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Senate

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND.]

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord of all life, You have shown us that a great life is an accumulation of days lived to the fullest, one at a time, by Your grace and for Your glory. Thank You for the strength and vitality that surge within us when we open the floodgates of our minds and hearts and allow Your Spirit to empower us. When we invite You to be the unseen but enabling Presence in everything, we experience greater creativity, we think more clearly, we speak more lucidly, and we accomplish more with less strain and stress.

Make us so secure in Your love, Lord, that we live this day with more concern for the future of our Nation than for the future of our careers, with more concern for our success together than for personal success, and with more dedication to honest debate with civility than to winning arguments. We commit ourselves to press on with crucial issues on the agenda. Give us a renewed sense of our calling to serve You and a deeper trust in Your faithfulness to give us exactly what we need in each hour. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the Senator from Mississippi is recognized.

SCHEDULE

Mr. COCHRAN. Mr. President, at the request of the majority leader, I am pleased to advise all Senators of the schedule of legislative business for today's session of the Senate. This morning, between now and 11:30 a.m., the Senate will debate the motion to proceed to the missile defense bill. Following that debate, the Senate will proceed to vote on the motion to invoke cloture on the motion to proceed to the missile defense bill. And following that vote, the Senate will begin consideration of S. 1244, the charitable contributions bill, under a short time agreement. At the conclusion or yielding back of the time, the Senate will proceed to a vote on passage of that bill.

Following that vote, it is the leader's intention to begin consideration of the Department of Defense authorization bill. Therefore, Members should expect votes throughout today's session with the first votes occurring at approximately 11:30 a.m. As a reminder to all Members, several time agreements were reached last night with respect to two high-tech bills, and those may be considered at some point this week.

Mr. President, may I inquire of the Parliamentarian if there is a time agreement for the consideration and debate of the motion to proceed to the missile defense bill.

The PRESIDING OFFICER (Mr. BROWNBACK). The time is to be evenly divided until 11:30 on the motion to proceed, and then there will be a cloture vote.

Mr. COCHRAN. I assume that under that agreement this Senator is in charge of the time for the proponents of the bill and the distinguished Senator from Michigan, Mr. LEVIN, is in charge of the time for the opponents of the motion.

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. I thank the Chair.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

AMERICAN MISSILE PROTECTION ACT OF 1998—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 1873, and the time until 11:30 a.m. will be equally divided.

The clerk will now report.

The bill clerk read as follows:

Motion to proceed to the consideration of Calendar No. 345 (S. 1873), a bill to state the policy of the United States regarding the deployment of a missile defense system capable of defending the territory of the United States against limited ballistic missile attack.

The Senate resumed consideration of the motion to proceed.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

PRIVILEGE OF THE FLOOR

Mr. COCHRAN. Mr. President, I ask unanimous consent the privilege of the floor be extended to Dr. Anne Vopatek, a fellow on my staff, during the consideration of S. 1873 and all relevant motions thereto.

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

Mr. COCHRAN. Mr. President, it should be noticed by those who are interested in the subject of missile defense that what we are actually debating and deciding this morning is whether or not the Senate should proceed to consider the bill that has been introduced by me and the distinguished Senator from Hawaii, Mr. INOUYE.

This bill is not going to be voted on up or down today; what we will have a vote on at 11:30 is whether or not to proceed to consider the bill. When the majority leader decided to call up this legislation, there was an objection made to proceeding to consider the bill. So under the procedures of the Senate, the majority leader, who is in charge of making decisions about the schedule of the Senate and how we take up legislation in the Senate, was

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obligated to file a motion to proceed to consider the bill. That motion is debatable.

Under notice from the opponents of the bill, it was clear that motion would be debated at length. So to get to the bill, it was decided by the majority leader that a cloture motion should be filed on the motion to proceed, bringing debate on the motion to a close. If we get 60 votes on that cloture motion, then we can proceed to consider the bill and it can be open for amendment, and Senators who have alternative ideas, or think that the current policy is the policy we should have for missile defense, can make those points and the Senate can consider those views. But until this cloture motion is approved, we can't get to that point. We can't get to the point of considering this bill on its merits and considering any amendments which Senators would have.

So I am trying to put in context what is before the Senate, what the issue is here. The issue this morning is whether or not the Senate thinks this is a matter of such seriousness and consequence to our national security that we ought to consider it, that we ought to debate it, that we ought to let the Senate work its will on a proposal to change our policy with respect to national missile defense. I can't think of a more interesting and serious time, given the events which are occurring in the world today, for the consideration of this issue. It is on everybody's mind, Mr. President, because of the tests which have been undertaken in India of a nuclear warhead. India now announces to the world they are prepared to use this as a part of their nuclear weapons arsenal, that they have it available, and that they are a nuclear weapons state. This is a dramatic change in the situation in India. It is a dramatic change in the security interests of the entire world.

At this time, we find the United States relying upon a policy with respect to missile defense of developing a national missile defense system in two stages, unlike any other defense acquisition program that we have ever had, or that we now have. We have a technology program—one that is developing the capabilities to have an effective defense system, but we do not have any policy with respect to ever putting that system in the field, or to integrating it into our national defense structure. That decision hasn't been made. We are suggesting in offering this bill that the time has come for the United States to say to the world we are going to develop and deploy a national missile defense system.

We are going to protect the security interests of the United States and the territory of the United States. As a matter of national policy, the Federal Government is going to obligate itself to undertake to protect the security interests of the citizens of the United States and the United States itself from ballistic missile attack. It seems to me that is an obligation that is very clear for us, in moral terms, as a government.

With India having a missile capability of a range of about 1,400 miles already, according to recent reports that are available to the Senate, Pakistan having tested for the first time on April 6 a new medium-range missile with a range of 1,500 kilometers, and India announcing that it is concerned that Pakistan is a covert nuclear weapon state, although it hasn't announced that, we are seeing evidence that around the world—in North Korea, in Iran, and, of course, in Russia and China—there are nation states that are developing, or now have, longer range missile capabilities than ever before. Some have the added capability of nuclear weapons and, some have other weapons of mass destruction that can be delivered with those long-range missile systems. And the United States is defenseless against attack from long-range ballistic missiles.

It has been our policy up until now to have the capacity to destroy any nation that would think about using a nuclear weapon against us. Russia and the United States have had over a period of time this mutual assured destruction relationship: If you destroy me, you can be assured I will destroy you. That confrontation and that balance of power has prevented any use of a missile system or nuclear weapon against the territory of the United States, even though that is not a very happy relationship to have.

Now, we hope, we are moving toward a better and more stable relationship, but there is still always the chance of an unauthorized launch even from Russia. We are working to destroy and build down the weapons stockpile. That is good. But we are not yet to the point where there is no risk. This is not a risk-free relationship with Russia. There could be an accidental launch. If there is, we have no defense whatsoever.

With respect to China, it is certainly unlikely that we are going to have any missile attack from there. Nonetheless, there is an emerging long-range missile system capability in China that is growing more sophisticated, that is going to continue to grow and develop more lethality and longer ranges, and it presents a threat—unlikely, but, nonetheless, there could be an unauthorized or accidental launch of a missile from China.

Already we are seeing the North Koreans developing—and already deploying—some medium-range missile systems. They are now developing, we are told, a missile with a range of 6,000 kilometers. That missile could reach Alaska. It could reach Hawaii. Who knows what their plans are for continuing to develop missiles with increased ranges.

We found out, through a year-long series of hearings that we conducted last year in our Subcommittee on International Security, Proliferation, and Federal Services, that it is much easier now than ever before for nation states who want to improve and develop their missile systems, and to give them longer ranges, to do so with the access they have to information from the Internet and to experts in Russia and other nation states where they already have the capabilities.

Iran provides an example of the surprises we face. One surprise occurred when we found out that Iran had acquired the technology, the components, and the expertise to put together a medium-range missile system. They are in the process of doing that now. One State Department official said that they could have that missile system available by the end of this year.

Last year, when we had the Director of Central Intelligence before a committee of the Senate talking about the advancements that had been made in Iran, he said that he thought—this is in 1997—that it would be up to 10 years before Iran would have medium-range missile system capability. Then he sent word up, that because of new developments and the acquisition of expertise and components from Russia, Iran had made surprising advances and they would have the capability to deploy such a system much sooner. It is because of gaps and uncertainties, he said, that you can't predict when people are going to get these technologies and other equipment from foreign sources, or how quickly they can develop an ICBM threat—you just can't predict that.

So we have seen in Pakistan now, in India, of course, in China, Russia, in Iran, and in North Korea solid evidence of what we are talking about today. And that is that there is in the world today a real threat to the security of this Nation because of the emerging capabilities and technologies for developing and deploying long-range missiles, that there are available in these countries weapons of mass destruction that can be carried by these missiles over long ranges, and that it is time for the United States to acknowledge this threat and say as a matter of policy that we are going to deploy a national missile defense system.

That is what this bill says. It doesn't set out what kind of architecture the missile defense system should have or any deadlines for doing it. We would rely upon the orderly processes of authorization and appropriation, as we have for all other defense acquisition programs, to determine how soon it is developed and when it is deployed. But what we are saying today is that, as a matter of policy, we are going to deploy a national missile defense system.

I think it is also important to notice that this does not require a violation of any existing arms control agreement. In our early discussions of this legislation, we heard others say that this puts in jeopardy the ABM—the antiballistic missile—agreement. It does not. That agreement contemplates that a party to the agreement could have a national missile defense system. It permits a

single site for interceptor rockets. We have been proceeding under the current administration plan that this is the kind of a system that would be developed, and eventually, if—under the administration's policy—a threat is perceived to exist, then an effort would be made to deploy the system.

So the real difference in what we are presenting to the Senate today is that this is a policy that is announced to the world and to rogue states that may be saying, ''Look, the United States is defenseless. We have an opportunity to put some pressure on them by developing a missile system that is capable of striking the United States. We can coerce them, intimidate them, and blackmail them because they are not at this point considering deploying a defense against intercontinental ballistic missiles.'' We would end that kind of thinking in nations who may be taking that approach by saying, ''Yes, we are. You are not going to see the United States any longer taking a wait-and-see approach.'' And that is what the administration's policy is—to wait and see if a threat develops.

We are saying, ''Mr. President, you have signed Executive orders over the last 4 years, starting in 1994, saying that the United States is confronted with a national emergency because of the proliferation of weapons of mass destruction and missile systems around the world.'' The President has acknowledged that, and he signed Executive orders that say that. But now it is time to say we are going to do something about it, we are going to do something to protect our security interests against this national emergency that exists. Up until now, we have said we will wait and see if there is a real threat. That puts us at risk here in the United States.

I am saying that we had better get busy. We had better get busy and develop and deploy a system. It would be much better for all of us if we deployed a system that may be a year or two years early getting to the field than waiting until it is a year too late.

That is the issue and it is important given what is happening in the world today, given the fact that our intelligence agencies were not able to even detect that this test in India was about to take place, given that they weren't able to detect, as far as I know, that Pakistan was going to test, or even had, the new missile they tested in April, and given they weren't able to detect that Iran was going to be able to put together a medium-range ballistic missile within 1 year rather than within as many as 10 years. The latest assessment was as many as 10 years; now it is perhaps within 1 year. These are not the only surprises, they are just the most recent ones. Some of us have known about these surprises before now, but now the whole world knows about them. They are acknowledged at the highest levels of our Government. If we can't detect that India is about to test a nuclear warhead, if we can't detect that Pakistan has a missile system that has a range five times greater than what we thought they had, if we can't detect that Iran is developing a medium-range missile with technology and components imported from other countries, and they will be able to put that in the field as many as 9 years earlier than we had thought 1 year ago, then we need to change our policy and quit assuming that we are going to be able to detect the development of an intercontinental ballistic missile system somewhere in the world that can threaten the territory of the United States.

That is the point of this legislation. We can't be sure. And if we can't be sure that we can detect the threat, we need to be prepared to defend against that threat. The Senate ought to consider this issue, and so today we are going to vote on cloture on the motion to proceed to consider that issue. I urge the Senate to vote to invoke cloture. We don't need to drag out a debate on a motion to proceed to this issue. Sure, there are other things that are on the schedule for today, and the leader has committed to taking up other bills after this vote, but I am optimistic that we will have enough Senators who understand the seriousness of this and the urgency of this for us to turn to the missile defense bill. I hope Senators will consider this, and I am happy to yield to other Senators.

I know the distinguished Senator from Michigan is in the Chamber. We have had a number of Senators who have asked for time. I hope my friend from Michigan will allow me to yield to the Senator from Oklahoma, who has another commitment at 10 o'clock, for whatever time he may consume between now and 10 o'clock.

Mr. President, I yield to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from the great State of Oklahoma.

Mr. INHOFE. Mr. President, first of all, let me say that I applaud the senior Senator from Mississippi for bringing this up. Yesterday I spent some time in the Chamber and evaluated the arguments against this so that I could respond to those arguments. And I will just take a couple moments because I am supposed to be presiding, and I would like to respond to those objections to this legislation that came from the floor.

First of all—and I think this has been discussed already by the senior Senator from Mississippi—the possible effect this would have on the ABM Treaty. I know he presents a very persuasive case that it would not have any threat. Quite frankly, even if it did have a threat to the ABM Treaty of 1972, I would still be supporting this, because I think when you talk to most people who were around in 1972, back when we had two superpowers—we had the U.S.S.R. and the United States—it was not the threat in the world, quite frankly, that it is now, because it was more predictable; we knew what the U.S.S.R. had, and they knew what we had. We had an agreement that I didn't agree with back then. It was called mutually assured destruction; that is, we agree we won't defend ourself and you agree you won't defend yourself. And then, of course, you shoot us, we shoot you, everybody dies, and nobody is happy.

That was a philosophy we lived by which I didn't agree with at the time. And I have to hasten to say, this came in a Republican administration. This was Henry Kissinger and Richard Nixon. But regardless of how flawed that might have been as a policy at that time, certainly now it should not have any application. In fact, I have quoted many times Henry Kissinger on this floor. When I asked him the question: Do you feel with the changing threat that's out there and the environment we are in right now, with some 25 nations with weapons of mass destruction, biological, chemical and nuclear, that it still makes sense to abide by the ABM Treaty? And he said—this is a quote—''It's nuts to make a virtue out of your vulnerability.''

That is Henry Kissinger. He was the architect of this ABM Treaty. Of course, I was one who voted against the START II Treaty and even said in the Chamber we had no indication that Russia was going to be signing this anyway. And, of course, we know what is happened since that time. So I think that argument on the ABM Treaty, even if it did offend that treaty, I would still support this legislation from the Senator from Mississippi.

The second objection yesterday was the cost. They said—and this is a quote—''We don't know how much it will cost since the bill does not specify any particular system.'' Well, it doesn't. And I am glad this bill does not specify a specific system. I have a preference. Mine would be the upper-tier system. The upper-tier system is very close to where we would be able to deploy this thing. We have a $50 billion investment in 22 Aegis ships that are floating around out there today. They have a capability of knocking down missiles, but they can't go beyond the upper tier. So it doesn't do us any good except with short-range missiles that stay in the atmosphere.

If you have from North Korea a missile coming over here that takes 30 minutes to get here, it is only in the last minute and a half that we would be able to use any current technology to knock it down, and then we couldn't do it because we don't have anything that would be that fast, so we are naked.

And the cost is not that great. The opponents of defending America by having a national missile defense system keep saying over and over again that it is going to cost billions and billions. I have heard $100 billion, a whole range. And I suggest to you that we have some specific costs. With that $50 billion investment, it would be about $4

billion more to reach the upper tier with the Navy upper-tier system. There might be another billion and a half on Brilliant Eyes so we would be able to accurately detect where in the world one would be deployed.

And anyone who is among the 81 who supported last week the expansion of NATO—I was one who did not support it—you might keep in mind that if you are concerned about not having an accurate cost figure for this program to defend America from a missile attack, look what we voted on last week in ratifying NATO expansion. We agreed that we are going to expand that to the three countries, and the cost figures had a range from $400 million to $125 billion. Now, I can assure you we are a lot closer to being able to determine what this cost would be.

The last thing, I think, is that when this is all over and the dust settles, maybe what happened yesterday in India and this morning in India might really be a blessing, because at least now we can diffuse the argument that was quoted of General Shelton when he said there is no serious threat emerging, and he said our intelligence said that we will have at least 3 years' warning of such a threat. Well, that is the same intelligence that did not know what India was doing.

If you try everything else and that does not work, let's just look at what is common sense. We know that we have these countries that have weapons of mass destruction. We know that both China and Russia and perhaps other countries have missiles that will reach all the way to any place in the United States of America today. Using the polar route, they can reach any place in the United States of America. And with that out there, why would we assume that China would not do it, or that it would not be an accidental launch, or with some of this technology they are selling to countries like Iran, that other countries wouldn't use it? I am not willing to put the lives of my seven grandchildren at stake by assuming that somehow we are going to have 3 years' warning. I think that is totally absurd.

Lastly, I would only share with you that I went through a personal experience with our explosion in Oklahoma City, which I think everyone is aware of, that took 168 lives. And as tragic as that was, and what a disaster that was—and as I walked through there and I saw the firemen and all of them risking their lives to try to save one or two people after some time had gone by—and you have to have been there, not just seeing it on TV, to really get the full impact on this—the explosive power that blew up the Murrah Federal Office Building in Oklahoma City is one-tenth the power, the explosive power, of the smallest nuclear warhead known today.

So I just think my only regret is that we didn't do this 3 years ago or 4 years ago, because somebody back in 1983 was pretty smart when they said we need to have a system that could be deployed for a limited attack by fiscal year 1998. Here we are, and we are overdue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator for his excellent remarks.

Mr. President, if the distinguished Senator from Texas is prepared to speak, I am prepared to yield to her 10 minutes.

I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from the great State of Texas is recognized for up to 10 minutes.

Mrs. HUTCHISON. Mr. President, I thank the distinguished senior Senator from Mississippi, who has provided great leadership in this area. In fact, I said to the Senator from Mississippi yesterday, if I am ever going to need a consultant on the timing of introducing bills, I am going to call him immediately, because, of course, what has happened just in the last 5 days, proves how absolutely correct the Senator from Mississippi has been in pursuing this very important legislation. I thank the Senator from Mississippi for his leadership.

It is clear that the greatest security threat the United States faces today is that we do not have a defense for incoming ballistic missiles. In fact, if you look back at the latest war that we have had, the gulf war, the largest number of casualties in that war was from a single ballistic missile attack.

We had the Patriot, and the Patriot was actually a missile that was supposed to hit airplanes. We quickly tried to make the Patriot into something that would hit missiles, and, phenomenally, it actually had a 30-percent success rate. But when we have our troops in the field and we have the capability to do better than 30 percent, how could we even think of not going full force to protect our troops in any theater where they might be, anywhere in the world, and to protect the citizens of the United States within the sovereign territory of our country? How could we be sitting on technology without saying this is our highest defense priority?

Today, we have a chance to say this is our highest defense priority. Because if we cannot protect our citizens in our country and our troops in the field, we are leaving ourselves open. And we don't have to do that. Today, we know that over 30 countries in the world have ballistic missile technology. The Senator from Mississippi has gone through what some of these countries now have. Just in the last 5 days, we have seen North Korea threaten to go back on the agreement they made and refuel their nuclear reactors. We have seen, in the last few weeks, that China has been buying our technology without our permission—except for the President letting people do it, presumably because they contributed to his campaign. Pakistan is now deploying a missile with a 1,500 kilometer range. India, as we know, in the last 2 days has actually—has actually—tested nuclear weapons. So, of course, the arms race between Pakistan and India has been rekindled.

Iraq—we fought the Desert Storm war because Iraq was getting ballistic missile technology, and we know they have chemical and biological weapons. Iran—they are receiving assistance from the Russians to develop missile systems. Russia is willing to export a good part of their scientific basis for nuclear weapons, and we don't know how secure is what is left in Russia.

So, how can we look at the facts and not address them vigorously, if we are doing what is right for the American people? We have the capability to do this if we make it a priority. The Senator from Mississippi is introducing a bill that basically says this is a priority, that we will go forward full bore with the capabilities that we have, doing the technological research, doing the testing. All of us are very disappointed that the recent THAAD test was not successful. But we should not back away from it. We should be going forward full bore to try to make sure that we have a national missile defense system, an intercontinental missile system, and a theater missile ballistic system that would defend against any incoming missiles.

Let me make another argument, and that is, as we are going through all of the countries that we know are now building ballistic missile capability with chemical, biological, and nuclear weapons, what would be the very best deterrence from them making that investment? What would be the best deterrence, so India would not feel that it is necessary for their security to test ballistic missiles? The best deterrence would be the capability to deter a launched missile in its boost phase. Simply put, if we can take a missile as it is just being launched and turn it back on the country that is trying to send that missile, isn't that the best deterrence for that country not to send the missile in the first place? Because, obviously, no country is going to launch a ballistic missile if it is going to come back on its own people.

So, if we can get that defense technology, perhaps that is the best way to stop this arms race. Most certainly, the joint threat to us, and to our allies, should be our highest priority. This bill establishes missile defense as a top priority because it says we are going to fund ballistic missile defenses and we are going to deploy them as soon as the technology is there.

The argument against it is incomprehensible to me, although I do not in any way suggest that those making the argument aren't doing it with good faith. I am positive that they believe they are doing the right thing. But to say that the world's greatest superpower is going to wait and see what other countries might get, what ballistic missile technology, and then set on a program full bore that would defend

against that—they could not be talking as representatives of the only superpower left in the world. They cannot be thinking what a superpower must do, which is to do what no one else in this world has the capability to do. We are the only country that has the capability to put the resources behind a ballistic missile defense capability. We are the only country that can do that. Why would we hesitate for one moment? Why would we leave one of our troops in the field unprotected for one more moment than is absolutely necessary? There is no excuse. Why would we leave the people of our country unprotected for one more moment than is necessary, when we have the resources to go full force?

It is not an argument from the superpower to say when we know that someone has perfected a technology that could reach the United States then we will deploy our full forces. How many people will die or be maimed because we are not going full force right now? What better quality-of-life issue is there for our military than to give them every safety precaution, protecting them in the field that we have the capability to do?

We are the leadership of the greatest superpower in the world. We must say we cannot wait for one more moment for the full priority to be given to missile defense technology and capability for our country, for the people who live here, from potential terrorist attacks, and for anyone representing the United States of America in the field.

When our young men and women pledge their lives for our freedom, how can we not give them every protection they deserve to have when they are, in fact, defending our ability to speak on this floor today?

Mr. President, I hope our colleagues on both sides of the aisle will in a very bipartisan vote say, ''We will not walk away from our responsibility to provide the protection to our people that they expect and the protection of our troops in the field, wherever they might be, fighting for our freedom or for the freedom of oppressed people in other places.'' We must give them the protection that we have the capability to do. It is a very clear-cut issue. Thank you, Mr. President.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I commend the distinguished Senator from Texas for her excellent statement and thank her for her assistance in the development of this legislation and our policies on missile defense.

PRIVILEGE OF THE FLOOR

Mr. COCHRAN. Mr. President, I ask unanimous consent that James Nielsen of Senator KYL's staff be granted the privilege of the floor during the debate on the motion on S. 1873.

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

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield myself 10 minutes.

The bill before us could lessen the security of this Nation, and that is the reason so many of us oppose it. Will the bill add to our security by committing us to deploy a system before it is even developed, threatening the abrogation of a treaty between ourselves and the Russians which have allowed significant reductions in the number of nuclear weapons in this world?

In my judgment—more important, in the judgment of the uniform and civilian military leaders of this country—this bill does not contribute to our security. This bill risks a reduction in the security of this Nation. This bill could contribute to the proliferation of weapons of mass destruction, in this case, nuclear weapons which is the greatest threat that this Nation faces. It is the proliferation of weapons of mass destruction, in this case, nuclear weapons, which is the greatest threat that this Nation faces. And yet this bill, which purportedly is aimed at a defense against ballistic missiles, could, because it threatens a very significant treaty between us and the Russians which has allowed for significant reduction of nuclear weapons, increase the threat to this Nation from nuclear weapons proliferation.

That is not me saying it, although I believe it; that is Secretary Cohen saying it, that is General Shelton saying it, that is the military leadership of this Nation saying it.

I think we all believe in the security of this Nation with equal passion. I don't doubt that for 1 minute. I think everybody in this Chamber, everybody who serves in this Senate has an equal commitment to the security of this Nation. The issue here is how do we contribute to the security of this Nation?

The answer comes, it seems to me, from General Shelton in a letter which he wrote to me on April 21. He is the Chairman of the Joint Chiefs of Staff, as we all know. What he says is the following:

> Thank you for the opportunity to comment on the American Missile Protection Act of 1998 (S. 1873). I agree that the proliferation of weapons of mass destruction and their delivery systems poses a major threat to our forces, allies, and other friendly nations. U.S. missile systems play a critical role in our strategy to deter these threats, and the current National Missile Defense Deployment Readiness Program (3+3) is structured to provide a defense against them when required.
>
> The bill and the NMD program—

And he is referring to our current program—

> are consistent on many points; however, the following differences make it difficult to support enactment.

Then he goes through those differences, why it is that he does not support enactment of the bill before us; why it is that the Chairman of the Joint Chiefs of Staff does not support enactment of this bill.

One of the things that we hear from the proponents of this bill is that there is no policy on missile defense in this country. There is no policy to deploy a missile defense. We hear that over and over. Here is what General Shelton says, as his second reason for not being able to support this bill:

> Second, the bill asserts that the United States has no policy to deploy [a national missile defense] system. In fact, the [national missile defense] effort is currently a robust research and development program that provides the flexibility to deploy an initial capability within 3 years of a deployment decision. This prudent hedge ensures that the United States will be capable of meeting the need for missile defenses with the latest technology when a threat emerges.

So his second reason for not supporting this bill is this bill says we don't have a policy to deploy a system. In fact, General Shelton writes, we have a current robust research and development program that gives us the flexibility to deploy a system at the right time. That is what is called a prudent hedge strategy. That is the 3+3 Program. That is the 3+3 policy which we adopted in the Senate 2 years ago.

Section 233 of that bill says:

> It is the policy of the United States to—
>
> (1) deploy as soon as possible affordable and operationally effective theater missile defenses capable of countering existing and emerging theater ballistic missiles;
>
> (2)(A) develop for deployment a multiple site national missile system that: (i) is affordable and operationally effective against limited, accidental, and unauthorized ballistic missile attacks on the territory of the United States, and (ii) can be augmented over time as the threat changes to provide a layered defense against limited, accidental, or unauthorized ballistic missile threats;
>
> (B) initiate negotiations with the Russian Federation as necessary to provide for the national missile defense systems. . .
>
> (C) consider, if those negotiations fail, the option of withdrawing from the ABM Treaty in accordance with the provisions of Article XV of the Treaty. . .
>
> (3) ensure congressional review, prior to a decision to deploy the system developed for deployment under paragraph (2), of: (A) the affordability and operational effectiveness of such a system; (B) the threat to be countered by such a system; and (C) ABM Treaty considerations with respect to such a system.

There is a policy. And the policy is a prudent hedge strategy. The policy, most importantly, is to develop a national missile defense system as quickly as we can so we can be in a position to make a deployment decision as quickly as possible. We have a policy. That is not me saying it. That is General Shelton saying it.

Our policy is to put the horse before the cart. This bill would put the cart before the horse, because what this bill does is say—not just develop and make a decision after you have developed whether to deploy, depending on the circumstances which exist—this bill says commit yourself now to deploy a system no matter what the consequences are, no matter what the circumstances are, as soon as you have something which is technologically feasible.

Now, what is wrong with that? Why not do what we have never done in history, which is to commit ourselves to

deploy a system before we have even developed it? What is wrong with that? What is wrong with it is that, No. 1, there is no consideration of the costs of the system. We do not even know what the system is. We are developing it as quickly as possible, but we do not know what the costs of that system are. We do not know what the threats are at the time when we have a system developed.

We do know that North Korea could—could—have a capability to hit parts of this Nation as early as 2005. We know that is a possibility. But we do not know that that threat will continue. It depends on whether they can successfully test a long-range missile.

But what is really critical here, in terms of our battle against proliferation, is that what this bill commits us to is to deploy a system which almost certainly will violate a treaty between us and the Russians. Do we care? Do we care if we breach a treaty called the ABM Treaty? Is it just a cold war relic, that ABM Treaty? Or is it a real deal between us and Russia, a deal that matters, and the breaking of which will have consequences? And the consequences will be that they will not ratify START II, will not negotiate START III and will, therefore, not reduce the number of weapons that threaten us.

I ask unanimous consent for an additional 5 minutes.

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

Mr. LEVIN. The consequences of committing ourselves to deploy a system which almost certainly will violate that agreement are real-world consequences. They threaten our security. They will contribute to the proliferation of weapons of mass destruction. Is that me saying it? Yes. More importantly, is it Secretary Cohen saying it and General Shelton saying it? Yes.

This is what General Shelton said in his final reason for not supporting this bill. The Chairman of our Joint Chiefs says:

> Finally, the bill does not consider affordability or the impact a deployment would have on arms control agreements and nuclear arms reductions. Both points are addressed [he says] in the [current national missile defense program] and should be included in any bill on [national missile defense].

Our highest military officer is telling us that the impact that a deployment will have on arms control agreements and nuclear arms reductions should be included in any bill on national missile defense.

Well, Mr. President, they are not included in this bill. And they should be. The security of this Nation requires that we at least consider the impact of deployment of a system on arms reduction, because if we commit to deploy a system, and that commitment destroys a treaty between us and the Russians, and leads to nonratification of START II and the reversal of START I and the nonnegotiation of START III—and that is the fear here that General Shalikashvili has expressed in a letter that he wrote when he was Chairman of the Joint Chiefs—we have done severe damage to the security of this Nation.

For what reason would we take that risk? In order to develop a system? No. We are developing that system right now. And we should. We are developing a national missile defense system. And we should. It is the commitment to deploy which risks the security of this Nation without consideration of the impact on arms reduction.

That is the mistake that this bill makes. That is what General Shalikashvili pointed out in his letter to Senator Nunn in May of 1996 when he said:

> . . . efforts which suggest changes to or withdraw from the ABM Treaty may jeopardize Russian ratification of START II and, as articulated in the Soviet Statement to the United States of 13 June 1991, could prompt Russia to withdraw from START I. I am concerned [General Shalikashvili said] that failure of either START initiative will result in Russian retention of hundreds or even thousands more nuclear weapons thereby increasing both the costs and risks we may face.
>
> We can reduce the possibility of facing these increased costs and risks by planning an NMD system consistent with the ABM treaty.

That is General Shalikashvili. Is this resolution consistent with the ABM Treaty? Probably not. It is very unlikely we could deploy a system consistent with the ABM Treaty which defends the entire continental United States. But there is an easy way to do it, if that is the intent of the resolution: Just put down ''treaty compliant'' system in the resolution. Just add those two words, ''treaty compliant'' system. Put the words ''treaty compliant'' before the word ''deployment,'' and that would solve that problem.

Those words are missing, and they are not missing inadvertently. It is obvious that many supporters of this resolution do not care whether or not there would be a violation of the ABM Treaty because they believe that we should unanimously withdraw from that treaty. But such an action will lead to exactly the result which we should dread as much as anything, which is the increase in the number of nuclear weapons on the face of this Earth.

Finally, Mr. President, on the ABM Treaty—how many minutes do I have left?

The PRESIDING OFFICER. The Senator has used his additional 5 minutes. The Senator has 42 minutes remaining.

Mr. LEVIN. I thank the Chair. Mr. President, I yield myself 3 additional minutes.

Mr. President, the ABM Treaty is not some abstract relic. It is a living commitment which has been reasserted at the highest levels at a summit in Helsinki in 1997.

President Clinton and President Yeltsin issued the following joint statement. Now, this isn't some person writing an op-ed piece in some newspaper. These are the Presidents of two nations with the largest nuclear inventories in the world, President Clinton and President Yeltsin, expressing their commitment to strengthen the strategic stability and international security, emphasizing the importance of further reductions in strategic offensive arms, and recognizing the fundamental significance of the Anti-Ballistic Missile Treaty for these objectives, as well as the necessity for effective theater missile defense systems, considered their common task to preserve the ABM Treaty, prevent circumvention of it, and enhance its viability.

Then later in that same statement, both Presidents state that the United States and Russia have recently devoted special attention to developing measures aimed at assuring confidence of the parties that their ballistic missile defense activities will not lead to circumvention of the ABM Treaty, to which the parties have repeatedly reaffirmed their adherence.

This bill before the Senate, where there is a motion to proceed pending, surely will undermine the confidence of Russia that we are adhering to a treaty. Since the commitment which this bill makes to deploy missile defenses will almost certainly—almost certainly—violate that treaty—and again I emphasize, if that is not the intent and if that is to be precluded, then the words ''treaty compliant'' should be added. But I think, as we all know because we debated this issue so many times, that is not the intent of this resolution.

Mr. President, I hope the words of our top military officers will be heeded and that the danger of this bill will be considered. Its intent, obviously, is to contribute to the security, but its effect is to lessen the security of this Nation. We simply cannot afford that risk.

Mr. COCHRAN. Mr. President, I have agreed to yield 5 minutes to the chairman of the full committee at some point. I hope he can be recognized soon.

Mr. LEVIN. How much time does the Senator desire?

Mr. COCHRAN. Five minutes.

Mr. BINGAMAN. Mr. President, I will consume 10 minutes. I have no objection to Senator THOMPSON speaking now if he would like.

Mr. COCHRAN. I thank the Senator. I yield 5 minutes to the distinguished Senator from Tennessee.

Mr. THOMPSON. Thank you.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I thank my colleagues.

Mr. President, in his State of the Union Address, President Clinton underscored the importance of foresight. He said, ''preparing for a far off storm that may reach our shores is far wiser than ignoring the thunder until the clouds are just overhead.'' He was not talking about weapons proliferation

and national missile defense, but he could have been—and he probably should have been.

Well, we are hearing the thunder now. It is coming from Iran, where the Shahab–3 missile program made up years of development time in just one year, reminding us that some countries are more technically clever than we give them credit for, and that outside assistance can dramatically accelerate technical progress.

It is coming from Pakistan which has now launched a missile with five times greater range than their next most capable missile, and five times what the United States had given them credit for just six months earlier.

It's coming from North Korea, where the Taepo-Dong 2, capable of striking Alaska and Hawaii, is nearing flight testing, and where the No-Dong is now being deployed, despite the administration's assurances that North Korea would never deploy that missile after only one flight test.

It is coming from Russia, where the government appears either disinclined, or incapable of controlling the flood of hardware and technical assistance flowing to rogue states around the globe.

It is coming from India, where this week their government exploded five nuclear weapons, to the complete and admitted surprise of the United States policy-making and intelligence community.

It is coming from China, where the government repeatedly breaks its non-proliferation promises, and is then rewarded with technology transfers from the U.S.

Despite these and other ominous examples, the United States continues to maintain a non-proliferation policy of self-delusion and a missile defense policy of vain hope. For years, we convinced ourselves that developing countries could not, or would not, fully develop nuclear and other weapons of mass destruction, or the missiles to effectively deliver. Now we know they have. They continue to hope that maybe rogue states will prove less clever than they have in the past, or that our intelligence community will prove more clever, or that our luck just holds out.

My friends, it is time to wake up. The technology to develop nuclear and other weapons of mass destruction is widely available. Many nations, some quite hostile to the U.S. now possess them and are on a crash course to acquire the missiles to carry them to America. And third countries, Russia and China in particular, appear happy to help. Weapons of mass destruction are not going away. The United States will soon face this threat and it's time to prepare.

When the day arrives that America is handcuffed by our vulnerability to ballistic missile attack, when our world leadership is in question because of that vulnerability, or when—heaven help us—an attack actually occurs, what will we tell the American people? That we had hoped this would not happen? That we believed the threat was not so serious?

It should now be clear to all that our present non-proliferation and missile defense policies are out-dated and insufficient. We must prepare now for that ''far-off storm.'' The first step in doing so is to pass S. 1873, the America Missile Protection Act, and commit the United States to a policy of deploying national missile defenses. I commend Senator COCHRAN for his thoughtful leadership on this bill and the many hours he has spent working as Chairman of the International Security and Proliferation Subcommittee to highlight America's vulnerabilities in this area.

Mr. LEVIN. I yield 10 minutes to Senator BINGAMAN.

Mr. BINGAMAN. Thank you.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent two fellows in my office, Bill Monahan and John Jennings, be given floor privileges during consideration of this bill.

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

Mr. BINGAMAN. Mr. President, I want to join Senator LEVIN in expressing my opposition to Senate bill 1873, the American Missile Protection Act. The policy expressed in this bill of putting the United States in a position where we are required to deploy a national missile defense system as soon as it is technologically possible I think is a major mistake and undermines our long-term security. We are rushing prematurely—if this legislation becomes law, we will be rushing prematurely to deploy a national missile defense system where that is not necessary and where it could undermine our real security interests.

Why do I say it is not necessary? I say it is not necessary to pass this legislation because we already have in place a program to develop a national missile defense for this country. The administration is committed to the development of a national missile defense over 3 years, so that by the year 2000 the United States will be positioned to deploy an initial capability within 3 years after that, if it is warranted by the threat. We need to continue to assess this threat as we move ahead.

The Cochran bill, which we are considering here, seeks to commit our country to deploy the first available missile defense technology, national missile defense technology, regardless of a whole variety of issues. Let me just discuss those briefly.

The first set of issues that this bill would sidestep entirely is the issues that we have required the Pentagon to take into account in all weapons systems that we develop. We have had a long history, even in the time I have been here in the Senate, of developing weapons systems when we had not adequately considered the cost and we find out they are costing substantially more than we committed to, where we had not adequately considered the performance capability of the system and we find out the system doesn't work as we earlier hoped it would. And we have put in place, and we have required the Department of Defense to put in place, procedures to assure that they keep a sensible balance in the development of their weapons programs. There is a Defense Department directive, which is No. 5000.1. It sets out the Department's basic guidance on weapons system acquisition. It spells out the regulations governing procurement and states: ''All programs need to strike a sensible balance among cost, schedule, and performance considerations given affordability constraints.'' What we would be saying in this legislation is that none of that is required with regard to this program. That would be shortsighted and would undermine our real long-term security needs.

The bill threatens to exacerbate the scheduling and technical risks already present in this national missile defense program. The Armed Services Committee, about a month ago, heard testimony from General Larry Welch, who is the former Chief of Staff of the Air Force. He led a panel of experts to review U.S. missile defense programs at the request of the Pentagon. That panel found that pressures to deploy systems as quickly as possible have led to very high levels of risk in the test programs of THAAD, the theater high-altitude air defense system. It is a theater missile defense system, not a national missile defense system. They pointed out the high levels of risk and failure in that program and in other missile defense systems. This confirmed similar findings in a GAO study that Senator LEVIN and I requested earlier.

This Senate bill we are considering today, S. 1873, would generate the same pressures to hastily field a national missile defense system that have resulted in what General Welch referred to as the ''rush to failure'' in the THAAD program. That program is now 4 years behind schedule. It is still waiting for the first intercept, as was proposed when the program was designed. They have had five unsuccessful intercept tests. The most recent was yesterday in my home State of New Mexico, at White Sands Missile Range. Despite the delay in the THAAD development program of over a year since the previous test flights, they still have not been able to have a successful test. Now, national missile defense involves even more complex and technological challenges that will risk failure if we rush to deploy that system as well. What we need to do is to take the lessons General Welch is trying to teach us, by pointing to the problems in the THAAD program, and use those lessons to do better in the development of a national missile defense program.

Secretary Cohen's letter has been referred to by Senator LEVIN and, of course, the position of the Chief of the

Joint Chiefs of Staff. This is one of these cases where the Pentagon clearly is opposed to the legislation we are considering. Yet, we, in our ultimate wisdom on the Senate floor, believe that we know better what is in the national security interests of the country than do the people in charge of implementing that national security policy. I think it is shortsighted on our part.

Senator LEVIN also pointed out that not only does this legislation put us in a position where we are mandating pursuit of this program, regardless of the various factors we believe are important in developing of any system, but we are also pursuing it without adequate consideration of the arms control implications. There is no question that in this world we need to have the cooperation of the Russians in order to effectively limit proliferation of nuclear and other types of weapons of mass destruction. If we take action in this Congress and in this country to abrogate the ABM Treaty at this point, it is almost a certainty that the START II Treaty will not be ratified by the Duma and that our ability to continue to build down the nuclear weapons arsenals of the two countries will be substantially impeded.

I believe it is clearly in our best interest to defeat this bill, to vote against cloture, and not to even proceed to full debate of this bill. The administration has indicated its strong opposition to the legislation, as have the Pentagon and various former members of our national security policy team.

So, Mr. President, I hope that when the final vote comes here—I gather it will be in about 45 minutes or an hour—Senators will join in resisting the effort to move ahead with this legislation.

Mr. President, I yield the floor.

Mr. COCHRAN. Mr. President, I am happy to yield 5 minutes to the distinguished Senator from New Hampshire, Mr. SMITH.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

PRIVILEGE OF THE FLOOR

Mr. SMITH of New Hampshire. Mr. President, first of all, I ask unanimous consent that Mr. Brad Lovelace, a fellow in my office, be granted floor privileges throughout debate on both S. 1873 and S. 2060, the fiscal year 1999 DOD authorization bill.

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

Mr. SMITH of New Hampshire. Mr. President, yesterday, India conducted three underground nuclear tests, further destabilizing relations among Pakistan, India, and China. Today, two more tests were conducted.

The whole world was caught by surprise—including the U.S. intelligence community and the Clinton administration. In fact, administration officials were quoted in the Washington Times yesterday saying that, ''Our overhead [satellites] saw nothing, and we had zero warning.''

The most ominous response came from Pakistan, which recently tested its newest ballistic missile, with a range of 1,500 kilometers, and now says it may conduct a nuclear test of its own.

It is against this very stark backdrop that we are today, this week, considering the American Missile Protection Act of 1998.

I want to commend my colleague, Senator COCHRAN, for his long-time leadership on this issue. He deserves a lot of credit. It is a very timely situation, I must say.

S. 1873 would establish a U.S. policy of deploying a national missile defense system capable of defending the territory of the United States against a limited ballistic missile attack as soon as is technologically possible. How could anyone be opposed to that? It is irresponsible to be opposed to it.

The current administration plan for ''3+3'' means that an NMD system will be developed for 3 years. And when a threat is acknowledged, this system will be deployed in 3 years. It is a naive plan. It assumes that we see all emerging threats and that when we see one, we can confidently deploy a complex system in 3 years. It is just not feasible.

Well, we saw how easy it was to see three nuclear devices that were tested by India yesterday. We didn't know about it. We didn't know they were coming. Even John Pike of the Federation of American Scientists, a long-time critic of missile defense, says it is ''the intelligence failure of the decade.'' Mike McCurry said, ''We had no advance notification of the tests.''

According to administration officials quoted in the Washington Times, the United States has been ''watching this site fairly carefully and on a fairly regular basis.'' If that is careful and regular and we don't know about it, I don't know how we can possibly expect to be able to deploy missiles 3 years after we know they are being produced. If we can't detect in advance activities at facilities that we are watching, what is going on at facilities we don't know anything about and are not watching? This is extremely dangerous policy, Mr. President.

How can this administration continue to believe that we will have advance warning and plenty of time to respond to a missile threat when we cannot even detect in advance three unanticipated nuclear tests?

This week's failure to predict India's nuclear tests is part of a pattern.

Pakistan—in a 1997 U.S. Defense Department report on proliferation, Pakistan was only credited with a missile that could fly 300 kilometers. Yet, they tested one at 1,500 kilometers. Here again, the United States was unable to predict the appearance of a new ballistic missile system.

Iran—the DCI told the Senate a few months ago that the intelligence community was surprised at the progress made on this Shahab-3 because of Iranian indigenous advances and help received from Russia.

The Director of Central Intelligence told the Senate that, ''Gaps and uncertainties preclude a good projection of when the 'rest of the world' countries will deploy ICBM's,'' thereby explaining why we might be surprised in the future.

From an intelligence standpoint, there is nothing fundamentally different between medium- and long-range missiles—nothing. We will be just as surprised by ICBM developments as we have been with Iran and Pakistan's shorter-range missiles.

These questions and failures, combined with yesterday's events in India, completely invalidate the administration's approach to NMD. The fact is, we don't know where all of the threats will come from and how fast they will develop. It is irresponsible to stand on this floor and oppose a policy that says we ought to produce this system when it is technologically feasible.

According to Tom Collina of the Union of Concerned Scientists, India tests were designed to ''finalize a warhead for delivery on a missile.'' Mr. Collina added that ''it will not take long for India to take the next steps to have a fully deployed, fielded system.''

Yet, the administration persists in misleading the American people, and in a Senate hearing on May 1 of this year, the Director of the Arms Control and Disarmament Agency [ACDA] stated that the Defense Department will design a system as the threat emerges, to answer that threat.

How will the Director of ACDA know when the threat is emerging or has emerged?

Trying to deploy an NMD system in 3 years is difficult and extremely risky. It requires doing everything at once—impossible to run a low risk test program to make sure everything fits together first. It leaves no margin for failure or problems—if one thing goes wrong the whole program could collapse. It is a dangerous way to approach defense.

The events in south Asia confirm once and for all that we cannot base the security of the United States on rosy assumptions about our ability to detect and predict existing or emerging threats around the world.

North Korea: In addition to the news out of south Asia, I find that today's New York Times reports that North Korea has announced they are suspending their compliance with the 1994 Nuclear Freeze Agreement that was intended to dismantle that country's nuclear program.

Who will tell the citizens of a destroyed Los Angeles or New York that they were left undefended from ballistic missiles because their Government ''did not see an emerging threat''?

With our inability to track and detect ballistic missile development and nuclear tests, and the inherent challenges of fielding highly complex defense systems, we must support the

American Missile Protection Act of 1998.

I thank my colleague for yielding.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, with the permission of the Senator from Michigan, I yield myself 8 minutes.

Mr. President, I support the strongest possible defense against the most credible threats to our Nation s security. But I do not support this legislation, and I want to explain why.

Nearly 30 years ago, the Department of Defense spent $21 billion in today's dollars on an antiballistic missile system. It was built in my State of North Dakota. The military declared that antiballistic missile system operational on October 1, 1975. On October 2, 1975, the next day, the U.S. House of Representatives voted to close it—mothball it. It was too expensive to run, and it didn't offer us much in the way of more security. It wouldn't protect this country. Mr. President, $21 billion for what?

The bill on the floor today would require us to deploy a system as soon as it is technologically possible. A quarter century ago it was technologically possible to spend $21 billion and build an antiballistic missile site in North Dakota. That system had interceptor missiles with nuclear warheads on them. That was technologically possible. It was completely irresponsible, but it was technologically possible.

I don't know whether this bill relates to that technology. The bill itself doesn't tell us what kind of technology we'd be required to deploy.

I assume it relates to a hit-to-kill technology, where you try to hit one bullet with another bullet. The failure on Monday of a test flight for THAAD, a theater missile defense system, suggests that hit-to-kill is not nearly as possible as some suggest, at least not now.

But I would ask the question: If it was technologically possible to create an antiballistic missile system in Nekoma, ND, a quarter century ago, it is technologically possible now, using the nuclear interceptor approach. Does this bill, then, require immediate deployment?

Let's step back a bit and look at this bill in the context of the security threats this country faces. One threat is, indeed, a rogue nation, or a terrorist group, or an adversary getting an intercontinental ballistic missile and putting a nuclear warhead on it and having the wherewithal to aim it and fire it at this country. That is, in my judgment, a less likely threat than, for example, a terrorist group or a rogue nation getting a suitcase-sized nuclear device, putting it in the rusty trunk of a Yugo, parked on a New York City dock, and saying, ''By the way, we now threaten the United States of America with a nuclear device.''

The threat of a truck bomb or suitcase bomb, is that addressed by this bill's requirement to deploy a national missile defense system? No, this system doesn't defend us against that. How about a chemical weapon attack in the United States? No, this wouldn't defend us against a chemical weapons attack. A biological weapon attack here? No. A cruise missile attack, which is far more likely than an ICBM—a cruise missile attack? Cruise missiles are proliferating all around the world. Putting a nuclear device on the tip of a cruise missile and aiming at this country, would this bill defend us against that? No. It wouldn't defend us against that threat, either. A bomber attack, dropping a nuclear bomb? No. Loose nuclear weapons inside the old Soviet Union that must be controlled and we must be concerned about, does this deal with that? No.

Obviously, this bill deals with one threat. And it is probably the less likely threat—an ICBM with a nuclear warhead aimed at this country by a rogue nation or by a terrorist group.

But this bill tells us to deploy as soon as technologically possible—notwithstanding cost, whatever the cost. No matter that the cost estimates from the Congressional Budget Office range up to nearly $200 billion to construct and maintain a national missile defense system. Cost is not relevant here, according to this bill. It requires us to deploy when technologically possible.

This bill also requires us to deploy notwithstanding the impact on arms control. The fact is that strategic weapons are being destroyed, nuclear weapons are being destroyed. Different systems are being destroyed today in the Soviet Union as a result of arms control: arms control has destroyed 4,700 nuclear warheads; destroyed 293 ICBMs and 252 ICBM silos; cut the wings off of 37 former Soviet bombers; eliminated 80 submarine missile launch tubes; and sealed 95 nuclear warhead test tunnels.

That is an awfully good way to meet the threat—destroy the missile before it leaves the ground. Arms control is giving us missile defense that works right now.

I have shown my colleagues this before, and with permission I will do it again. This is a piece of metal from a silo in Pervomaisk, Ukraine. The silo held a Soviet missile aimed at the United States of America. There is no missile there anymore. The warhead is gone. The missile is gone. The silo is destroyed. And where this piece of metal used to be, in a silo holding a missile aimed at this country, there are now sunflowers planted. Not the missile—sunflowers. How did that happen? By accident? No. By arms control agreements, by treaties.

But this bill says, deploy a national missile defense system notwithstanding what it might mean to our treaties, notwithstanding what it might mean to future arms control agreements, notwithstanding what it might mean to arms reductions that occur now under the Nunn-Lugar money that we appropriate, which has resulted in sawing off bombers' wings, resulted in digging up missiles buried in the soil of Ukraine and Russia.

I just do not understand the rationale here. How can we get this notion of defending against a small part of the threats our country faces? This bill doesn't address the cruise missile threat, or the suitcase bomb threat, or a range of other threats. It just tries to address this sliver of threat.

And this bill requires us to deploy a system as soon as technologically possible notwithstanding any other consideration, notwithstanding how much money we are going to ask the taxpayer to pay, notwithstanding what the credible threat is at the moment, notwithstanding the impact on arms control agreements. I just do not understand that logic.

I must say I have the greatest respect for the author of this legislation. I think he is a wonderful legislator. I hate to oppose him on this, but I just feel very strongly that we should continue with the national missile defense research program. I might add that the Administration is seeking over $900 million for research funding for this program this coming year. We should continue that aggressive research.

We ought to continue working on a range of defense mechanisms to deal with threats, not just ICBMs, but cruise missile threats and a range of other threats, including the terrorist threat of a suitcase nuclear device in this country. But we ought not decide that one of those threats ought to be addressed at the expense of defending against other threats.

Mr. President, let me make one final point. I have told this story twice before on this floor because I think it is important for people to understand what is being done in the area of arms control and missile defense right now—not what is proposed to be done in this bill.

On December 3 of last year, in the dark hours of the early morning, north of Norway in the Barents Sea, several Russian antiballistic submarines surfaced and prepared to fire SS–20 missiles. Each of these missiles can carry 10 nuclear warheads and travel 5,000 miles, and can reach the United States from the Barents Sea.

Those submarines, last December 3, launched 20 missiles that soared skyward, and all of our alert systems knew it and saw them immediately and tracked them at Cheyenne Mountain, NORAD, you name it.

And in a few moments at 30,000 feet all of those missiles exploded.

Why? Because this was not a Russian missile attack on the United States. In fact, seven American weapons inspectors were watching the submarines from a nearby ship. These self-destruct launches were a quick and inexpensive way for Russia to destroy submarine-launched ballistic missiles, which it was required to do under our START I arms reduction treaty.

On the morning of December 3 of last year when, at 30,000 feet, those Russian missiles exploded, it was not an accident. And it was not a threat to our country. It was a result of arms control agreements that said we must reduce the threat of nuclear weapons, we must reduce delivery systems. The fact is, the Nunn-Lugar program, which we fund each year in order to further these arms reductions, is working.

We also should, as we make certain Nunn-Lugar continues, be concerned about the ABM Treaty, be concerned about a range of other threats, and we ought to invest money in research and development on the ballistic missile defense system.

But we ought not under any set of circumstances say a system here must be deployed no matter what its cost, no matter what the threat and no matter what its consequences to arms control agreements. That is not in this country's interests. That is not in the taxpayers' interests.

Does our country need to worry about the proliferation of nuclear weapons? Of course we do. The nuclear tests by India in just the last 2 days demonstrate once again that we have a serious problem in this world with respect to the proliferation of nuclear devices.

But what it ought to tell us is that we need to be very, very aggressive as a Nation to lead in the area of nonproliferation. We need to make certain that this club that possesses nuclear weapons on this Earth does not expand. We need to do everything we possibly can do in foreign policy to try to see that our children and grandchildren are not victims of the proliferation, wide proliferation of nuclear weapons that then hold the rest of the world hostage.

But in dealing with the various threats we face, it seems to me the question for all of us is what kind of threats exist? And what kind of credible defense that is both technologically possible and financially reasonable can be constructed to respond to those threats? This bill is not the answer to those questions.

Mr. President, I yield the floor.

Mr. COCHRAN. Mr. President, I am happy to yield 5 minutes to the distinguished Senator from Arizona, Mr. KYL.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Arizona.

Mr. KYL. I thank the Chair. I thank the Senator from Mississippi.

Mr. President, the administration's position on defending the American people is essentially twofold: One, wait until there is a threat; and, two, we will then develop a defense. There are two things wrong with this approach: First, as the Indian nuclear testing has just demonstrated to us, we won't necessarily know when there is a threat. In fact, we always seem to underestimate the threat. Secondly, it always seems to take longer than we anticipate to develop complex systems, and this is particularly true with respect to missile defenses.

So the legislation introduced by the Senator from Mississippi is a much better idea, to protect the American people, Mr. President. It simply says that it is our policy to deploy a national missile defense as soon as it is technologically possible.

Now, what could be more straightforward and more protective for the American people? The American people demand no less.

I would note that the argument of the Senator from North Dakota just a moment ago illustrates, I believe, the lack of ideas to oppose this simple legislation of the Senator from Mississippi. His primary argument was that we need to continue research because, after all, there are other threats, too, like the suitcase bomb. Of course, there are other threats. And our position has always been to prepare to defend against all of the threats but not to ignore one very big threat just because there are other threats as well.

There have been other charges that the adoption of the American Missile Protection Act is somehow going to wreck arms agreements that the United States has entered into. First, there is the complaint about the ABM Treaty that we heard which is particularly puzzling since the words, ABM Treaty don't appear anywhere in this legislation. The bill doesn't require any violation of the ABM Treaty as a matter of fact. It doesn't specify the number of sites, where they would be, or what kind of interceptors or missiles we would have. So that argument is specious.

Secondly, we have heard the argument that if the United States decides to deploy an NMD even against limited threats, the Russians will refuse to ratify START II or negotiate START III. How many times do we have to pay for START II? I count about eight different things that the Russians have said we have to do in order for them to ratify START II or fully implement START I or START II. And we could list those but I am going to put them in the RECORD.

The point is the United States needs to take its defense into its own hands. We cannot simply rely upon a piece of paper with another country, particularly where in the case of, first, the Soviet Union, and now Russia, after that piece of paper is signed—and remember we are putting our safety in the hands of people across the sea who have signed that piece of paper with us—we find that they have changed their mind and tell us that they can't implement that piece of paper until we do other things.

First of all, it was that we had to address concerns regarding NATO expansion and then the CFE Treaty had to be modified. Then they could not afford to dismantle their weapons, and on and on and on. The point here is we should not place our reliance upon pieces of paper signed with other countries but upon what we can do for ourselves to protect the American people.

We heard the argument that the United States must refrain from exercising our rights under the ABM Treaty to deploy even a limited missile defense lest we upset the Russians, the same Russians who operate the world's only current ABM system. Should we take from this suggestion that the Russians have a right not only to defend themselves but to insist that we do not? And yet that is precisely what the opponents of this legislation are saying.

Mr. President, the defense of America should not be subject to a Russian veto. Linking the deployment of national missile defenses to some hoped-for arms control agreement is to be expected from the Russians, but it is unconscionable to be offered by Representatives of this Congress. Arms control for the sake of arms control is not in the national interest, and the Constitution does not allow us to substitute pieces of paper for the real measures which must be taken to protect America.

Then there is an argument that committing to deploy an ABM system will cause the sky to fall on offensive arms control agreements. Let me quote the Senator from Michigan on this issue:

> Nothing in this bill says that the national missile defense system that it commits us to deploy will be compliant with the Anti-Ballistic Missile Treaty. That is a treaty, a solemn agreement between us and Russia. If we threaten to break out of that treaty unilaterally, we threaten the security of this Nation because that treaty permits Russia to ratify the START II agreement and to negotiate a START III agreement, reducing the number of warheads that they have on their missiles and warheads that could also potentially proliferate around the world and threaten any number of places, including us.

This statement is incorrect in several ways. First, the ABM Treaty is not a ''solemn agreement between us and Russia.'' The ABM Treaty was signed by the United States and the Soviet Union. That country no longer exists, and the administration spent four years in negotiations to see who would replace the Soviet Union as parties to that treaty. The President has certified that he will submit the results of those negotiations to the Senate for advice and consent. When and if the Senate agrees, then the ABM Treaty may become ''a solemn agreement between us and Russia,'' but not until then.

Second, S. 1873 does not require ''break out'' from the ABM treaty. In fact, as I have already pointed out, it allows for deployment of exactly the system being developed under the administration's so-called 3+3 program. And there is nothing in any legislation that calls for that system to be treaty compliant. To the contrary, a non-compliant system is explicitly contemplated by the Defense Department. Here is what the Department of Defense said about its 3+3 program in the Secretary's 1998 report to Congress: ''a

deployed NMD system either could be compliant with the ABM Treaty as written, or might require amendment of the treaty's provisions.'' So according to the Secretary of Defense, the system DoD is developing now may not comply with the ABM treaty. And so this arms control argument is nothing but a strawman, erected to be knocked down though it bears no resemblance to anything in this bill.

Senator LEVIN cites as an authority for this odd proposition, the Chairman of the Joint Chiefs of Staff, who, in a letter commenting on S. 1873, said the bill doesn't consider ''the impact a deployment would have on arms control agreements and nuclear arms reductions.'' Let's think about what General Shelton is saying here. The United States has a right to deploy a national missile defense system under the ABM Treaty, and S. 1873 merely calls for a commitment to exercise that right. But General Shelton is saying that our decision to exercise that right should be conditioned on the possible impact a deployment would have on future arms control agreements, meaning, presumably, Russian objections. So General Shelton is saying that our right to deploy a system to protect our citizens—even the severely constrained right embodied in the ABM treaty—should be subject to further negotiation with, and the approval of, the Russian Federation.

I would find this an extraordinary argument under any circumstances, and extraordinarily disturbing coming from the Chairman of the Joint Chiefs of Staff. It can't be comforting to the people of the United States to know that their Chairman believes their defense should be subject to the veto of the Russians. When one considers that the Russians have exercised their right to defend themselves with the only operational ABM system in the world, the position of the Chairman becomes downright bizarre.

The complaints about arms control from opponents of the Cochran-Inouye bill are without merit. They spring from this administration's infatuation with paper agreements, no matter how disconnected from reality those agreements may be. We have a paper arms control agreement called START I, which the Russians are routinely violating. We have START II, which was negotiated, then renegotiated to give the Russians a better deal, and still it lies before the Duma unratified. Yet opponents of this bill would have the United States forego the defense of its people against a threat wholly unrelated to any of these agreements, simply because they fear the Russians will insist upon it.

Mr. President, I urge my colleagues to support S. 1873, the American Missile Protection Act. This is a simple bill which merely states that due to the increasing ballistic missile threat we face, ''It is the policy of the United States to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate).'' Outside of the title and findings of the legislation, this is the only sentence in the bill.

As a matter of fact, S. 1873 is noteworthy for the things it does not say. The bill does not say what kind of system architecture the missile defense system should have. It does not say where such a system should be located, or more generally, whether it should be based on land, at sea, or in space. It does not specify a date by which such a system should be deployed, or when we believe specific missile threats to the United States will materialize.

And the bill is silent on arms control issues. It does not address whether continued adherence to the ABM Treaty is in the best interests of the United States or whether the treaty should be modified. Nor does the bill discuss the merits of any future arms control agreements. All of these issues will have to be debated another day. I am disappointed, however, that we are still debating whether the United States should deploy a national missile defense system at some point in the future.

THE THREAT

The ballistic missile threat facing the U.S. is real and growing. Russia and China already have ballistic missiles capable of reaching our shores and several other nations, including North Korea and Iran are developing missiles with increasing ranges.

CHINA

In November 1997, the Defense Department published a report titled, Proliferation: Threat and Response in which it said China already has over 100 nuclear warheads deployed operationally on ballistic missiles. According to this report, Beijing has ''embarked on a ballistic missile modernization program,'' and ''while adding more missiles and launchers to its inventory, [is] concentrating on replacing liquid-propellant missiles with mobile solid-propellant missiles, reflecting concerns for survivability, maintenance, and reliability.''

Details about this modernization program have been published in the press. The Washington Times reported on May 23, 1997, that a new Chinese road-mobile ICBM, called the Dong Feng-31, is in the late stages of development and may be deployed around the year 2000. This missile's 8,000 kilometer range is sufficient to reach the entire U.S. West Coast and several Rocky Mountain states and it will reportedly utilize reentry vehicle decoys, complicating missile defense. China is also developing the JL–2 SLBM with a 7,300 kilometer range, according to Defense Week. That publication reported last April that the JL–2 is likely to be deployed by the year 2007 and will allow China to target the U.S. from operating areas near the Chinese coast. And finally, on May 1st, the Washington Times disclosed that a Top Secret CIA report indicated 13 of China's 18 nuclear-tipped CSS–4 ICBM's are targeted at American cities. These missiles are reportedly being improved as well, with the addition of upgraded guidance systems.

In addition to its modernization efforts, I am also concerned that Beijing has shown a willingness to use ballistic missiles to intimidate its neighbors. For example, during Taiwan's national legislative elections in 1995, China fired six M–9 ballistic missiles to an area about 160 kilometers north of the island. Less than a year later, on the eve of Taiwan's first democratic presidential election, China again launched M–9 missiles to areas within 50 kilometers north and south of the island, establishing a virtual blockade of Taiwan's two primary ports.

RUSSIA

Russia retains over 6,000 strategic nuclear warheads, which still pose the greatest threat to our nation. While we do not believe Russia has hostile intentions, we must be cautious because its evolution is incomplete. For example, Russia is continuing to modernize its strategic nuclear forces. According to the Washington Times, Russian R&D spending on strategic weapons has soared nearly six-fold over the past three years and Moscow is developing an upgraded version of the SS–25 ICBM, as well as a new strategic nuclear submarine armed with a new nuclear-tipped SLBM.

At the same time Russia is spending precious resources on its modernization effort, its nuclear command and control complex continues to deteriorate. Although unlikely, the threat of an unauthorized or accidental launch of a Russian ICBM has increased in recent years as Russia's armed forces have undergone difficult changes. For example, last March the Wall Street Journal reported that, according to Russian colonel who spent much of his 33 year career in the Strategic Rocket Forces, Russian nuclear command and control equipment began breaking down 10 years ago and on several occasions parts of system spontaneously went into ''combat mode.'' Even more troubling were comments made by Russian Defense Minister Rodionov last February, who in a departure from previous assurances that Moscow's nuclear forces were under tight control stated, ''Today, no one can guarantee the reliability of our systems of control . . . Russia might soon reach the threshold beyond which its rockets and nuclear systems cannot be controlled.''

ROGUE NATIONS

Although Russia and China are the only countries that currently possess missiles capable of reaching the United States, several rogue states such as North Korea and Iran are aggressively developing long-range ballistic missiles.

NORTH KOREA

According to the Defense Department's November report, since its missile program began in the early 1980's,

''North Korea has pursued an aggressive program which has steadily progressed from producing and exporting Scud short range ballistic missiles (SRBMs) to work on development of medium and long range missiles.'' North Korea has deployed several hundred Scud B and C missiles with sufficient range to target all of South Korea, and has completed development of the 1,000 kilometer range No Dong MRBM, which can reach targets in nearly all of Japan, according to the report. In addition, recent press reports indicate North Korea has begun deploying the No Dong missile.

More ominously, North Korea is developing the Taepo Dong 1 missile with an estimated range of 2,000 kilometers which will be capable of striking U.S. military bases in Guam and the Taepo Dong 2 missile, with an estimated range of 4,000 to 6,000 kilometers that could reach Alaska and Hawaii. On April 27th, the Washington Post reported that development of the Taepo Dong 2 missile could be completed ''within the next several years.''

IRAN

Iran has an ambitious missile program and is currently capable of producing both the 300 kilometer range Scud B and the 500 kilometer range Scud C missiles. This program is becoming increasingly advanced and less vulnerable to supply disruptions. As the Defense Department said in its November 1997 report, ''Iran has made significant progress in the last few years toward its goal of becoming self-sufficient in ballistic missile production.''

Tehran has made particularly rapid progress over the past year, however, due to the infusion of Russian hardware and know-how which has significantly accelerated the pace of the Iranian program. This Russian assistance has been well documented in the press.

According to these reports, numerous institutes and companies that once were an integral part of the state-owned military complex of the former Soviet Union have provided a variety of equipment and material that can be used to design and manufacture ballistic missiles. They are also helping Iran develop two new ballistic missiles, the Shahab-3 and Shahab-4. The Shahab-3 is reportedly based on North Korea's No Dong ballistic missile and will have a range of 1,300 kilometers with a 700 kilogram payload, sufficient to target Israel and U.S. forces in the region. Seven months ago, on September 18, 1997, Assistant Secretary of State for Near Eastern Affairs Martin Indyk testified to the Senate that Iran could complete development of the Shahab-3 in as little as 12 to 18 months.

The Shahab-4 is reportedly based on the Russian SS–4 medium-range ballistic missile and will have a range of 2,000 kilometers with a payload over 1,000 kilograms. When completed, the Shahab-4's longer range will enable Tehran to reach targets as far away as Central Europe. According to the Washington Times, an Israeli intelligence report indicates the Shahab-4 could be completed in as little as three years. Israeli intelligence sources reportedly also told Defense News that the long-term goals of Iran's missile program are to develop missiles with ranges of 4,500 and 10,000 kilometers. The latter missile could reach the East Coast of the United States.

OTHER NATIONS

In addition to North Korea and Iran, roughly two dozen other countries, including Iraq and Libya either possess or are developing ballistic missiles. The clear trend in these missile programs is toward systems with greater ranges, and as Iran has demonstrated, foreign assistance can greatly reduce the time needed to develop a new missile.

RESPONDING TO THE MISSILE THREAT

The time has come for the United States to defend itself from the increasing missile threat that I have just described. The Cochran bill is the first step on this path.

Some opponents of the bill have pointed to the Administration's so-called ''3+3'' program as a better way to deal with the missile threat. I have grave concerns about the basic premise of the ''3+3'' program, which essentially states that the United States should continue to experiment with a variety of missile defense technologies indefinitely, and then, at some time after the year 2000, deploy an NMD system within three years. It is significant that the ''3+3'' program is the only Major Defense Acquisition Program that takes this wait-and-see approach and assumes a deployment can occur within three years of a decision to deploy.

The development of a complex weapons system, such as a new fighter aircraft or an NMD system can be technically challenging, which is why we structure development programs with clear goals and milestones. We do not continue to tinker indefinitely with the technology needed for the F–22, which will be the next-generation fighter aircraft for the Air Force, or the technology for the next version of the M–1 Abrams tank until some future date awaiting a decision to deploy. Why should we adopt this approach for national missile defense?

Studies on the ''3+3'' program have faulted the Administration's plan and its execution. For example, a recent study chaired by retired Air Force General Larry Welch criticized the ''3+3'' program stating that a successful NMD program should have ''a clear set of requirements, consistent resource support (which includes an adequate number of test assets), well-defined milestones, and a rigorous test plan. The study group believes that the current NMD program is not characterized by these features and is on a high-risk vector.''

Last December, the GAO published a study that also was critical of the ''3+3'' program due to its high risk and its acquisition schedule, which the study said was half as long as that for America's Safeguard national missile defense system that was developed between 1963 and 1975 and deployed at Grand Forks, North Dakota. The GAO stated that the acquisition schedule for the ''3+3'' program was ''shorter than the average time projected to acquire and field 59 other major weapon systems that we examined'' and went on to note, ''these systems are projected to take an average of just under 10 years from the beginning of their development until they reach an initial operating capability date.''

Mr. President, the general approach underlying the ''3+3'' program is flawed and due to the delays the program has already encountered I do not think we should stake our future on the premise that the system can be fielded within three years after a decision to deploy. As the GAO said in its study, ''Since the 3+3 program was approved, BMDO [the Ballistic Missile Defense Organization] has experienced a 7-month delay in establishing the joint program office to manage the acquisition and a 6-month delay in awarding concept definition contracts leading to the selection of a prime contractor. Also, a sensor flight-test failure resulted in a 6-month testing delay.''

As my colleagues know all too well, unfortunately, it is not uncommon for U.S. weapons development programs to experience delays. For example, despite the best efforts of the Congress and the Administration to quickly field the THAAD theater missile defense system, that program is currently projected to reach its first unit equipped milestone 13 years after development began. Experience tells us that we cannot keep national missile defense technology in a circling pattern and expect to snap our fingers and successfully move to deployment in a very short period of time. Nothing in our history suggests this is a sensible approach.

Mr. President, we need to get on with the task of constructing an effective missile defense system to protect the American people. Like other Senators, I have strong views on the disadvantages of the ABM Treaty and other related missile defense issues, but unfortunately those debates will have to wait for another day. The United States government has a fundamental obligation to provide for our citizens defense. The bill offered by Senator COCHRAN will help ensure that we fulfill this obligation, by committing us to deploying a defense against the growing ballistic missile threat we face. I urge my colleagues to support its passage.

Mr. KERRY. Mr. President, in the early hours yesterday morning on the New Mexican desert, there was an event that brought home in a very practical way one of the series of considered arguments made against the legislation the Senate is considering this morning.

The Army Missile Command, the prime contractor, and dozens of subcontractors had been painstakingly

preparing for the fifth intercept test of the Theater High Altitude Area Defense, or THAAD, theater missile defense system. No effort was spared in these preparations, because program officials and Department of Defense officials acknowledged openly that this would be widely viewed as a ''make or break'' test for the system following its unfortunate string of previous intercept failures.

To the dismay of all involved, this fifth test, too, was a failure.

Mr. President, we nominally are debating a different matter this morning. The bill before the Senate involves an immediate decision to abandon the so-called ''3 plus 3'' strategy for national missile defense and establish a policy to move as rapidly as possible not only to develop an effective national missile defense technology, but to deploy such a system at the earliest possible time. But the White Sands test yesterday morning should be hoisting another red flag for the Senate to consider as we vote on this bill.

I take a back seat to no one in my support for development of effective missile defense technology. I have a strong record of support for developing and fielding theater missile defense systems, for the protection of our ground forces, our naval forces, and other national interests in theater. We know—and we hear and read on virtually a daily basis—of the efforts underway in a number of nations to develop ever more capable short range ballistic missiles capable of carrying weapons of mass destruction, nuclear, chemical, or biological. Missiles of this type have been used previously. This threat is real, it is immediate, and it is substantial.

But this legislation, Mr. President, does not address either of these key policy matters. We have in place an established policy to develop and field as rapidly as possible theater missile defense systems. The Administration and the Congress have increased the funding for this effort again and again. We have in place an established policy to develop and perfect as rapidly as possible the technology that would be necessary for a national missile defense system, and to bring that effort to a stage where, in three years from a green light, it could be fielded and operational.

As has occurred not infrequently in the course of human history, our aspirations are getting ahead of our scientific expertise and our ability to manipulate the laws of physics to accomplish our objectives. Some may mistakenly believe, Mr. President, that developing effective anti-missile technology is a simple proposition, and that wishing for it is to obtain it. Unfortunately that is not the case. To grossly oversimplify this, this is a task of spotting a warhead, or fragments of a warhead, hundreds if not thousands of miles away, and while it moves at several thousand miles per hour, determining which is the real target, launching another missile in its direction, guiding that missile also traveling at hypersonic speed to a collision point in the great expanse just inside or outside of the upper reaches of the earth's atmosphere, and precisely maneuvering the interceptor to collide with the warhead.

It should be self evident that this is a daunting challenge, given that billions of dollars, thousands of hours of the most capable scientists and program managers our military and private sector can focus on this task, and the most advanced equipment and technology money can buy have produced five successive failures in the THAAD program.

Those who have spoken before me today have identified a host of reasons why we should not rush to judgment today to decide we will spend somewhere between $30 and $60 billion to deploy a national missile defense system that has neither been developed nor proven. If the Senate moves to proceed to the consideration of this legislation, I expect to have something to say about many of those other considerations.

But at this moment, I want to mention to the Senate only two of those considerations. The first is that it would be irresponsible to make a decision of this magnitude—which might cost U.S. taxpayers upwards of $50 billion—before the Senate knows that there is a workable technology. That is even more irresponsible in my judgment when one looks at the intelligence estimates of the ballistic missile threat that faces the U.S. The simple truth, Mr. President, is that only Russia and China have such missiles, and despite the fact that some rogue nations such as North Korea have been working to develop more advanced ballistic missiles, our intelligence and military leaders do not expect those threats to materialize for a decade or more.

Let me reiterate, Mr. President, that the choice the Senate will make today is not about whether we should make a herculean effort to develop anti-missile technology. We are doing that and spending multi-billions of dollars to do it as rapidly and well as our best minds can do so. The vote today will not alter that mission or our commitment to it.

The vote today is about whether—at a time before a real ballistic missile threat from sources other than Russia and China exists, at a time before we perfect the anti-missile technology on which we have been energetically working for years so that we know it is ready to be deployed—we will make a national commitment of scores of billions of dollars to field the nonexistent system against nonexistent threats.

That, Mr. President, would be an unwise decision of great magnitude, particularly at a time when we face very real threats to our national security and when we are struggling to provide the resources to ensure our military and intelligence capabilities are both appropriate and adequate to address those threats. It also ignores the possibility that we will rush pell mell to deploy a national missile defense system based on today's technology when, if we delay the deployment decision until we believe a real threat is looming, we can then deploy the latest technology—the most reliable technology then available—to meet the threat.

The urgency that the bill's proponents are voicing is a false urgency, Mr. President. I hope the Senate will look at this carefully and will choose the prudent course by rejecting the bill before us.

Mr. ALLARD. Mr. President, I rise today as a co-sponsor and supporter of S. 1873, The American Missile Protection Act of 1998. This important legislation will remove present barriers to the deployment of an effective, reliable missile defense system, so that our citizens will be free from the threat of an attack by missiles launched from across oceans. Prudence demands that we deploy a domestic missile defense system as soon as we possess the technology to do so.

Missile technology developed during the Cold War has forever neutralized what was once our greatest domestic security asset—distance. As a result, today many of our citizens have never known a world in which nuclear missiles were not pointed at their families.

It is unconscionable that now, after years of being in the shadow of nuclear threat, the most powerful nation in the world still cannot defend its own soil against even one ballistic missile attack.

In the post-Cold War era, a multiple array of new threats exist. Not only do we still face the possibility of accidental launch from a nuclear state—a possibility not without precedent—but now the proliferation of missile components and technology compounds the threat beyond even Cold War-levels. The capability of a rogue state to bypass years of development by clandestinely obtaining nuclear, chemical, and biological materials and long-range ballistic missile technology poses a new, more sinister threat. Procurement by rogue nations—especially by those who have a demonstrated desire to use force outside their own borders—cripples our ability to calculate emerging strategic threats with any degree of certainty.

Just as a policy of total vulnerability will no longer suffice, neither will a policy characterized by the ''gaps and uncertainty'' due to the underestimation of the technological capabilities of states like North Korea, Iran, Iraq, China, and now India.

Refusing to implement a National Missile Defense system as soon as it is technologically possible will render Americans vulnerable to the whims of any rogue regime that manages to procure ICBM technology.

Bearing in mind that this bill itself violates no treaties, nor seeks to mandate the particulars of implementing a

missile defense system, S. 1873 is important bipartisan legislation that should be passed. By eliminating a dependence on underestimated capabilities, this bill is a decisive affirmation that our country is indeed committed to ensuring the security of the American people.

I urge all my colleagues to support S. 1873.

Mr. MURKOWSKI. Mr. President, I rise today in support of S. 1873, the American Missile Protection Act. This bill is simple; but extremely important. It makes it clear that it is the policy of the United States to deploy, as soon as technologically possible, a national missile defense system which is capable of defending the entire territory of the United States against limited ballistic missile attack.

Alaskans have been justifiably concerned with this issue for some time. I ask unanimous consent to have printed in the RECORD at this time a resolution passed by the Alaska State Legislature which calls on the Administration to include Alaska and Hawaii in all future assessments of the threat of a ballistic missile attack on the United States. More than 20% of our domestic oil comes from Alaska, all of it through the Trans-Alaska Pipeline. Alaskans are concerned, as should the rest of the country be concerned, that a strike at the pipeline could have dire consequences to our domestic energy production.

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

LEGISLATIVE RESOLVE NO. 36

Whereas Alaska is the 49th state to enter the federal union of the United States of America and is entitled to all of the rights, privileges, and obligations that the union affords and requires; and

Whereas Alaska possesses natural resources, including energy, mineral, and human resources, vital to the prosperity and national security of the United States; and

Whereas the people of Alaska are conscious of the state's remote northern location and proximity to Northeast Asia and the Eurasian land mass, and of how that unique location places the state in a more vulnerable position than other states with regard to missiles that could be launched in Asia and Europe; and

Whereas the people of Alaska recognize the changing nature of the international political structure and the evolution and proliferation of missile delivery systems and weapons of mass destruction as foreign states seek the military means to deter the power of the United States in international affairs; and

Whereas there is a growing threat to Alaska by potential aggressors in these nations and in rogue nations that are seeking nuclear weapons capability and that have sponsored international terrorism; and

Whereas a National Intelligence Estimate to assess missile threats to the United States left Alaska and Hawaii out of the assessment and estimate; and

Whereas one of the primary reasons for joining the Union of the United States of America was to gain security for the people of Alaska and for the common regulation of foreign affairs on the basis of an equitable membership in the United States federation; and

Whereas the United States plans to field a national missile defense, perhaps as early as 2003; this national missile defense plan will provide only a fragile defense for Alaska, the state most likely to be threatened by new missile powers that are emerging in Northeast Asia;

Be it Resolved, That the Alaska State Legislature respectfully requests the President of the United States to take all actions necessary, within the considerable limits of the resources of the United States, to protect on an equal basis all peoples and resources of this great Union from threat of missile attack regardless of the physical location of the member state; and be it

Further Resolved, That the Alaska State Legislature respectfully requests that Alaska be included in every National Intelligence Estimate conducted by the United States joint intelligence agencies; and be it

Further Resolved, That the Alaska State Legislature respectfully requests the President of the United States to include Alaska and Hawaii, not just the contiguous 48 states, in every National Intelligence Estimate of missile threat to the United States; and be it

Further Resolved, That the Alaska State Legislature urges the United States government to take necessary measures to ensure that Alaska is protected against foreseeable threats, nuclear and otherwise, posed by foreign aggressors, including deployment of a ballistic missile defense system to protect Alaska; and be it

Further Resolved, That the Alaska State Legislature conveys to the President of the United States expectations that Alaska's safety and security take priority over any international treaty or obligation and that the President take whatever action is necessary to ensure that Alaska can be defended against limited missile attacks with the same degree of assurance as that provided to all other states; and be it

Further Resolved, That the Alaska State Legislature respectfully requests that the appropriate Congressional committees hold hearings in Alaska that include defense experts and administration officials to help Alaskans understand their risks, their level of security, and Alaska's vulnerability.

Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Ted Stevens, Chair of the U.S. Senate Committee on Appropriations; the Honorable Bob Livingston, Chair of the U.S. House of Representatives Committee on Appropriations; the Honorable Strom Thurmond, Chair of the U.S. Senate Committee on Armed Services; the Honorable Floyd Spence, Chair of the U.S. House of Representatives Committee on National Security; and to the Honorable Frank Murkowski, U.S. Senator, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

Mr. MURKOWSKI. Mr. President, last year North Korean defectors indicated that the North Korean missile development program already poses a verifiable threat to American forces in Okinawa and seems on track to threaten parts of Alaska by the turn of the Century. The Taepodong missile, which is under development, would have a range of about 3,100 miles. From certain parts of North Korea, this weapon could easily target many of the Aleutian islands in western Alaska, including the former Adak Naval Air Base.

The Washington Times reported last week that the Chinese have 13 of 18 long-range strategic missiles armed with nuclear warheads aimed at American cities. This is incredible, Mr. President. Opponents to the motion to invoke cloture somehow fail to understand that this threat is real and that we have a responsibility to protect the United States from attack, be it deliberate or accidental. Without question, the threat of an attack on the United States is increasingly real, and we must act now so that we can construct a national missile defense system with the capability of intercepting and deterring an aggressive strike against American soil from all parts of the United States.

Mr. President, I support the motion to invoke cloture and hope that my colleagues will vote overwhelmingly in favor of this legislation in the near future.

Mr. KENNEDY. Mr. President, I oppose this legislation and I urge the Senate not to invoke cloture.

Star Wars was a bad idea in the 1980s, and it is a bad idea today. Developing and deploying a national missile defense system has an enormous cost—billions of dollars a year to develop the system, and billions more to deploy it.

In addition, it ignores more likely threats to our security, especially the danger of terrorist attacks on our territory and our citizens.

Intelligence estimates suggest that there will not be a new, intercontinental ballistic missile threat from any rogue nation until at least 2010. At a time when we are trying to balance the budget and meet the essential readiness and modernization needs of our armed forces, it would be a mistake to spend additional billions of dollars on the proposed missile defense system.

Throughout the Cold War, when the Soviet Union had a far larger nuclear arsenal than today, we decided not to deploy missile defenses because the cost did not justify the protection provided. Now, the Cold War is over. We have far more cooperative relations with Russia and other nations of the former Soviet Union, and they have a much smaller nuclear arsenal. The Secretary of Defense and the Joint Chiefs of Staff tell us that now is not the time to deploy a national missile defense. It makes no sense to reject that advice and push ahead on this costly system.

Declaring our intention to deploy a missile defense system now will also put U.S. policy on a collision course with the Anti-Ballistic Missile Treaty. Such a step would send a strong signal to Russia that cooperation on nuclear arms reductions is not a U.S. priority.

In fact, members of the Russian Parliament have stated that they will oppose ratification of the START II Treaty if the United States begins to develop or deploy ballistic missile defenses in violation of the ABM Treaty. By endangering the prospects for START II ratification by Russia, this bill will ensure that we will face many

thousands more Russian nuclear weapons in the near future than we will face if arms reductions are implemented.

This bill also fails to address the most pressing threats to American security. As the World Trade Center bombing and the Oklahoma City bombing make clear, we do face a serious threat of terrorist attacks. But, it is far more likely, for example, that a terrorist will use nuclear, chemical or biological weapons on American soil than that we will be the target of an ICBM attack from a foreign nation. Loose controls on nuclear materials in the former Soviet Union raise the serious threat that such materials can find their way into the hands of extremists bent on using them. This bill fails to address these far more likely threats.

We should continue to do all we can to prevent the spread of nuclear weapons materials. The Nunn-Lugar Cooperative Threat Reduction Program has removed thousands of nuclear warheads from former Soviet arsenals, destroyed hundreds of missile launchers, and has safeguarded vulnerable stockpiles of nuclear materials. The nuclear tests conducted by India earlier this week are a wake-up call to the United States and all nations that our efforts to prevent nuclear proliferation are inadequate. We should do nothing to undermine that high priority even further.

This body has also rightly funded systems to protect our troops from ballistic missile threats and cruise missile threats. To deal with the possibility of future ballistic missile threats to U.S. territory, we have worked with the Administration to prepare a plan that will give us ample time to deploy a missile defense system if the need is clear. Our military leaders continue to agree that this plan is the most sensible way to protect the nation against potential future missile threats.

We need a strong defense, but we must give the highest priority to meeting the most serious threats. Failure to do so will waste billions of taxpayer dollars, and leave the nation less secure. I urge my colleagues to oppose this bill.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, we reserve the remainder of our time on this side of the aisle.

The PRESIDING OFFICER. If neither side yields time, then time will be charged equally to both sides.

Mr. COCHRAN. Mr. President, I appeal to the Chair for a different ruling on that. We are prepared to use our 5 minutes and then proceed to hear from the other side. If I speak now, we have used up our 5 minutes and then they have 20 minutes to complete debate. That is not fair.

The PRESIDING OFFICER. The ruling of the Chair reflects the precedence of the Senate.

Mr. COCHRAN. Mr. President, under the ruling of the Chair, if we do not speak, then we are not going to have any time to speak in about 10 minutes. That is the way I understand the ruling of the Chair.

I ask unanimous consent the running of the time be charged against the opposition, the opponents of the bill.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. 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. DASCHLE. Mr. President, first of all, let me compliment the distinguished manager of the bill and the ranking member for the level of debate that has already occurred on this important piece of legislation. I have extraordinary respect for both Senators and I appreciate the manner in which they have presented this critical matter to the U.S. Senate.

In listening to the debate on S. 1873, I am struck by the appearance that rigid adherence to ideology seems to be trumping the sound judgment of this Nation's senior military leaders.

The proponents of this latest attempt to deploy ballistic missile defenses at any cost have entitled this bill the American Missile Protection Act. But I think it is important that we be clear as to what this really legislation does. The only thing S. 1873 protects, is the opportunity for defense contractors to move far ahead of where we ought to be with regard to a commitment to develop and deploy national ballistic missile defenses. As stated by the Secretary of Defense and the Chairman of the Joint Chiefs of Staff in their letters opposing S. 1873, deployment of national missile defenses at this time is unnecessary, premature and could end our arms control efforts.

S. 1873, in spite of my great admiration for its author and the manager of this bill, is the wrong bill at the wrong time, and I ask my colleagues, this morning to vote against cloture.

S. 1873 would commit the United States to deploy national missile defenses based on a single criterion—technical feasibility.

Quoting from the bill, the United States should ''deploy as soon as is technologically possible an effective national missile defense system.''

In the eyes of the sponsors of this bill, the only standard that must be met in deciding whether to deploy defenses is that they be technologically possible.

Mr. President, I cannot find a clear definition of effective defenses in S. 1873.

And yet, many of the same people who demand that important domestic programs meet stringent standards before they can receive funding stay strangely silent when it comes to establishing even the most minimal performance requirements for ballistic missile defenses.

This irony is not lost on just this Senator. In fact, the proponents' attitude is cavalier even by the standards of defense programs. Research by the Department of Defense shows that S. 1873 would make history. For the first time ever, we would be committing this nation to deploy a weapons system before it had even been developed, let alone thoroughly tested.

We need look no further than today's Washington Post to see the folly of this approach.

In a story entitled, ''Antimissile Test Yields 5th Failure In a Row,'' it is pointed out that the THAAD system, a high priority theater anti-missile defense effort, failed yet again and is now 0 for 5 in tests.

Supporters of national defense may argue that the fifth consecutive failure of a theater missile defense system is not relevant to a debate on national missile defenses.

However, as underscored in the Post article, ''the repeated inability to demonstrate that THAAD's interceptors can hit incoming warheads has implications beyond battlefield defense. The same hit-to-kill concept is at the core of the even more ambitious national antimissile system.''

Moreover, most experts believe that a rush to judgment on ballistic missile defenses will not necessarily lead to the deployment of the most effective system.

According to General John Shalikashvili, former Chairman of the Joint Chiefs of Staff,

> if the decision is made to deploy a national missile defense system in the near term, then the system fielded would provide a very limited capability. If deploying a system in the near term can be avoided, the Defense Department can continue to enhance the technology base and the commensurate capability of the missile defense system that could be fielded on a later deployment schedule.

Not a word in S. 1873, Mr. President, about the costs of this system. The Congressional Budget Office estimates that deployment of even a very limited system could cost tens of billions of dollars.

Given that so much of the technology necessary remains unproven, history tells us the real cost could be much more. Despite the hefty price tag and the technological uncertainty, the proponents of this bill essentially say, ''costs be damned, full speed ahead''.

Yet, when it comes to proven proposals to improve our nations' schools, increase the quality of health care, or enhance our environment, the first question out of the mouths of many of the proponents of S. 1873 is, ''how much does it cost?''

Not a sentence in this bill, Mr. President, about the need for this defense system or the threats it is designed to counter. According to the intelligence community, deployment of defenses is not justified by the rogue nation ballistic missile threat.

In his Annual Report to the President and Congress, Secretary Cohen stated that, with one possible exception, ''no country will develop or otherwise acquire a ballistic missile in the next 15 years that could threaten the United States.''

The only possible exception is North Korea, a country that is on the verge of collapsing upon itself. Even here, the intelligence community rightly says the probability of North Korea acquiring such a missile by 2005 is, ''very low.''

Mr. President, S. 1873 says absolutely nothing about how a U.S. deployment of missile defenses would affect existing and future arms control treaties. It is clear from statements made by Russian President Yeltsin and other top officials that if the United States unilaterally abrogates the ABM Treaty, the Russians will effectively end a decades-long effort to reduce strategic nuclear weapons. They will back out of START I. They will not ratify START II. And they will not negotiate START III.

In other words, unilateral U.S. deployment of missile defenses could end the prospect for reducing Russia's nuclear arsenal from its current level of about 9,000 weapons down to as few as 2,000. This is much too steep a price to pay for a course of action that is unproven, unaffordable, and unnecessary.

Finally, Mr. President, I would like to say a few words about the procedure by which this bill is being brought to the floor.

All too frequently these past few months, we have seen bills taken from the Republican agenda and immediately scheduled for floor time under parliamentary procedures that severely limit debate and the opportunity to offer amendments.

When Democrats try to bring up issues important to all Americans—reducing school class size and protecting patients from insurance company abuses—we are told there is no time or they resort to these same parliamentary tactics to stifle our efforts.

The decision to bring up S. 1873 is only the latest manifestation of this practice. Just one day after refusing to set a date to take up patient protection legislation, we find the Senate has time to vote on a bill that should be known as ''Son of Star Wars.''

Mr. President, I ask my colleagues to reflect on the advice of the Secretary of Defense and the Joint Chiefs of Staff and vote against cloture on S. 1873.

Let us think carefully and thoughtfully about its ramifications. Let us recognize the dangerous implications for arms control, for the federal budget, and, because of the necessity to choose priorities within this budget, for what it means to the Defense Department itself. This is the wrong bill at the wrong time, and I hope we will defeat cloture when the opportunity presents itself, in 10 minutes.

Mr. President, I ask that my time be taken from my leader time, and not from the time accorded the debate on the motion.

The PRESIDING OFFICER. The Senator has that right.

Mr. DASCHLE. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, may I inquire how much time remains on each side?

The PRESIDING OFFICER. The Senator from Mississippi has 5 minutes and the Democratic side has about 12 minutes remaining.

Mr. COCHRAN. I yield 3 minutes to the distinguished Senator from Virginia, Mr. WARNER.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the manager of the bill.

Mr. President, the world has been working in a responsible way for years to try to halt the proliferation of weapons of mass destruction—nuclear, biological and chemical. India's decision both yesterday and today to detonate five underground nuclear explosions has blown a hole in the dyke of the world's nonproliferation efforts. The flood waters are now running. This tragic development should bring into sharper focus both the threat that our nation, and indeed all nations of the world, face from the spread of weapons of mass destruction; and the need for defenses to protect us from that threat. The bill before us offers such protection.

Mr. President, on April 21, the Senate Armed Services Committee voted to favorably report to the Senate S. 1873, the American Missile Protection Act of 1998. I am proud to be an original cosponsor of this legislation. This bipartisan bill, whose principal sponsors are Senator COCHRAN and Senator INOUYE, currently has 50 cosponsors in the Senate. I regret to say that the vote in the Armed Services Committee was along party lines.

The American Missile Protection Act which is before the Senate today is very simple. It states that, ''It is the policy of the United States to deploy as soon as is technologically possible a National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized or deliberate).''

This bill is a compromise—a step back from earlier Republican national missile defense (NMD) efforts in that it does not specify a date certain for deployment of an NMD system. As my colleagues will recall, the National Missile Defense Act of 1997, introduced last January by the Majority Leader, called for deployment of an NMD system by 2003. Many Republicans joined the Majority Leader in his effort last year. Would we still like to see a system deployed by 2003? Of course we would. But the intent of this year's legislation is to build a more bipartisan consensus for deploying a national missile defense system capable of defending the United States.

I have long been a strong supporter of providing Americans here at home, and our troops deployed overseas, with the most effective missile defense systems possible. In my view, there is no greater obligation of a government than to provide for the protection of its people. The Persian Gulf War should have made clear to all Americans our vulnerability to the proliferation of ballistic missiles around the world, and the dire need to develop and deploy effective defenses as soon as possible.

What are the objections to this simple, and seemingly obvious goal? The arguments we have heard from Members on the other side of the aisle are mainly three-fold: (1) a threat does not currently exist—and may not exist for the foreseeable future—that would justify the deployment of an NMD system; (2) we should not commit ourselves to the deployment of such a system when we do not know what that system would cost; and (3) we may be locking ourselves into a technologically inferior system by making a deployment decision today. I will respond to these arguments in turn.

First and foremost, the threat. I respectfully disagree with my Democrat colleagues. In my view, the threat exists today and is growing. Recent events in India are but the latest proof.

In my view, the biggest current threat we face is instability in Russia and the impact that instability could have on Russian command and control of the thousands of intercontinental ballistic missiles capable of reaching this country. A recent segment on ABC's ''World News with Peter Jennings,'' highlighted this problem. I quote one statement: ''A crushing lack of funds means Russia's entire 30-year-old nuclear command and control system is becoming unreliable.''

I remind my colleagues that with this legislation we are not seeking to deploy a Star Wars-type umbrella over the U.S. which would protect us from a massive strike by the Russians. We are seeking protection from a very limited, unauthorized or accidental attack. That scenario, unfortunately, could happen today.

And what of threats beyond Russia? By the Administration's our admission, the North Koreans will be able to deploy—in the near term—a ballistic missile with a range capable of striking Alaska and Hawaii. And other rogue nations are clamoring to get this type of technology. According to a recent report by the Air Force, ''Ballistic missiles are already in widespread use and will continue to increase in number and variety. The employment of weapons of mass destruction on many ballistic missiles vastly increases the significance of the threat.''

I believe we have proof enough today that a threat exists which justifies deploying an NMD system. But what if—for the sake of argument—we are wrong? What if a system is not needed for many more years? I would rather err on the side of deploying defense

sooner than they might be needed, rather than being caught defenseless if nations move even faster than the Administration expects to develop the capability to attack our shores.

Many of my Democrat colleagues are—quite properly—very concerned about what an NMD system might cost. My reply to that is, what is the cost of not deploying a system? What if even one ballistic missile strikes the United States? What is the cost in terms of loss of life and damage to our nation? That is a cost which must be factored into this debate. That is a cost we should never have to pay.

Who would we answer to the American people in the aftermath of such an attack when they ask why their government failed to provide them with any defenses? We know the threat exists—it will only grow in the years ahead. It is time to stop debating, and time to deploy systems to protect our people.

And finally, the issue of technology. The argument has been made that we should put off a deployment decision until we have the best possible technology for an NMD system. Well, that is an argument that will result in putting off a deployment decision indefinitely. There will always be better technology down the road. That is true for all of our weapons systems. That should not be used as an excuse for not deploying a system which is needed. Our focus instead should be on designing a system which can incorporate technological advances as they become available.

Another point which we must keep in mind as we debate this legislation is that we are not locking ourselves into a particular architecture or a deployment decision that will then just go on ''auto-pilot.'' We are making a broad policy statement that the U.S. should deploy a National Missile Defense system as soon as possible. That is our goal. Subsequent Congresses will decide—through the normal authorization and appropriation process—the details of the type of system to be deployed and the cost of that system. This bill is not the end of the process—it is the beginning.

And finally, there has been discussion about the impact of this bill on arms control agreements with the Russians—particularly the 1972 ABM Treaty. Dire consequences have been predicted if we were to pass this bill which, according to one of our Committee Members, would ''violate the ABM Treaty.'' I would just point out that a statement of policy does not—in and of itself—violate a treaty. Until actual deployment of a system were to take place—which would be years in the future—no violation of a treaty would occur. In the meantime, the United States should be talking to the Russians about modifying the ABM treaty to deal with current realities.

We are no longer living in the world envisioned by the ABM Treaty—a world with two superpowers with missiles targeted on each other. Russia is no longer the only threat we face. We are in a world where an increasing number of nations are acquiring the means to strike others with ballistic missiles. If the Russians would look around their borders they would realize that they have just as much, if not more, need for effective missiles defenses as we do. Regardless, if the Russians do not agree to modifications of this 26-year old treaty, we should not let this document stand in the way of protecting our people from attack.

I urge my colleagues to join us in our effort to provide effective defenses for our country.

Mr. President, in summary, the Nation owes a debt of gratitude to the Senator from Mississippi, Mr. COCHRAN, and the Senator from Hawaii, Mr. INOUYE, for, again, showing the leadership to bring America closer and closer to a system which is absolutely essential for our defense.

When the tragic news unfolded about the resumption of testing by India, I think in the hearts of most Americans two thoughts came about: First, ''Well, that's far away, no threat to us;'' secondly, ''Well, we already have a system which will protect us.''

Neither is true, and this tragedy brings into sharper focus the need for the U.S. Senate to move forward on this issue. I hope that sharper focus induces Senators to support moving this bill forward.

Another argument that is frequently brought up is, ''Well, what about Russia and the ABM Treaty?'' The ABM Treaty in 1972 is against a background of two superpowers who possessed arsenals. That is not the case today. Unfortunately, as a consequence of proliferation, the arsenals that we find in many countries, and with the news in India, that could even expand now the number of countries. Why should not Americans have their prayers answered: Just give us what is necessary to protect against a limited attack from a single or two or three missiles as a consequence of terrorism, as a consequence of a miscalculation, as a consequence of failure of equipment? To me, that is a very reasonable request, and that is the essence of this legislation. I urge it be supported.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I yield 5 minutes to my friend from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

Mr. President, S. 1873 calls for deployment of a limited national missile defense system as soon as is technologically possible.

Although a case can be made for near-term deployment of this type of capability, I do not believe it is a wise policy to pursue a limited national missile defense system absent any considerations of costs, cost-effectiveness, or treaty implications. In fact, if this legislation were to become law in its current form and unilaterally breach the ABM Treaty, the international condemnation India is receiving for its nuclear testing during the last 48 hours could quickly shift to the United States.

There is no question that an accidental or unauthorized ICBM or SLBM launch by the Russians or PRC, however remote the possibility, would have devastating consequences. Such a threat alone, it could be argued, merits a limited national defense system. Indeed, there were extensive debates in the late eighties in the Senate regarding ALPS, or accidental launch protection system, as proposed by Senator Nunn.

But even in the debate over ALPS, it was understood that we should only go forward if it could be made affordable and cost-effective and deployed within the constraints of the ABM Treaty or a variant of this treaty, as agreed to by the Russians.

Admittedly, the threat situation has changed since the late 1980s. A new ICBM threat, such as a North Korean capability, could present itself in less than 20 years—a relatively short timeframe for deploying and refining a system as complex as a national missile defense. Such threats would become even more ominous in the event technology were transferred in part or in whole to a rogue regime, which is unlikely but not impossible.

Having a viable national missile defense system would not only provide a limited capability for meeting these threats but, far more importantly, it could serve to deter a rogue regime from even expending scarce resources on developing a long-range delivery system.

And rogue regimes would not be the only nations deterred. One of the most troubling strategic developments of the next century will be the rapid expansion of the PRC's strategic nuclear force through MIRVing—placing multiple warheads on each of its ICBMs—thus multiplying its nuclear strike capability many times over. This is not a remote possibility. MIRV technology is over 20 years old, and press reports indicate that, in fact, the Chinese are testing a MIRV capability. Facing a limited U.S. missile defense system which could, if necessary, be expanded to meet a potential Chinese threat, Beijing might choose to abandon any thought of pursuing this destabilizing course.

A limited national missile defense could also serve to deter a breakout by signatories, including the United States, Russia, China, Britain, and France, to future arms limitation agreements, especially those involving a very low number of offensive systems where temptations could be high for rapidly rebuilding capabilities in a crisis.

But we cannot simply dictate deployment of a national missile defense without consideration of costs and

treaty implications. Despite decades of multibillion-dollar research and development and testing efforts, we have not yet demonstrated an ability to effectively and consistently hit a bullet with a bullet in either our national or theater missile defense programs, as was demonstrated even yesterday, even in controlled settings against relatively easy threats.

The reality may be that we can get there only with exorbitant expenditures that will siphon funding excessively from U.S. military programs for other more pressing threats. S. 1873 makes no account of costs and is, therefore, not, in my judgment, a prudent policy.

A limited capability could probably be achieved within the confines of the ABM Treaty or a slightly modified treaty. But to call for a defense system without regard to the arms control consequences is very shortsighted.

If our rush to deploy a national missile defense system undermines Russian ratification of START II and, worse yet, pushes the Russians to abrogate START I, the gains of a national missile defense system will be offset overwhelmingly by a restoration of a very costly and destabilizing offensive nuclear arms race. This, again, supports the condition that S. 1873 is simply not a prudent policy.

Legislation similar to S. 1873, but calling for a cost-effective and treaty-compliant limited national missile defense system, would be a much more sensible and responsible approach.

Mr. President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan has 7 minutes remaining.

Mr. LEVIN. I yield 5 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, I thank the Senator from Michigan.

Mr. President, there are good ideas and bad ideas. There are timely ideas and untimely ones. Whatever our views on a nation-wide ballistic missile defense, S. 1873 is both bad and untimely.

I urge my colleagues—on both sides of the aisle—to look closely at this bill and ask whether we should really be spending our time on it. Once they consider its implications we can reject cloture and get back to real work.

What would it mean to make it U.S. policy ''to deploy as soon as is technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidental, unauthorized, or deliberate)''?

For starters, we would have to deploy a national missile defense even if broke the bank, the budget agreement, and the U.S. economy. And it might do just that, especially if the bill is interpreted as requiring defense of U.S. territories in addition to every square inch of the 50 states.

This bill would also require deployment before we know the precise nature of the threat—indeed, before we are actually threatened by any strategic missiles other than Russia's and China's, which have posed that threat for years. That raises the distinct risk that we would deploy the wrong defense for the real threats we may someday face.

Worse yet, we would spend the taxpayer's hard-earned money on the first technology, rather than the best technology. And the first technology may not stop missiles with penetration aids, which Russia and others already have.

In addition, by putting pressure on the Pentagon to deploy the first feasible technology, this bill will very likely worsen what General Welch's panel recently called a ''rush to failure.'' Yesterday's fifth consecutive test failure with one of our theater defense missiles is a reminder of how difficult it is to develop any middle defense. Opting to deploy the first system that looks feasible is simply not a prescription for success.

Worst of all, this bill does not require—or even permit—consideration of negative consequences resulting from deployment.

Will the march to deployment destroy the Anti-Ballistic Missile Treaty? Too bad. That's precisely what some of our colleagues want.

Will the adoption of this objective torpedo implementation of START II and block any further reduction of strategic missiles or nuclear warheads? Too bad, again. Some people find ''star wars'' an easier solution than the hard, patient work of reducing great power armaments and stabilizing our forces.

Will renunciation of the ABM Treaty and the START process lead to a collapse of the Non-Proliferation Treaty? That is a real risk. But once again, too bad.

Do not focus on the Non-Proliferation Treaty's failings, and overlook its successes. What would the world be like if the countries that have stopped short of developing nuclear weapons were to give up on the commitment of the nuclear powers to reduce their forces? Would we really be safer if all those other countries were to go nuclear?

That is a real risk, if we march willy-nilly to deploy a national missile defense. Remember: when Egypt developed a better defense against Israeli attack on its forces, it was able to mount an offensive attack in the Yom Kippur War. The same thing applies to a national missile defense. We may see it as a defense. But the rest of the world will see it as a second-strike defense that enables us to mount first-strike nuclear attacks.

Some day, we may really need a nation-wide ballistic missile defense. That is why the Defense Department is pursuing the 3+3 policy of finding a technology that would permit deployment within three years of determining that there was a serious threat on the horizon.

Some of my colleagues truly believe that we can't wait for that, and I respect their views—although I respectfully believe that they are wrong. Others may be frustrated because they feel the President is trying to steal their issue. ''Life is unfair,'' as another Democrat once said.

But frustration and distrust do not make for good policy. And the policy that this bill would establish is simply too much, too soon. Let's get behind 3+3—make it effective, rather than forcing the Defense Department into an even more unrealistic schedule.

Sensible policy on ballistic missile defense is perfectly feasible. But S. 1873 isn't it. Let's stop wasting the Senate's time with it.

Mr. President, I am confused as the devil what my friends from Mississippi, Virginia, and others are doing here. Again, there are good ideas, there are bad ideas, there are timely ideas and untimely ideas. This is a bad, untimely idea. I truly am confused.

No. 1, we don't have any system that works. No. 2, there is no clear analysis of what the threat is that we are going to defend against. That usually goes hand in hand. We say we are going to build a system and here is the threat.

My friend, the senior Senator from Virginia, says, ''Well, you know, the threat may come from terrorist organizations or from specific rogue countries and single-warhead systems.'' Fine, that is one kind of system. My friend, the junior Senator from Virginia, stands up and points out, if we come up with a missile defense system for a single warhead that is able to be dealt with, do you think the Chinese are not going to sit there and say, ''You know, by golly, we're not going to build any MIRV'd warheads, we're not going to do that''?

Right now they may not do that. It is clearly against their interests.

We have this treaty with the Russians, the former Soviet Union, to do away with all multiple warhead missiles because we know they are so pernicious. This will encourage the Chinese to move. No. 1, we don't have an analysis of a threat. No. 2, my conservative friends, who are all budget-conscious guys, like we all are here, have no notion what the cost will be. They are ready to sign on and say, ''Deploy. As soon as we find it, deploy it. If it breaks the budget deal, if it causes a deficit, if it breaks the bank, deploy.'' No. 3, the idea that the ABM Treaty may or may not be impacted upon by this seems to be of no consequence. And No. 4, my friend, the senior Senator from Virginia, and others stood up on the floor when we were dealing with NATO expansion and said, ''JOE, JOE, JOE, the Russians, let's worry about how the Russians are going to think about being isolated; let's worry about how this could impact on Russia. Look, JOE, if you go ahead and do this and expand, what's going to happen is that all arms control agreements are going to come to a screeching halt.''

Well, let me tell you something. You want to make sure they come to a

screeching halt? Pass this, pass this beauty. This will be doing it real well. Bang. All of a sudden, the Duma saying, ''Now look, we are going to commit to go to START II, which means we have no multiple warhead weapons, which means we're only going to go to single warhead weapons, which means that, by the way, the U.S. Senate''—and they think we are even smarter than we think we are—''the U.S. Senate just said, 'Go ahead and deploy as soon as you have a feasible system.'''

Now, what do you think those good old boys in the Duma are going to do? They are going to say, ''You know, let's continue to destroy our multiple warhead weapons. The only thing we know for sure, these guys can't stop.''

Look, what is viewed as good for somebody is viewed as poison for other people on occasion. And let me point out to you, we are sitting here thinking—and we mean it—that what we want to do is we are going to defend the American people. And we do. But you sit there on the other side of the ocean, the other side of the world, and say, ''These guys, these Americans, the only people, by the way, who ever did drop an atomic weapon, these guys are building a system that is going to render them impervious to being hit by nuclear weapons. We think they are building that system for a second-strike capability. They can affirmatively strike us knowing they can't be struck back.''

Now, don't you think the guys that don't like us might think that? Don't you think that might cross their minds as reasonable planners? And what are we doing this for? What are we doing this for? We have no technology that works now. We are spending $3 billion a year, which I support, on theater and national missile defense research—$3 billion a year. I am for it. We should not get behind the curve so there is a breakout. But to deploy as soon as feasible? So I have only come to one conclusion here, Mr. President. This has to do with either trying to get rid of ABM, which is one of the reasons why some of my friends on the right think it is a bad idea or, No. 2, the President stole the march on the missile defense from them and they are not going to let it happen. This makes no sense.

I thank the Chair.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Who yields time?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Does the Senator from North Dakota want a minute at this point? I yield a minute to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise as a strong supporter of national missile defense. I have introduced legislation on this subject. I strongly believe in it. Just as strongly, I oppose what is before us. I oppose it because, No. 1, I believe it undermines congressional responsibility. I believe there are common-sense criteria we need to apply on any decision of what we deploy. We need treaty compatibility. The ABM and START must not be jeopardized. We need affordability. A balanced budget must be maintained. We should have maximum utilization of existing technology to prevent increased costs.

Mr. President, S. 1873 gives the Pentagon no guidance on all of these issues. In addition to that, our military leadership is telling us that S. 1873 might undermine our Nation's security.

The PRESIDING OFFICER. The Senator has spoken for 1 minute.

Mr. CONRAD. I ask for an additional 30 seconds.

Mr. LEVIN. I ask unanimous consent for an additional minute for this side.

Mr. COCHRAN. No objection.

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

Mr. CONRAD. Mr. President, let us listen to our leadership, our military leadership, General Shelton, the current Chairman of the Joint Chiefs of Staff.

The effect NMD ''deployment would have on our arms control agreements and nuclear arms reductions * * * should be included in any bill on national missile defense.''

General Shalikashvili, the former Chairman of the Joint Chiefs: Efforts that imply ''withdrawal in the ABM Treaty may jeopardize Russian ratification of START II and * * * could prompt Russia to withdraw from START I. I am concerned that failure of either START initiative will result in Russian retention of hundreds or even thousands more nuclear weapons, thereby increasing both costs and risks we may face.''

Mr. President, I am in favor of NMD, national missile defense. I am opposed to this legislation.

The PRESIDING OFFICER. The Senator from Michigan has 1 minute 30 seconds remaining.

Mr. LEVIN. Mr. President, this is more of an ''NMC'' bill than an NMD. This is a ''Never Mind the Consequence'' bill.

General Shelton, our top military leader in the uniform of this country, has said he cannot support this bill for a number of reasons.

The question has been asked, ''How can anybody oppose this bill?'' A lot of people oppose this bill for a lot of reasons. But the people who support this bill ought to ask themselves, ''How is it that our top military leadership oppose it?'' And General Shelton, for many reasons, says he cannot support it. And one of the reasons is the one that Senator CONRAD just read. And I want to repeat it. Any bill should ''consider affordability [and] the impact a deployment would have on arms control agreements and nuclear arms reductions.''

When you commit to deploy a system which will breach in almost dead certainty a treaty between us and the Russians, and cause them to quit cutting the number of nuclear weapons and to start increasing again, we are jeopardizing the security of this Nation and contributing to the proliferation of nuclear weapons.

That is one of the big problems of this bill. That is why our top military leadership do not support this bill.

I ask unanimous consent, Mr. President, that the letters of General Shelton, General Shalikashvili and Secretary Cohen in opposition to this bill be printed in the RECORD.

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

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, April 21, 1998.

Hon. CARL M. LEVIN,
Ranking Minority Member, Committee on Armed Services, Washington, DC.

DEAR SENATOR LEVIN: Thank you for the opportunity to comment on the American Missile Protection Act of 1998 (S. 1873). I agree that the proliferation of weapons of mass destruction (WMD) and their delivery systems poses a major threat to our forces, allies, and other friendly nations. US missile systems play a critical role in our strategy to deter these threats, and the current National Missile Defense (NMD) Deployment Readiness Program (3+3) is structured to provide a defense against them when required.

The bill and the NMD program are consistent on many points; however, the following differences make it difficult to support enactment. First and most fundamental are the conditions necessary for deployment. The bill would establish a policy to deploy as soon as technology allows. The NMD program, on the other hand, requires an emerging ballistic missile threat as well as the achievement of a technological capability for an effective defense before deployment of missile defenses.

Second, the bill asserts that the United States has no policy to deploy an NMD system. In fact, the NMD effort is currently a robust research and development program that provides the flexibility to deploy an initial capability within 3 years of a deployment decision. This prudent hedge ensures that the United States will be capable of meeting the need for missile defenses with the latest technology when a threat emerges.

Third, I disagree with the bill's contention that the US ability to anticipate future ballistic missile threats is questionable. It is possible, of course, that there could be surprises, particularly were a rogue state to receive outside assistance. However, given the substantial intelligence resources being devoted to this issue, I am confident that we will have the 3 years' warning on which our strategy is based.

Fourth, the bill uses the phrase ''system capable of defending the territory of the United States.'' The NMD program calls for defense of only the 50 states. Expanding performance coverage to include all US territories would have considerable cost, design, and location implications.

Finally, the bill does not consider affordability or the impact a deployment would have on arms control agreements and nuclear arms reductions. Both points are addressed in the NMD Deployment Readiness Program and should be included in any bill on NMD.

Please be assured that I remain committed to those programs that discourage hostile

nations from the proliferation of WMD and the missiles that deliver them. In that regard, I am confident that our current NMD program provides a comprehensive policy to counter future ballistic missile threats with the best technology when deployment is determined necessary.

Sincerely,

HENRY H. SHELTON,
Chairman, Joint Chiefs of Staff.

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, May 1, 1996.

Hon. SAM NUNN,
U.S. Senate, Committee on Armed Services, Washington, DC.

DEAR SENATOR NUNN: In response to your recent letter on the Defend America Act of 1996, I share Congressional concern with regard to the proliferation of ballistic missiles and the potential threat these missiles may present to the United States and our allies. My staff, along with CINCs, Services and the Ballistic Missile Defense Organization (BMDO), is actively reviewing proposed systems to ensure we are prepared to field the most technologically capable systems available. We also need to take into account the parallel initiatives ongoing to reduce the ballistic missile threat.

In this regard, efforts which suggest changes to or withdrawal from the ABM Treaty may jeopardize Russian ratification of START II and, as articulated in the Soviet Statement to the United States of 13 June 1991, could prompt Russia to withdraw from START I. I am concerned that failure of either START initiative will result in Russian retention of hundreds or even thousands more nuclear weapons thereby increasing both the costs and risks we may face.

We can reduce the possibility of facing these increased cost and risks by planning an NMD system consistent with the ABM treaty. The current National Missile Defense Deployment Readiness Program (NDRP), which is consistent with the ABM treaty, will help provide stability in our strategic relationship with Russia as well as reducing future risks from rogue countries.

In closing let me assure you, Senator Nunn, that I will use my office to ensure a timely national missile defense deployment decision is made when warranted. I have discussed the above position with the Joint Chiefs and the appropriate CINCs, and all are in agreement.

Sincerely,

JOHN M. SHALIKASHVILI,
Chairman, Joint Chiefs of Staff.

THE SECRETARY OF DEFENSE,
Washington, DC, April 21, 1998.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to your request for the views of the Department of Defense on S. 1873, the American Missile Protection Act of 1998.

The Department of Defense is committed to ensuring that we properly protect the American people and America's national security interests. This requires that we have a carefully balanced defense program that ensures that we are able to meet threats to our people and vital interest wherever and whenever they arise. A key element of our defense program is our National Missile Defense (NMD) program, which as you know was restructured under Secretary Perry and with the support of Congress as a ''3+3'' deployment readiness program. Under this approach, by 2000 the United States is to be in a position to make a deployment decision if warranted by the threat, and if a decision to deploy were made at that time the initial NMD system would be deployed by 2003. If in 2000 the threat assessment does not warrant a deployment decision, improvements in NMD system component technology will continue, while an ability is maintained to deploy a system within three years of a decision.

The Quadrennial Defense Review reaffirmed this approach, although it also determined that the ''3+3'' program was inadequately funded to meet its objectives. Accordingly, I directed that an additional $2.3 billion be programmed for NMD over the Future Years Defense Plan. It must be emphasized, though, that even with this additional funding, NMD remains a high risk program because the compressed schedule necessitates a high degree of concurrency.

I share with Congress a commitment to ensuring the American people receive protection from missile threats how and when they need it. S. 1873, however, would alter the ''3+3'' strategy so as to eliminate taking into account the nature of the threat when making a deployment decision. This could lead to the deployment of an inferior system less capable of defending the American people if and when a threat emerges. Because of this, I am compelled to oppose the adoption of the bill.

Please be assured, however, that I will continue to work closely with the Senate and House of Representatives to ensure that our NMD program and all of our defense programs are designed and carried out in a manner that provides the best possible defense of our people and interests.

Sincerely,

BILL COHEN.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, there are two criticisms of this bill that I have heard during the debate from the opponents. The distinguished Senator from Michigan says that the bill should include the words ''treaty compliant'' and that it is therefore vulnerable to criticism and ought to be rejected. The distinguished Democratic leader says the bill uses the phrase ''effective national missile defense system.'' He says ''effective'' is not defined in the bill.

Well, my suggestion is, if amendments ought to be offered to this bill we should vote for cloture so that we can get to the bill and amendments will be in order. Criticizing the bill because we are not considering amendments at this time is begging the question. The question is, should the Senate turn to the consideration of the American Missile Protection Act? We are suggesting yes. But the Democrats objected.

It is like when President Clinton, 2 years ago with the authorization bill before the Congress, held the bill up, held it up arguing over missile defense because there was a provision in it that suggested we ought to have a national missile defense, we ought to develop and deploy. They changed the words finally to ''develop for deployment,'' and then that was taken out of the bill in conference.

The point is this administration is taking a wait-and-see attitude, wait until there is a threat. The reality is the threat exists now. We need to debate this issue. We need to debate this bill. The Democrat leadership are opposing that. We hope the Senate will vote cloture. Let us proceed to the consideration of the American Missile Protection Act. If Senators have amendments, suggestions, that is when they will be in order. They cannot be considered now until we invoke cloture. I hope the Senate will vote to invoke cloture on the motion to proceed to consider the bill.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 345, S. 1873, the missile defense system legislation:

Trent Lott, Thad Cochran, Strom Thurmond, Jon Kyl, Conrad Burns, Dirk Kempthorne, Pat Roberts, Larry Craig, Ted Stevens, Rick Santorum, Judd Gregg, Tim Hutchinson, Jim Inhofe, Connie Mack, R.F. Bennett, and Jeff Sessions.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is: Is it the sense of the Senate that debate on the motion to proceed to S. 1873, the missile defense bill, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The bill clerk called the roll.

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

The yeas and nays resulted—yeas 59, nays 41, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—59

Abraham	Frist	Mack
Akaka	Gorton	McCain
Allard	Gramm	McConnell
Ashcroft	Grams	Murkowski
Bennett	Grassley	Nickles
Bond	Gregg	Roberts
Brownback	Hagel	Roth
Burns	Hatch	Santorum
Campbell	Helms	Sessions
Chafee	Hollings	Shelby
Coats	Hutchinson	Smith (NH)
Cochran	Hutchison	Smith (OR)
Collins	Inhofe	Snowe
Coverdell	Inouye	Specter
Craig	Jeffords	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Domenici	Lieberman	Thurmond
Enzi	Lott	Warner
Faircloth	Lugar	

NAYS—41

Baucus	Dodd	Kerrey
Biden	Dorgan	Kerry
Bingaman	Durbin	Kohl
Boxer	Feingold	Landrieu
Breaux	Feinstein	Lautenberg
Bryan	Ford	Leahy
Bumpers	Glenn	Levin
Byrd	Graham	Mikulski
Cleland	Harkin	Moseley-Braun
Conrad	Johnson	Moynihan
Daschle	Kennedy	Murray

Reed	Rockefeller	Wellstone
Reid	Sarbanes	Wyden
Robb	Torricelli	

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, let me yield to my colleague from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I ask that the Senate now proceed to the consideration of S. 1244 under the consent order.

RELIGIOUS LIBERTY AND CHARITABLE DONATION PROTECTION ACT OF 1998

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1244) to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Religious Liberty and Charitable Donation Protection Act of 1998''.

SEC. 2. DEFINITIONS.

Section 548(d) of title 11, United States Code, is amended by adding at the end the following:

''(3) In this section, the term 'charitable contribution' means a charitable contribution, as that term is defined in section 170(c) of the Internal Revenue Code of 1986, if that contribution—

''(A) is made by a natural person; and

''(B) consists of—

''(i) a financial instrument (as that term is defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

''(ii) cash.

''(4) In this section, the term 'qualified religious or charitable entity or organization' means—

''(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or

''(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.''.

SEC. 3. TREATMENT OF PRE-PETITION QUALIFIED CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Section 548(a) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by striking ''(1) made'' and inserting ''(A) made'';

(3) by striking ''(2)(A)'' and inserting ''(B)(i);

(4) by striking ''(B)(i)'' and inserting ''(ii)(I)'';

(5) by striking ''(ii) was'' and inserting ''(II) was'';

(6) by striking ''(iii)'' and inserting ''(III)''; and

(7) by adding at the end the following:

''(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

''(A) the amount of that contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

''(B) the contribution made by a debtor exceeded the percentage amount of gross annual income specified in subparagraph (A), if the transfer was consistent with the practices of the debtor in making charitable contributions.''.

(b) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(1) by striking ''(b) The trustee'' and inserting ''(b)(1) Except as provided in paragraph (2), the trustee''; and

(2) by adding at the end the following:

''(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as that term is defined in section 548(d)(3)) that is not covered under section 548(a)(1)(B), by reason of section 548(a)(2). Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.''.

(c) CONFORMING AMENDMENTS.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''; and

(B) by striking ''548(a)(1)'' and inserting ''548(a)(1)(A)'';

(2) in subsection (f)—

(A) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''; and

(B) by striking ''548(a)(1)'' and inserting ''548(a)(1)(A)''; and

(3) in subsection (g)—

(A) by striking ''section 548(a)(1)'' each place it appears and inserting ''section 548(a)(1)(A)''; and

(B) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''.

SEC. 4. TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS.

(a) CONFIRMATION OF PLAN.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: '', including charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of the gross income of the debtor for the year in which the contributions are made''.

(b) DISMISSAL.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following: ''In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)).''.

SEC. 5. APPLICABILITY.

This Act and the amendments made by this Act shall apply to any case brought under an applicable provision of title 11, United States Code, that is pending or commenced on or after the date of enactment of this Act.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in the amendments made by this Act is intended to limit the applicability of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

The PRESIDING OFFICER. Under the previous order, there are 10 minutes equally divided on each side.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I rise in strong support of S. 1244, The Religious Liberty and Charitable Donation Protection Act, which I introduced in October of last year.

When I held hearings on this bill before my subcommittee, I learned that churches and charities around the country are experiencing a spate of lawsuits by bankruptcy trustees trying to undo tithes or charitable donations. Under provisions of the Bankruptcy Code originally designed to fight fraudulent transfers of assets or money on the eve of bankruptcy, bankruptcy trustees have begun to sue churches when one of their parishioners declares bankruptcy, charging that tithes are fraud.

Of course, this puts the fiscal health of many churches at serious risk. Most churches and charities don't have big bank accounts. Having to pay back money that has been received and already spent is a real hardship for churches which often live on a shoestring budget. S. 1244 will protect against that.

Protecting churches and charities from baseless bankruptcy lawsuits will protect key players in the delivery of services to the poor. What do churches do with tithes? What do charities do with contributions?

They feed the poor with soup kitchens. They collect used clothing and help provide shelter for the homeless. And they do it with a minimal amount of Government assistance. In this day and age, where Congress is seeking to trim the Federal Government to its appropriately limited role, we must protect the important work of churches and charities. Mr. President, S. 1244 is a giant step in that direction.

This bill doesn't amend Section 548(A)(1) of the Bankruptcy Code. This means that any transfer of assets on the eve of bankruptcy which is intended to hinder, delay or defraud anyone is still prohibited. Only genuine charitable contributions and tithes are protected by S. 1244. Accordingly, a transfer of assets which looks like a tithe or a charitable donation, but which is actually fraud, can still be set aside. For example, if someone who is about to declare bankruptcy gives away all of his assets in donations of less than 15 percent of his income, that would be strong evidence of real fraud and real fraud can't be tolerated.

Mr. President, my legislation also permits debtors in chapter 13 repayment plans to tithe during the course of their repayment plan. Under current law, people who declare bankruptcy under chapter 13 must show that they are using all of their disposable income to repay their creditors. The term disposable income has been interpreted by the courts to allow debtors to have a reasonable entertainment budget during their repayment period. But these