in South Korea, in Japan, and in particular the United States to give them direct aid to guarantee their security, and issues mostly surrounding the nuclear weapons development.

This bill brings into focus a United States Government position on North Korean human rights abuses, which are extensive, probably the worst human rights abuses in the world. It is at least in the top two or three, and that is saying something when you consider what is taking place in the Sudan and Iran.

North Korea lost 10 percent of its population in the last 10 years to starvation. We think they have something