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Senate

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Almighty God, we thank You for Your blessing and care for the Senators and the crucial work of this Senate. We praise You for the way the Senators of both parties worked together on the passage of the educational legislation last Thursday. May this spirit of cooperation continue as the strategic legislation of this week is considered. As the Senators do their work here, continue to bless their families. Watch over them with Your gracious protection. Also, we thank You for all the people who work to make the Senate run smoothly: the officers of the Senate, the Senators' staffs, the many Senate staff departments, the police officers, the reporters of debate, the pages, those who run the subways and elevators, the food service people, and the custodial staff. Give each person a renewed sense of his or her importance in the effectiveness of the operation of the Senate. Keep us all working together as a family of loyal Americans privileged to serve our Nation. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished Senator from Oklahoma, Senator INHOFE, is recognized.

SCHEDULE

Mr. INHOFE. Mr. President, following morning business, the Senate will resume consideration of S. 257, the missile defense bill. The majority leader has announced there will be no rollcall votes during today's session. However, Members are encouraged to come to the floor and offer amendments in relation to the missile defense bill. Any rollcall votes ordered today on amendments will be postponed to occur on Tuesday at a time to be determined by the two leaders.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ROBERTS). Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 3 p.m.

Under the previous order, the Senator from Oklahoma is recognized to speak for up to 30 minutes.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized for up to 35 minutes in morning business.

The PRESIDING OFFICER. Is there objection? Hearing none, without objection, it is so ordered.

Mr. INHOFE. I ask unanimous consent that at the conclusion of my remarks Senator ORRIN HATCH be recognized for 10 minutes.

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

The Senator is recognized.

CHINA'S THEFT OF NUCLEAR SECRETS

Mr. INHOFE. Mr. President, I want you to listen. I am going to tell you a story of espionage, conspiracy, deception, and coverup, a story with life and death implications for millions of Americans, a story about national security, and a President and an administration that deliberately chose to put national security at risk, while telling everyone that everything was fine.

If it was written in a book, Mr. President, it wouldn't sell, because no one would believe it. If it was fictionalized in a novel, few could conceive it. But it is true.

For the sake of my statement today, I am stating that the President withheld information and covered up the Chinese theft of our technology. But I am realistic enough to know that a person with the history of deception this President has will have provided himself with some cover in case he got caught. So I am sure there is a paper trail that he can allege. The way the President probably covered himself was to include tidbits about this theft buried in briefings of 40 or 50 other items so the significance of it would not be noticed. But a paper trail would be established.

Anticipating that, I, over the weekend, talked to the chairman of the House Intelligence Committee, Congressman PORTER GOSS, and the chairman of the Senate Intelligence Committee at the time of the discovery of this secret, this information, Senator ARLEN SPECTER. Neither chairman was notified of the W–88 nuclear warhead technology theft. And these would have been the first to be notified, Mr. President.

There can be no doubt that President Clinton engaged in a coverup scheme.

Let me read three paragraphs from last week's op-ed article by Michael Kelly in the Washington Post, entitled ''Lies About China.'' I am quoting now, Mr. President:

In April 1996, Energy Department officials informed Samuel Berger, then Clinton's deputy national security advisor, that Notra Trulock, the department's chief of intelligence, had uncovered evidence that showed China had learned how to miniaturize nuclear bombs, allowing for smaller, more lethal warheads . . .

Further quoting:

The Times reports that the House Intelligence Committee asked Trulock for a briefing in July 1998. Trulock asked for permission from Elizabeth Moler, then acting energy secretary. According to Trulock, Moler

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

told him not to brief the committee because the information might be used against Clinton's China policy. . .

Further quoting:

The White House's secret would have remained secret had it not been for a select investigative committee headed by Republican [Representative] Christopher Cox. . .

But even using the President's fictitious paper trail, the earliest either chairman could have known about it would have been late in the spring of 1997, years after the Clinton administration learned of it and, of course, after the 1996 election.

I start, Mr. President, by listing a few things which we now know to be true, factual, incontrovertible, and nonclassified.

For years, the Clinton administration covered up China's interest of top secret U.S. nuclear weapons data. They never informed the Congress or the American people about what had happened or its significance to our national security.

Let me tell you what President Clinton did during this period of time.

During this period of time, the President misled the American people on numerous occasions about the threat posed by strategic nuclear missiles in the post-cold-war era.

During this period of time, President Clinton made statements on over 130 separate occasions, such as the following:—and I am quoting—

For the first time since the dawn of the nuclear age, there is not a single solitary nuclear missile pointed at an American child tonight. Not one. Not a single one.

During this period of time, he knew that China was targeting up to 18 intercontinental ballistic missiles at American children.

During this period of time, President Clinton signed export control waivers which allowed his top campaign fundraisers' aerospace company to transfer sensitive U.S. missile guidance technology to China.

During this period of time, he shifted the prime satellite export responsibility from the State Department, where it had always been to maintain security, to the Commerce Department so that it would be easier to share sensitive information with the Chinese and others.

During this period of time, President Clinton hosted over 100 White House fundraisers as a part of a larger aggressive scheme to raise campaign contributions, many from illegal foreign sources primarily, including sources in China. Among guests permitted to attend these White House fundraisers were a convicted felon and a Chinese arms dealer.

During this period of time, John Huang, Charlie Trie, Johnny Chung, James Riady, and others with strong ties to China, were deeply involved, with the President's knowledge, in raising Chinese-tainted campaign cash for the Clinton campaign.

During this period of time, John Huang, who had been given a security clearance without a background check, was permitted to receive numerous classified CIA briefings, both during and after his stay at the Commerce Department.

And during this period of time, President Clinton was successfully stopping the deployment of a national missile defense system—exposing every American life to a missile attack, leaving us with no defense whatsoever against an intercontinental ballistic missile.

Mr. President, China's theft of secret data on the so-called W–88 nuclear warhead may be one of the most serious breaches of national security in the history of our Nation, more serious than Aldrich Ames; perhaps more serious than the Rosenbergs.

The public needs to understand that this story is true. This is not about partisanship. It is not about some ancient history of some long gone cold war.

This is about the real world here and now. It is about national security in its most important aspects. It is about protecting our freedom and our existence as a Nation. This is ultimately a matter which concerns the life and death of every American citizen.

The W–88 is the most advanced nuclear warhead in the U.S. arsenal and is carried on top of a Trident submarine-launched ballistic missile. This is the cornerstone weapon of our Nation's nuclear deterrent. As many as 8 can fit on top of a submarine-launched missile; as many as 10 can fit on top of a land-based missile—either ours or China's. We are talking about a miniaturized warhead much smaller in size than the Hiroshima atomic bomb but 10 times more powerful.

This chart appeared in the New York Times on March 6 of this year. The first atomic bomb dropped on Hiroshima weighed almost 9,000 pounds, yielded 15 kilotons and was dropped from a plane. By contrast, the modern W–88 is more powerful than this. It is 2.6 feet in length and weighs about 300 pounds and yields up to 150 kilotons. Several fit into the head of one missile. The technology on which it is built is super top secret and represents billions of dollars and years, if not decades, of investment on the part of dedicated scientists and engineers working in the supreme American national interest.

Some ask, why does America have such a weapon? Because it is part of our responsibility as a world superpower to have the most advanced, efficient, and credible nuclear deterrent, not only to protect our own freedom but the freedom of our allies. It is part of our policy of peace through strength.

I think about my friend from Texas, the Senator who is always talking about how we want to see the day when the lion and the lamb lie down together. But when that happens, we want to make sure we are the lion and not the lamb. We don't intend to use any of these nuclear weapons. It is a fact of life, in the most dangerous world we live in, we have to be prepared to deter any potential adversary.

The W–88 allows for multiple warheads to be placed on one missile. With this technology, China will now be able to put up to 10 warheads on a single long-range missile. Each warhead is targeted at a different city, each city subject to an explosion 10 times as great as that which destroyed Hiroshima at the end of World War II.

Mr. President, I am from Oklahoma. I can remember in 1995 when the bomb went off. It was a truck bomb. A 4,800-pound truck bomb destroyed the Murrah Office Building, maiming and killing 168 Oklahomans. I remember standing out there and watching the police and the firemen enter the building where there was no security and pulling out parts of bodies and bodies. It was the most devastating thing I have ever experienced. It was the worst act of terrorism ever recorded on American soil. That bomb had a force of 1,000 pounds of TNT, half of 1 ton. By contrast, the Hiroshima bomb had an explosive force of 15 tons, or 30,000 times as large as the Oklahoma City bomb. The W–88, while smaller in physical size, had a force of 150 kilotons, or 300,000 times the explosion power of the Oklahoma City bomb. By carrying 10 of these, it would be 3 million times the force of the Oklahoma City bomb.

The more compact W–88 warhead makes possible what is called MIRV technology, or multiple independent reentry vehicle, which allows the missile to reenter and then go to various targets. This is technology that we thought China was many, many years away from developing on its own, and they stole this technology, and President Clinton covered it up.

We also used to think North Korea was many years away from building a long-range multiple stage rocket. I got a phone call and a letter from Henry Shelton, Chairman of the Joint Chiefs of Staff, on August 24. In this letter he said he was confident we would have 3 years warning of any new long-range missile threat—that is, any new country that we already didn't know about. Seven days later, on August 31, a multiple-stage rocket was launched in North Korea. Part of it reached the coast of Alaska.

Because of the disparity over what our nuclear threat is, in the wisdom of the House and the Senate, the Democrats and the Republicans commissioned the Rumsfeld Committee. We were charged with the responsibility of finding the nine most informed scientists and authorities on missile technology, who formed a committee for assessing the threat that we have in this country. This was a bipartisan committee, appointed jointly by Democrats and Republicans. Of the nine, five were Republican appointments and four were Democrat appointments. They concluded unanimously that when it comes to advanced missiles and weapons, with countries willing to buy, sell, and steal technology, ''We live in

an environment of little or no warning.'' That means we must immediately be prepared.

Last year, you may remember it was revealed that the Clinton administration had changed the approval process for high-technology satellite transfers, how waivers were granted for American companies so they could launch satellites in China. This ultimately resulted in China acquiring advanced United States missile guidance technology, making their missiles more accurate and more reliable. President Clinton personally signed the waiver allowing China to acquire this missile technology. Let me repeat, President Clinton personally signed the waiver allowing China to achieve this missile technology.

Executives of these two corporations which benefited, Loral and Hughes, were among the largest financial creditors to President Clinton's campaign ever but this is not important. The motive for aiding and abetting our adversaries could be money, or it could be some kind of perverted allegiance to some of these countries, or it could be just a callous disregard for the lives of American citizens. The motive is not important. The fact is, President Clinton did it and he knew exactly what he was doing.

Accompanying the transferred missile guidance technology with the stolen nuclear weapon technology, China can threaten United States cities with accurate, reliable, and horribly destructive multiple-warhead nuclear missiles. This is not science fiction. Two years ago, a high-ranking Chinese official made a statement. Two years ago, when the Chinese were trying to intimidate the elections of the Taiwanese and they were launching missiles at the Taiwan Straits, it was suggested to this high-ranking military official in China that it could be that America would come to Taiwan's defense and would intervene. His response was, ''No, they are not going to do that because America would rather defend Los Angeles than defend Taipei.'' At the very least, that is an indirect threat to use missiles on the United States of America.

By helping China develop their long-range missiles, President Clinton also helped North Korea and other rogue nations with theirs—nations like Iran. Let me read three paragraphs from last week's Washington Times article entitled ''China Assists North Korea Space Launches.''

China is sharing space technology with North Korea, a move that could boost P'yongyang's long-range missile program, White House and Pentagon officials told the Washington Times. . . .

Another Pentagon report on the 1996 Chinese booster that failed to launch a U.S. satellite concluded that ''U.S. national security was harmed'' by the improper sharing of technology with China by Hughes and other satellite maker Loral Space & Communications Ltd. . . .

Keep in mind, it was President Clinton who signed the waiver to give the Chinese this technology.

In 1994, the Pentagon's Defense Intelligence Agency reported that it believed China had helped design the Taepo Dong 2 missile (this is the North Korea missile) because its first stage diameter is very close in size to the Chinese CSS–2 immediate range missile.

It is factual to say that President Clinton knew he was giving our missile technology to North Korea as well as China.

I take this moment to remind my colleagues once again that America today has no defense whatever against such a threat. The Clinton administration today, despite its rhetoric, opposes the deployment of any national missile defense system. Someone who is pretty smart, back in 1983 when they determined that we would have to have a defense against an incoming missile by fiscal year 1998—that is, last year—so during the Reagan administration, then the Bush Administration, they embarked on this thing called SDI, Strategic Defense Initiative, to make sure that by 1998 we would have something to defend ourselves in the event an ICBM came over from China, from Russia, from Iran, from North Korea, from anywhere. So we were on schedule to have this deployed by fiscal year 1998.

Well, in 1993, that came to a screeching halt when President Clinton vetoed the defense authorization bill and vetoed all further efforts, including the bills that were introduced to put us on line with the national missile defense system. As an excuse for this, he said he had to protect the integrity of the 1972 ABM Treaty. Let me remind you that treaty was not a Democrat-inspired treaty. That was Republican-inspired; it was President Nixon and Henry Kissinger. The idea was that we had two superpowers, the U.S.S.R. and the United States of America. So we made a deal with them. Under the ABM Treaty, we said we won't defend ourselves, and you don't defend yourselves, and that way, if they launch a missile that goes to us, we launch one that goes back to them and everybody dies. I didn't like that theory back then, but it made sense when there were two superpowers. That is not true today.

Today, virtually every country has a weapon of mass destruction. We have missiles that we are finding that now even North Korea has. China is exchanging technology and systems with Iran and other countries like that. So there is a proliferation of missiles as well as weapons of mass destruction. I have to say that the mutual assured destruction concept which was adopted at that time has no relevance today. Even Henry Kissinger, who was the architect of the ABM Treaty of 1972 said, ''It's nuts to make a virtue out of our vulnerability.'' He said we should not be looking at that. Besides, somebody should remind the President that was a treaty that was made in 1972, and it was made between the United States and the Soviet Union. The Soviet Union no longer exists. So I have to say that President Clinton is solely responsible for the fact that we are totally defenseless against an incoming ICBM from China or any other place in the world.

Now, Mr. President, from news reports, this is some of what we know about China's theft of our nuclear secrets. Apparently, a spy at the Los Alamos weapons lab succeeded in transferring data on this highly classified W–88 warhead technology to China in the mid-1980s. That was not during the current administration; nobody refutes that. But our Government did not find out about it until April of 1995. That is 3 years into the Clinton administration.

This is a critical date, Mr. President. We did not know about the theft until April of 1995. Detection came when experts analyzed data from then-recent Chinese underground nuclear tests and saw remarkable similarities to the W–88 U.S. warhead to what they were experimenting with. Later in 1995, secret Chinese Government documents confirmed that there had been a security breach at Los Alamos. That was in 1995.

Deputy National Security Advisor Sandy Berger was first briefed about it. President Clinton did not respond then because he was obviously a little preoccupied with what he considered to be more important matters at that time. After all, there were White House fundraisers to host, foreign campaign contributions, satellite transfers to approve, high technology trade with China to promote and, of course, an election to be won—at all costs. Mr. Berger was well aware of all this. We know that he sat in on strategy sessions for the campaign for 1996.

So this was also the time when President Clinton was running around the country telling audiences that ''for the first time since the dawn of the nuclear age, there is not a single, solitary nuclear missile pointed at an American child tonight. Not one. Not a single one.'' Of course everybody cheered, wanting to believe he was telling the truth.

Of all the lies this President has told, this is the most egregious of all.

He repeated this misleading, deceptive lie over 130 times between 1995 and 1997, right at the very time he and his national security advisors knew that this horrible breach of nuclear security had occurred and was under investigation. It was also at that very time that he knew that up to 18 American cities were being targeted by Chinese long-range missiles, missiles that had and have the potential of killing millions of Americans. During this time, he said 130 times: ''For the first time since the dawn of the nuclear age, there is not a single, solitary nuclear missile pointed at an American child tonight. Not one. Not a single one.''

So while the American people consume his misleading and dishonest public statements—helping to secure his reelection —nothing was done for over

a year about the security breach at Los Alamos.

The likely suspect spy was identified in early 1997, and the FBI urged that he at least be transferred to a less sensitive position. But inexplicably, he was allowed to keep his sensitive job at Los Alamos for a another year and a half. This was the spy who was responsible for the theft, and President Clinton kept him in that sensitive job for another year and a half. Finally, he was fired by Energy Secretary Richardson last Monday—a week ago today, March 8, 1999—but only after he was publicly identified in news reports as having failed two previous lie detector tests.

In all of this, was Congress ever informed? As a Member of the Senate Armed Services Committee and the Senate Intelligence Committee, I certainly was not. As I said earlier, I talked to the chairmen of both the House Intelligence Committee and the Senate Intelligence Committee and they weren't informed either.

Did the President ever take the appropriate aggressive and timely steps that should have been taken in order to protect the national security interest in the wake of this matter? No, he did not.

Why? Why the delays? Why the lack of consultation and communication? Why the seeming indifference to this very, very serious breach of national security? We will be asking some tough questions about this in the days to come. I note that the Armed Services Committee will have a hearing on this, and the Intelligence Committee will have a hearing the day after tomorrow, Wednesday. We will have a lot of questions. The American people need to know what is going on here.

The President's National Security Advisor, Mr. Berger, has a lot to answer for here. He had better be prepared to answer questions from Members of Congress honestly, forthrightly, and without intention to deceive, mislead, or change the meaning of words. Otherwise, he should resign now and take the rap for President Clinton.

I am convinced that we have not yet scratched the surface of the national security scandal exposed by these most recent revelations.

This administration obviously wanted nothing to interfere with developing good relations with China. While it was soliciting and accepting campaign contributions from China, it was dragging its feet on investigating the most egregious espionage operation China had ever succeeded in pulling off in the U.S., a breach of security which could potentially put the lives of millions of Americans at great risk.

This is, without doubt, the worst example yet of how this administration has put its own selfish motives above the national security interests of this country and above the protection of American lives.

The American people and the Congress must demand that the President be held accountable for this gross dereliction of duty. I guess the question is, What can we do? We are Members of Congress and what can we do? I am not sure there is anything we can do except inform the American people and let public outrage solve the problem. And why are we in Congress so limited in what we can do?

Our Founding Fathers never envisioned we would have a President who would do these kinds of things and act in these ways. This is why the Constitution gives the President great latitude of action in carrying out his duties and why he is protected from the other branches of Government under the separation of powers.

When John Adams wrote to his wife after the first night he spent in the White House in 1799, he spoke of the expectations of all the founders during that time: ''May only honest and wise men rule under this roof.'' The White House.

There was an assumption that the American people would always elect Presidents with a basic level of morality, honesty and integrity, who out of patriotism would always put the welfare of the country above any personal ambitions for power or glory.

This President knew he was covering up information vital to the safety and well-being of every American—that China had stolen from us the advanced technology which would give them the capability to kill millions of Americans in multiple cities with just one missile, and he knew it.

In 1945, World War II was ended when the atomic bombs were dropped in Nagasaki and Hiroshima. Each explosion destroyed an entire city, killing tens of thousands. The death toll in Hiroshima was about 75,000 lives from that 15-ton nuclear bomb.

Just think, that with the technology that this President has transferred to China and what China has stolen and the President has covered up, China is now capable of producing a 150-kiloton bomb small enough to fit ten of them on top of one missile, each bomb targeted at a different American city with accuracy and reliability.

Just extrapolating the numbers, that—in theory—is enough destructive power to kill as many as 7,500,000 Americans—with just one missile.

And, due to this President who stopped our national missile defense effort, we have no defense. We have a President who acts as if he doesn't care about us.

So finally, Mr. President, let me repeat the six proven incontrovertible facts:

1. President Clinton hosted over 100 campaign fundraisers in the White House, many with Chinese connections.

2. President Clinton used John Huang, Charlie Trie, Johnny Chung, James Riady, and others with strong Chinese ties to raise campaign money.

3. President Clinton signed waivers to allow his top campaign fundraiser's aerospace company to transfer United States missile guidance technology to China.

4. President Clinton covered up the theft of our most valuable nuclear weapons technology.

5. President Clinton lied to the American people over 130 times about our Nation's security while he knew Chinese missiles were aimed at American children.

6. President Clinton single-handedly stopped the deployment of a national missile defense system, exposing every American life to a missile attack, leaving America with no defense whatsoever against an intercontinental ballistic missile.

Again, it doesn't matter whether President Clinton did these things for Chinese campaign contributions because the motive for aiding and abetting our adversaries is not important. The fact is President Clinton did it and he knew exactly what he was doing.

I'm not a lawyer, Mr. President, but I have to ask, could President Clinton have been tried for impeachment for the wrong crime?

Why am I here telling the truth about the President?

I think it is because I haven't heard anyone else do it. They know this President will lie with such conviction that the American people will continue to believe him, and they don't want to take the risk.

I happened to go yesterday to the McLean Bible Church, and the sermon was about taking risks—being willing to take a risk. They talked about the Israelites who were in the desert, and they sent a team up to Canaan to look to see what the risk was up there. They came back, and they said: There are giants up there. We don't have a chance. We are like mosquitoes next to them, except for Caleb.'' Caleb came back, and he said, ''We should take the risks. We can win. We can fight and win.''

What happened? The rest of the story you know. You know what that is. God left the Israelites out in the desert, and he sent Caleb to the Promised Land. With all these blessings, we just do not seem to learn. I think Henry Ward Beecher said it in a different way. He said, ''I don't like those cold, precise, perfect people who, in order not to say wrong, say nothing . . . and in order not to do wrong, do nothing.''

We have a lot of people around here who are more concerned about their jobs that they would go ahead and do nothing. So somebody has to tell the truth about this President. We can't all be appeasers. An appeaser is a guy who throws his friends to the alligators hoping they will eat him last.

Hiram Mann said, ''No man survives when freedom fails, the best men rot in filthy jails, and those who cry appease, appease are hanged by those they tried to please.''

I believe that truth will ultimately prevail. It is just stubborn. Winston Churchill said, ''Truth is incontrovertible. Ignorance may deride it, panic may resent it, malice may destroy it, but there it is.''

Mr. President, everything I have said during the course of the last 30 minutes is absolutely proven and true. I hope America is listening. We have a nation to save from this President.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Utah is recognized.

Mr. HATCH. Mr. President, I ask unanimous consent that I be permitted to speak for 15 minutes and that immediately following my remarks Senator HOLLINGS be recognized.

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

The Senator is recognized.

Mr. HATCH. I thank the Chair.

COMPETITION IN THE DIGITAL AGE: UNITED STATES VERSUS MICROSOFT

Mr. HATCH. Mr. President, today I rise to speak for a few moments on the Justice Department's ongoing case against Microsoft, and to discuss the Judiciary Committee's upcoming agenda in examining competition in the digital markets.

As my colleagues know, the Department of Justice and 19 states have sued Microsoft for violating federal antitrust laws. In the case brought by the Department of Justice, the Government has completed its case in chief, and Microsoft rested its case on Friday, February 26.

While the trial is proceeding in the courts, I have not held hearings on Microsoft's apparent monopolistic activities and their impact on competition within the software and related technology markets. However, as I noted last November, the Judiciary Committee will continue to examine the important role proper and timely enforcement of federal antitrust laws can have on fostering both competition and innovation for emerging technologies, while minimizing the need for government regulation of the Internet.

I believe an important area of inquiry is evaluating the significant public policy concerns posed by the question of what remedies should be imposed in cases where, notwithstanding the generally dynamic and competitive nature of Internet-related industries, high technology companies have been found to have violated the antitrust laws.

As I have maintained in the past, these dynamic high-technology industries are different from other traditional industries of the past, and antitrust remedies must take these differences and the special characteristics of the respective high-tech industries into account.

Mr. President, if, at the close of the trial, Microsoft is found to have violated the law, the remedies that the court would apply will implicate many policy concerns with respect to how business in the high-technology industry is transacted. Any resolution of the matter—including any settlement, I believe, should aim to restore competition and ensure that neither Microsoft, nor any other monopolist similarly situated, is allowed to continue to benefit from the market advantages it gained unfairly.

Promoting real and vigorous competition, which respects intellectual property rights, will not only ensure better prices for the consumers, but will also ensure that innovation is not hampered due to the market stranglehold of a monopolist. Ensuring that true competition exists in the market is also the best way to keep the government out of the business of regulating the Internet.

Government should not exert unwarranted control over the Internet—even if Vice President GORE still thinks he created it. Nor should any one company. Indeed, I share Senator GORTON's interest in knowing where the Vice President stands with respect to the Microsoft case. After all, doesn't the father of the Internet have a view on who should be able to control his creation?

In the trial, we saw the government put forth a powerful case against Microsoft. And, we saw Microsoft put forth a not so stellar defense. Many experts, even those who were skeptical at first, now believe that the government may well prevail.

I ask unanimous consent that several illustrative articles related to this case be printed in the RECORD.

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

[From the New York Times, Feb. 11, 1999]

U.S. HAMMERS AT MICROSOFT'S BROWSER DEALS

(By Joel Brinkley)

A senior Microsoft official acknowledged in Federal court today that the company's contracts had prohibited Internet service providers from offering its browser on the same Web page as its main competition because Microsoft executives ''thought we would lose in a side-by-side choice.''

The admission clearly pleased David Boies, the Government lawyer who elicited it from the witness, Cameron Myhrvold, a vice president in the Microsoft Corporation's Internet Customer Unit division—so much so that Mr. Boies asked the same question four different ways and got the same answer each time.

''Was it true you were trying to prevent Internet service providers from presenting Netscape and Internet Explorer side by side so users could choose?'' he asked at one point. Internet Explorer is the name of Microsoft's browser; the Netscape Communications Corporation's Navigator is its principal rival.

''We thought we would lose in a side-by-side choice, ''Mr. Myhrvold answered, because Netscape was already so firmly established in the market.

In all, it was another bad day in court for Microsoft in its antitrust battle with the Justice Department, which charges that the software giant used a monopoly in personal computer operating systems to achieve a dominant position in Internet software. Hour after hour, Mr. Boies chiseled away at Mr. Myhrvold's testimony, forcing him to acknowledge incorrect assertions, misleading omissions and deceptive statements.

Mr. Myhrvold repeatedly acknowledged that he made misstatements in E-mail memos. He also testified that he disagreed with Microsoft employees whose memos contradicted his own assertions.

As he completed his testimony this evening it was clear the Mr. Myhrvold's appearance had not helped Microsoft's case. In fact, as Microsoft's defense reached its midpoint this evening, none of its first five witnesses had proved particularly effective advocates of the company's position.

Mr. Myhrvold, a brother of Nathan Myhrvold, Microsoft's chief technology officer, is in charge of the Microsoft division that negotiates agreements with Internet service providers, the companies that give computer users access to the Internet. The Government charges that Microsoft's restrictive contracts with these companies are anticompetitive and illegal. Mr. Myhrvold tried to make the case that the contracts were largely ineffective or benign.

Many of these companies have agreements to be listed in the Internet Referral Service in Microsoft's Windows operating system, which enables users to subscribe to an Internet service posted there. On Tuesday, Mr. Myhrvold insisted that the Government's assertion that these companies had to favor Explorer over Navigator to be included in the service was ''absolutely wrong.''

But under further cross-examination by Mr. Boies today, Mr. Myhrvold admitted that in most cases the companies had been required to ship Explorer to at least 75 percent of their customers. Mr. Myhrvold added that they were free to stop shipping the Microsoft product if they wanted, in which case they could be dropped from the Windows referral service.

''It's a fairly subtle point,'' Mr. Myhrvold acknowledged.

Similarly, in his written direct testimony, Mr. Myhrvold pointedly noted that several Internet service providers in the referral service were not shipping Explorer as required, and yet the company had decided not to enforce the contracts.

For example, he wrote, ''of the copies of Web browsing software shipped by Concentric,'' a reference to Concentric Networks, a small Internet service provider, ''only 17 percent were Internet Explorer.''

But those figures were for 1997, Mr. Boies entered into evidence a Microsoft document showing that by the first quarter of 1998, 100 percent of Concentric's browser shipments were Internet Explorer.

Mr. Myhrvold repeatedly noted that Netcom, a Internet service unit of ICG Communications Inc. that has a contract with Microsoft, made no real effort to switch customers to Internet Explorer, testifying that one point in 1997—when 10 percent of Netcom's customers were getting the Microsoft product—was ''the high-water mark.''

But Mr. Boies then displayed a Microsoft document showing that in early 1998 the percentage had risen to 40 percent. Then Mr. Boies offered another Microsoft document showing that Netcom was actually able to control the browser choice of only a small percentage of the people who signed up for its service; most customers were handed to Netcom by computer makers, or by Netscape. That same document showed that Microsoft won an agreement with Netcom that 90 percent of the customers Netcom did control would switch to Internet Explorer.

To that, Mr. Myhrvold said only that the author of the Microsoft document ''was a pretty good salesman.''

Later, the response to a question from a Microsoft lawyer, Mr. Myhrvold denied a Government assertion that his staff had offered a British division of Uunet, an Internet service owned by MCI Worldcom, $500,000 to swtich to Internet Explorer. He said he told his staff that ''it would not be appropriate to

tie payments to shipments of Internet Explorer.''

Moments later, Mr. Boies displayed still another E-mail that Mr. Mhyrvold had written to a subordinate in Britain in which he said, ''I think tying the payment to their shipping of IE is a great idea, though I would not do this formally.'' Mr. Myhrvold explained that the message had not meant what it said, and he had called the subordinate later to tell him not to tie the two. There was no record of that call, he conceded.

On Thursday, Brad Chase, another Microsoft executive, takes the stand. In his written direct testimony, which was made public today, he defends Microsoft's contract requiring America Online to switch its customers to Internet Explorer.

Mr. Chase writes that ''nothing in the license requires AOL's subscribers to choose Internet Explorer.'' But a Mircosoft memo introduced today suggests the cross-examination Mr. Chase is likely to face.

In it, a Microsoft executive writes that ''the typical AOL user is a novice.'' And as a result, AOL uses ''the force-feed approach. They force feed the upgrade at log off,'' meaning that Ameica Online automatically downloaded Internet Explorer to users when they logged off the service.

An America Online executive testified earlier in the trial that very few users bothered to swtich from Internet Explorer to Navigator, even though they were allowed to, because finding and installing the Netsccape browser was too difficult.

[From the New York Times, Feb. 5, 1999]

MICROSOFT SHOWS NEW TAPE, AND OPENS A NEW CAN OF WORMS

(By Joel Brinkley)

WASHINGTON, FEB. 4.—Trying to stop the damage from a disastrous week in court, the Microsoft Corporation played a new, videotaped demonstration at its antitrust trial Thursday.

The 70-minute video showed James E. Allchin, a senior company executive, performing live tests and then looking into the camera and saying that he had proved his point—that a prototype Government program intended to separate Microsoft's Web browser from the Windows operating system had really done no such thing.

The program just hid the browser, he showed. Further, he demonstrated, running the program disabled some other features in Windows and caused additional problems.

In Federal Court on Monday, Microsoft had played a long videotape intended to demonstrate the advantages of integrating a Web browser with Windows and debunk the Government program, written by a Princeton University professor and two of his students.

But in the last two days, David Boies, the Government's lead lawyer in the antitrust lawsuit against Microsoft, gradually pulled the tape apart, pointing out numerous technical questions and errors, until finally Judge Thomas Penfield Jackson declared Wednesday afternoon that he no longer viewed the tape as reliable evidence.

''It's very troubling,'' he said.

After that, Microsoft gave up and asked for an opportunity to make a new tape. As soon as court adjourned Wednesday, a Microsoft spokesman drove to a shopping mall in suburban Landover, Md,, and bought six I.B.M. Thinkpad laptop computers at CompUSA, for use in the new effort.

A film crew was hired on short notice, and the computers were delivered to a conference room at Sullivan & Cromwell, the law firm that is representing Microsoft.

To assure that the new tape woud be viewed as credible, a Government lawyer and the Princeton professor, Dr. Edward W. Felten, along with his two students, were invited to come by at 8:30 p.m. to witness the taping. But they were not permitted into the room for two hours, while the Microsoft team unpacked the boxes and set up the computers—leading to angry concerns that something nefarious was under way. The taping was not completed until after midnight.

Asked in court Thursday why the Government representatives were not let in, Allchin—normally a low-key unflappable man—bristled and said: ''Sir, I was not involved with that, and it would have been okay with me.''

Allchin sat in the witness stand and watched silently as his tape was played. On the tape, Allchin, who is a senior vice president for Microsoft in charge of the Windows division, navigated his way into a new computer he did not know and ran up against the same software problems and glitches every computer user encounters.

''Okay, I've got to figure this out, and I don't have my glasses with me,'' he said matter of factly when his screen suddenly went blank. Later, when a Microsoft promotional program popped onto the screen unbidden, complete with a loud gong from Big Ben followed by upbeat jazz, Allchin looked a bit annoyed and said, ''Very nice music, but not tonight.''

As he tried to connect to the Internet while the camera watched, the connections often failed, and when one did succeed, it seemed to be agonizing slow—nothing like the zippy Internet downloads shown in Microsoft's demonstration tape that was played in court on Monday.

''The performance problem you see here has nothing to do with Dr. Felten's program,'' Allchin acknowledged at one point.

Judge Jackson, who is hearing the case without a jury, watched the tape silently, often with a bemused expression on his face.

When it was over, Allchin demonstrated that, after running the Government program, he was able to re-enable Internet Explorer through a complex series of changes in the Windows registry file that no normal user would be able to carry out without precise instructions.

Before doing that, he demonstrated that several programs did not work properly on what he called ''a Felten-ized machine.''

All of the problems he showed related to features of the programs that interacted with the Internet. And when Boies got a chance to question Allchin again, he immediately asked: Isn't it logical to expect, after disabling the browser, ''that anything that depended on the browser wouldn't work right?''

Allchin conceded that. And as for the other problems and glitches Allchin demonstrated, Boies said: ''What Dr. Felten prepared was not a commercial product. It was a concept program. Wouldn't you expect it to have problems? Doesn't Microsoft find bugs in its programs during the normal course of software development?'' To that last question, Allchin said yes.

Before Allchin played his tape, another Microsoft witness, Michael Devlin, an independent software developer, completed his testimony in about 90 minutes. In his direct, written testimony, he said his company appreciated Microsoft's decision to include a Web browser with Windows.

Boies, the lead Government attorney, barely referred to that testimony in his brief, 27-minute cross-examination. Instead he tried to throw Devlin's motivations for testifying into question by demonstrating that his company was dependent on Microsoft for more than half of its business and was at risk of serious financial damage from Microsoft if the company were to decide to make a competing product.

Devlin acknowledged that, but Boies never asked him directly if those concerns had played into his decision to agree to Microsoft's request to testify.

Microsoft also made public the written testimony of the next witness, William Poole, senior director of business development for Microsoft, who will take the stand on Monday.

In it, Poole defends the restrictive contracts Microsoft won from other companies doing business on the Internet, requiring them to promote Internet Explorer in exchange for advertising space in Windows.

The Government charges that these contracts are anticompetitive and illegal, but Poole calls them ''routine cross-licensing agreements, common across many industries.''

Poole also argues that, in the end, the contracts did not significantly impede the Netscape Communications Corporation, the chief competitor to Internet Explorer. And he adds, the ''channel bar,'' the space in Windows where the ads appeared, ''turned out to be a commercial disappointment'' in any case.

[From the Seattle Times, Feb. 23, 1999]

MICROSOFT TRIAL—EXECUTIVE ADMITS OFFERING NETSCAPE INDUCEMENTS

(By James V. Grimaldi)

WASHINGTON.—A Microsoft executive acknowledged offering Netscape Communications executives ''several inducements'' in mid-1995 to get the browser maker to adopt certain Microsoft Internet technologies.

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Today, U.S. District Judge Thomas Penfield Jackson indicated just how far Microsoft had to go to repair the damage. As Rosen resumed the stand for direct questioning by Microsoft attorney Michael Lacovara, Jackson reminded Rosen that he was still under oath. Then, the judge turned to the attorney's podium and said, ''Mr. Lacovara, it is always inspiring to watch young people embark on heroic endeavors.''

Testifying that archrival Netscape posed no significant threat to Microsoft in 1995, Rosen yesterday attempted to refute allegations that the Redmond corporation attempted to divide the market for Internet browsers with Netscape during a June 21, 1995, meeting.

* * * * *

By saying that he didn't consider Netscape a significant competitor before the meeting, Rosen was trying to build a foundation for his defense: If Netscape was not perceived as a competitor, then Microsoft couldn't possibly have been trying to divide the market for browsers with the Silicon Valley company's executives.

Rosen strongly denied the market-division allegation in written testimony. In particular, he was called to dispute the testimony of Netscape Chief Executive Jim Barksdale, the government's first witness, and other Netscape officials who were questioned before the trial.

Today he said Netscape officials first suggested the idea that a ''line'' be drawn between the underlying operating-system technology and what would run on top of that technology, such as an Internet browser.

But when Boies began his second round of questioning, Rosen had more difficulties. He testified that he had not received a copy of the Netscape browser software before the 1995 meeting. Shown a copy of an e-mail with Rosen asking another Microsoft executive for it, Rosen said that it turned out to be an early copy that did not install well.

Boies blew up: ''You don't remember that, do you, sir? You're just making that up right now.''

Rosen replied: ''No, sir. I remember it.''

Boies showed Rosen another e-mail. Rosen read it and replied, ''I stand corrected.''

* * * * *

''I remember thinking that Bill was probably wrong because Jim Barksdale was telling me that Netscape didn't intend to compete in this way,'' Rosen said. ''I probably had a better perspective than Mr. Gates did on Netscape's true intentions.''

Rosen testified that it was his understanding that Netscape did not want leadership for its Navigator browser on the Windows 95 platform, though he had written in a May 1995 memo that Microsoft should try to control Netscape.

Rosen worked hard to repudiate his own memo, which indicates he considered Netscape a threat. He said he had just joined Microsoft and the memo was a draft that contained errors.

On Page 3 of the five-page memo, Rosen wrote, ''Microsoft currently controls the base and the evolution of the desktop platform. The threat of another company—Netscape has been mentioned by many—to use their Internet WWW browser as an evolution based could threaten a considerable portion of Microsoft's future revenue.''

Boies asked: ''Did you believe that when you wrote it?''

Rosen said ''No, sir.'' He added, ''I don't know why this is surprising. I wrote this down to discuss this with others to find out what my ideas looked like compared to others. This was a draft document.''

Boies and Rosen continued to tangle over the memo, which Rosen acknowledged he wrote but repeatedly said he never sent.

''If you want me to comment on a draft memo that was never set,'' he said, ''I don't know how fair it is.''

Replied Boies: ''You might understand how someone reading this might believe you meant what you wrote.''

Said Rosen: ''Yes.''

After a lunch break, the government showed Rosen a document from Preston, Gates & Ellis showing that the memo was produced from the files of Microsoft executive Ben Slivka. Rosen acknowledged he must have sent it ''at the very least'' to Slivka.

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[From the New York Times, February 27, 1999]

MICROSOFT RESTS ITS CASE, ENDING ON A MISSTEP

(By Joel Brinkley)

After more than five months of testimony, the Microsoft Corporation rested its case today in the Government's landmark antitrust suit, but not before the presiding judge had shouted angrily at the company's final witness and ordered him to stop talking.

* * * * *

John Warden, Microsoft's lead trial lawyer, acknowledged that others believed that the Government had ''succeeded in undermining our witnesses.'' But he called this a desperation tactic. ''When you don't have the laws or the facts, you try credibility, and that's what I think has driven them to this strategy.''

David Boies, the Government's lead trial lawyer, who has tripped up and embarrassed most of Microsoft's witnesses, said he believed that casting doubt on witnesses' credibility was not all that had been achieved.

''They've admitted monopoly power,'' he said. ''They've admitted the absence of competitive constraints. They've admitted raising prices to hurt consumers. They've admitted depriving consumers of choice.''

In the witness box today, Robert Muglia, a Microsoft senior vice president, tried to put the best face on his company's relationship with Sun Microsystems, the creator and owner of the Java programming language. The Government charges that Microsoft tried to sabotage Sun because it saw Java as a competitive threat.

Mr. Muglia, who said Microsoft's relationship with Sun was his responsibility, repeatedly asserted that Microsoft was interested in cooperating with Sun. But Mr. Boies presented numerous E-mail messages and memos from senior Microsoft executives, saying in one manner or another that they wanted to defeat Sun.

The combined effect of the memos was to leave the impression that if Mr. Muglia was to be believed, he was either out of touch or naive. And his continued defense of his position, even in the face of a contradictory E-mail from William H. Gates, the company's chairman, set off the judge.

In May 1997, Mr. Gates wrote: ''I am hardcore about NOT supporting'' the latest version of Java. Messages in the same string of E-mail from other senior executives made the same statement, but with exclamation points and expletives.

Yet Mr. Muglia tried to make the case that Mr. Gates had not really meant what he wrote, adding, ''I don't exactly know what Bill meant by support.''

At that, Judge Thomas Penfield Jackson, who is hearing the case without a jury, shook his head and interrupted with an irritated tone, saying: ''There's no question he says he does not like the idea of supporting it. Let's not argue about it.''

* * * * *

Earlier, Mr. Boies had showed him a Microsoft memo setting out the company's strategy on Java. The first line was ''Kill cross-platform Java by growing the polluted Java market.'' Sun and the Government accuse Microsoft of creating its own ''polluted'' version of Java to undermine Sun's version. Microsoft argues that its version is better.

* * * * *

This morning Microsoft's lawyer was questioning the preceding witness, Joachim Kempin, a Microsoft vice president, prompting him to list the modifications Microsoft was not allowing computer manufacturers to make to its Windows operating system. A year ago, the company forbade most or all such changes, which contributed to Federal antitrust charges.

Judge Jackson interrupted the questions to ask in an even tone: ''Are all these rights manufacturers now possess a matter of sufferance and grace on the part of Microsoft, or are they expressly written into the contracts?''

Mr. Kempin said some were granted in personal letters to the companies, others in phone conversations—not in contracts.

''So you have chosen to waive or give up certain rights you have in your contract?'' the judge said.

That's right, Mr. Kempin said. The judge's questions appeared to mirror the Government's assertions that Microsoft's new generosity to manufacturers could be temporary—lasting only as long as Microsoft's previous behavior is the subject of antitrust charges.

* * * * *

Mr. HATCH. Mr. President, I urge my colleagues to read them if they have not already done so. These articles set forth but a few examples of Microsoft's unfortunate actions that have manifested in what has been several months of missteps and embarrassments for the company.

The trial is not over. The case is just suspended until the week of April 12, when the court will reconvene for probably several weeks of testimony from rebuttal witnesses. But Microsoft and its defenders have again begun their public relations efforts here in the Senate.

Just last Friday, my friend, the distinguished senior Senator from Washington, Senator GORTON, took the floor to again defend Microsoft, and attack the Antitrust enforcers and me for questioning Microsoft's actions. I have said before and will say it again: Microsoft is not above the law. The facts and the law should and will prevail regardless of Microsoft's public relations campaign, its ill-advised lobbying efforts, and its muddled defenses.

I had been surprised to read several weeks ago that Senator GORTON, in a February 9 press conference, ''vowed to use his influence as a member of the Appropriations Committee to cut funding for the Justice Department's antitrust division.'' I and several concerned Senators wrote to Senators GREGG and HOLLINGS and argued that a move to cut the Division's funding without justification could be perceived by many as interfering with an ongoing litigation.

I was pleased to hear that my colleague has apparently conceded that trying to cut DOJ's funding would be unwise. However, he has now properly downsized his ambition and is now advocating not increasing the Antitrust Division's budget by the amount the Administration has requested.

I am not yet convinced that the Antitrust Division has fully justified its request for a substantial budget increase. In fact, I believe the Congress should work with the Administration to examine whether we should adjust the Hart-Scott-Rodino value thresholds in order to ensure that the Department's merger reviews take into account inflation and the true economic impact of mergers in today's economy. Attorney General Reno has pledged to work with me on this, and I look forward to working with any of my colleagues who may have an interest in this issue. In this age of precious resources, we will be looking closely at the Antitrust Division's budget and operations, and making sure that any reasonable budget increase is justified.

A final point. My friend and Senator from Microsoft's home state has publicly stated that a number of companies across the nation, including some in my state of Utah, work with Microsoft and would be hurt by the current antitrust litigation against Microsoft. I don't know if they will be hurt, but what I do know is that there are many high technology companies and millions of consumers in the States of Washington, Utah and across the nation that would be harmed by any anticompetitive act of Microsoft.

In fact, we heard testimony before the Judiciary Committee from one Seattle, Washington-based company, Real

Networks, describing how Microsoft's anticompetitive conduct crippled their technology and hurt the company, although I have to say Real Networks has been doing very well ever since because of their fascinating innovations and the tremendous abilities that they have in this field. However, if violations of the antitrust laws are not pursued against powerful companies like the Microsofts of the world, as the Senator from Washington suggests, many of the technology companies, not to mention the consumers, in the states of Washington, Utah and all across the nation, will suffer. Mr. President, the survival of these companies means jobs, it means innovation, it means competition in the digital market, and it means the availability of consumer choice.

I just hope that Microsoft can learn from its mistakes in court and its earlier mistakes here in Congress. Frankly, some of their efforts here have reminded me of those who would tie themselves to railroad tracks and wait for a train to come just to make a point. Microsoft's misguided legal and legislative advice has not helped its case to date, and I would hope, for Microsoft's case, that they would not initiate a foolish political protest which could leave them even more damaged than they are now. Frankly, I don't think this train is going to stop.

Mr. President, I yield back the remainder of my time and turn the floor over for my dear friend from South Carolina.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from South Carolina is recognized.

Mr. HOLLINGS. I thank the distinguished Chair and my distinguished colleague for setting aside this particular time.

(The remarks of Mr. HOLLINGS pertaining to the introduction of S. 605 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. KYL). The distinguished Senator from Idaho is recognized.

PRIVILEGE OF THE FLOOR

Mr. CRAIG. Mr. President, I ask unanimous consent that Kristine Svinichi, a congressional fellow in my office, be granted the privilege of the floor for the duration of the discussion on the Nuclear Waste Policy Act of 1999.

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

Mr. CRAIG. Mr. President, I ask unanimous consent to proceed in morning business for up to 10 minutes.

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

(The remarks of Mr. CRAIG pertaining to the introduction of S. 607 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

(The remarks of Mr. CRAIG, Mr. MURKOWSKI and Mr. GRAMS pertaining to the introduction S. 608 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

(The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 609 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

SOCIAL SECURITY FOR THE 21ST CENTURY

Mr. BUNNING. Mr. President, I rise today to make my maiden speech on the floor of the Senate. It is about a subject near and dear to me, protecting and strengthening Social Security for this generation and the next.

In the other body, I served on the Social Security Subcommittee for 8 years. Over the last 4 years, I had the privilege of being the chairman. It was the most satisfying task I have had since coming to the Congress. In the subcommittee, we held numerous hearings over the past several years on Social Security reform and how to tackle the looming problem that will be facing us in the next century.

I have already introduced my own personal Social Security reform bill. It is called The Social Security for the 21st Century Act. Basically, Social Security reform is a two-sided coin. The first side of the coin is that we must guarantee the benefits that have been promised our older workers, workers who have paid into the program for years. We must assure them that their investment is safe and their benefits will always be there when they are needed.

The second side of the coin is that we have to find a way to give younger workers a reason to believe in the program, a reason to believe that they will get a reasonable rate of return on the money they invest in Social Security taxes throughout their working careers.

My bill focuses primarily on the second side of the coin. It gives taxpayers a one-time, voluntary option to set aside a small portion of their income that they have to pay into FICA taxes, and to invest this money in their own retirement security account.

The Social Security for the 21st Century Act enables them to begin by investing just 2.5 percent of their FICA taxes each year, and slowly increasing this amount by 2.5 percent annually over 20 years until eventually taxpayers can invest one-half of all of their FICA taxes in their own personal retirement security account. In return for choosing to set up a retirement security account, a taxpayer would agree to a 50-percent reduction in Social Security benefits.

The most important point about my bill is that it is voluntary, not mandatory. It gives people a choice, and it does not force them to do anything they do not want to do. If they are satisfied with what they have now, they can keep their benefits simply by doing nothing. But, if taxpayer-investors elect to set up a retirement security account, they would be able to manage their investment just like the Government workers do today in the successful Federal employee Thrift Savings Plan. Investors would have the additional choice to stop investing, but they could not do it again later on. They couldn't choose to come back.

They would have at least five options for investing their money. They could elect to put their money into a number of investments: stocks, fixed income, Government securities—whatever best meets their needs. There would be an annual open season so they could adjust their portfolios. In short, this would give Americans more control over their futures, and enable them to harness the power of markets and the miracle of compound interest.

Now, I know that many Americans, especially older taxpayers, might not want to make any changes at all to Social Security. We should respect that. They have been promised their benefits for years and they have relied on that in good faith. That is the second side of the coin. To protect these folks, and our most vulnerable citizens, my legislation guarantees the Social Security safety net. It does not raise the retirement age, it does not cut benefits, and it does not cut COLAs.

But I think that many workers, if given a choice, would opt to set aside some of their money and invest it in a retirement security account. Based on our experience with the Thrift Savings Plan, I think it would be a significant step towards stronger financial security for all Americans.

The TSP has been a great success for Federal workers. Over the past 10 years, the three investment choices available to workers in the TSP have average annual rates of return of 17.5 percent, 8.5 percent, and 7.6 percent.

That means the worst performing of these three funds, the G fund, which invests strictly in Government securities, has returned over 7 percent annually to investors. That compares very, very well to the 2 to 3 percent annual return that most Americans get for

their money that they pay into Social Security. Compounded over decades, the differences in the rates of return are staggering.

Under my bill, taxpayers will own their own retirement secured accounts, and they, not the Federal Government, can control how their money is invested. My legislation follows the scrupulous conflict of interest rules that have worked well for the TSP to make sure that Government cannot vote shares of stock or manipulate markets. Best of all, withdrawals from this retirement secured account will be tax free, because we should not need to penalize Americans who successfully plan for their retirement.

Congress has wisely moved in recent years to help retirees keep more of their own money. Social Security reform must continue that trend. I believe Social Security reform must be voluntary. It should give taxpayers more, not fewer, investment choices, and it must protect the most vulnerable Americans who are counting on these benefits. It is important to bring as many ideas to the table as possible as part of a national dialogue about Social Security reform. These are the principles I have tried to follow in writing this bill, and I will work with anyone on my legislation and on any other proposals to improve the Social Security system.

Mr. President, we have a golden window of opportunity now to reform Social Security. Our economy is the strongest it has been in decades. We have a budget surplus to give us some flexibility in making difficult decisions. Now we have to find the political will. It is a challenge we must meet.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, on behalf of Senator DURBIN, I yield myself such time as I may consume.

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

DELAY IN CAPITOL VISITORS CENTER

Mr. REID. Mr. President, I didn't know Jacob Chestnut, but I did know Detective John Gibson, as a result of an unfortunate incident with a member of my family. Officer Gibson reacted in a very valiant way on something a couple months before he was murdered last July in this Capitol complex.

Jacob Chestnut and John Gibson, about 9 months ago, were murdered. They were murdered when an assailant went through a door, shot both of them, killed both of them, and was after other people as well. The Presiding Officer, being a physician/surgeon, was on the floor and rendered great aid and assistance to others who were injured, for which we are all grateful. After that tragedy, many of us stood on this floor and talked about the need to do something to stop these incidents in the future.

Mr. President, I look at this in a number of different ways. I look at it as someone who knows what a valiant man John Gibson was and, of course, I am sure Officer Chestnut also; I just did not know him on a personal basis. I approach this on the basis that I am a Senator and have some responsibility for this Capitol complex. I approach it as a person who is concerned about my staff and the visitors who come to this complex being safe and secure.

I approach it also as a former Capitol police officer. I have great empathy and great understanding, I believe, for what police officers go through in this facility. What we talked about last year, after this incident, is that finally, after more than a decade, we were going to do something to create a visitors center in the east plaza. In this beautiful Capitol complex, we have a big parking lot; we have asphalt. We have talked about having a nice grassy area, as well as an underground area where people can come and enter the Capitol.

Now, if people want to come and take a tour through the Capitol, they stand out on the east plaza, on that asphalt. No matter the temperature, it can be 5 degrees below zero, they still stand out there. There is no place else for them to go. If it is 100 degrees, like it gets here in August, they still stand out there. There is no place else for them to go. There is no place for them to get a drink of water. There is no place for them to go to the bathroom. They stand out on the asphalt waiting to come through the Capitol.

After the unfortunate murders of these two police officers, we talked about how we were going to do something. We immediately authorized a bill to allow construction of this facility. After that was done, we appropriated money to initiate the planning of this visitors center. In fact, we are no closer to completion of this facility today than when these two officers were gunned down by this man, this terrorist.

We need to move forward with this effort. However, we have created a bureaucratic nightmare. We have four or five committees and subcommittees which have jurisdiction over how it is going to be constructed, when it is going to be constructed, and who is going to be constructing it, in what manner it is going to be constructed. We have heard lately that other committees want to get involved. We do not have enough now. We want to add some more.

I say, as a member of two committees that are talking about this, out of the three or four that are involved, I think we should get on with the business at hand. I understand the need for oversight, I understand very much, but there comes a time when we have said enough and we must move forward to do what we have to do.

This is not a waste of taxpayers' money. If we have this beautiful facility, not only will it be a convenience for the public but it will be a safety factor, because it will give a way to funnel people in this Capitol so that proper measures can be taken to find out if they are carrying weapons or bombs or anything else that could be of danger to the people inside this facility. In addition to that, it will be a place where people can go to the bathroom and escape from the elements. It will probably be set up so that there will be places for them to eat. In effect, it will be a place where there will be revenues gained from this facility. We owe this facility to the two officers who were gunned down 9 months ago, we owe it to our staffs, for we, as Members, are responsible for their safety and security. We owe it to the millions of people who come to this facility on a yearly basis. We are very proud of this U.S. Capitol; all Americans are. We should be able to come to this Capitol without fearing for our safety.

For more than 10 years, well before last year's tragedy, there had been a lot of talk about building a Capitol complex visitors center, but it has only been talk. It is about time we turn this talk into action, for the good of the country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Ms. LANDRIEU. Mr. President, I ask unanimous consent that I be able to speak for 10 minutes.

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

Ms. LANDRIEU. Thank you.

NEED FOR A VISITORS CENTER

Ms. LANDRIEU. Mr. President, I came to the floor to speak for a moment of personal privilege, but I heard my colleague from Nevada speaking about the need for a visitors center. I would like to add my support for his calling for us to resolve whatever difficulties there may be and try to get this visitors center constructed for all the good reasons he outlined.

There are millions and millions of young people and adults who come to this beautiful building. This really is the people's house. There really is no place for them to rest and to have a refreshment and to get someplace away from the hot Sun. The lines are quite long.

For all the reasons he laid out in his few minutes, I add my voice to how important I think it is for us to get on with the business of a visitors center for this Capitol.

TRIBUTE TO REVEREND AVERY C. ALEXANDER, STATE HOUSE REPRESENTATIVE FROM LOUISIANA

Ms. LANDRIEU. Mr. President, I come to the floor today to rise for a moment of personal privilege on behalf of myself and Senator JOHN BREAUX to note with great sadness the passing of a leading citizen of my hometown, New Orleans, LA, our State representative, Rev. Avery C. Alexander, a community and civil rights leader for many decades who passed away in New Orleans last Friday at the age of 88.

Reverend Alexander, or ''the Rev,'' as he was referred to by all of his many, many, many friends, was the son of a sharecropper from Houma, LA, and rose to prominence in the 1960s civil rights struggle. From the streets of New Orleans where he ''shouted out'' for the voiceless, to the halls of Baton Rouge where he fought for better schools, civil rights, and a more inclusive economy, ''the Rev'' stood tall.

When I was considering running for the legislature many, many years ago at the ripe old age of 23, my father rightfully advised me to meet with a small group of leaders to ask for their input and their ideas and their counsel.

The first person to show up at our home on that day was ''the Rev.'' Once I was elected to the legislature, he helped me understand the political process from the inside as well as the outside. I will always be grateful for his early advice and counsel, and so will the thousands of others who have benefited from his encouraging words, his fighting spirit and determination to make this world a better place for all.

Reverend Alexander was a person who always managed somehow to rise above the man-made limitations placed on him, and he succeeded triumphantly.

It was Margaret Mead who said, ''Never doubt that a small group of thoughtful, committed citizens can change the world.'' In fact, she said, it has never been done any other way. ''The Rev'' knew that and lived that until the day he passed. Many times, he alone was that small group, and he did, in fact, change our world for the better.

He worked as a laborer and a longshoreman—before he was a member of the legislature—while continuing his education at night. When he witnessed the unfair treatment of dock workers, he became active in the labor movement on the waterfront in New Orleans.

As a lifelong member of the NAACP, he championed the cause of antidiscrimination, voter registration, and citizen review of police brutality and misconduct.

He participated in the now famous march from Selma to Montgomery alongside the Rev. Martin Luther King, Jr. In 1956, Reverend Alexander was arrested and dragged up the steps from the basement of city hall while attempting to integrate the public cafeteria in that building.

In 1992, he established a nondenominational ministry founded on the principle of ''helping all people.'' Reverend Alexander was elected to the House of Representatives in 1975 and remained an active and effective member until his recent death.

As dedicated as he was to advocating civil rights for African Americans, he was equally dedicated to standing up for the rights of women. His words of encouragement throughout the years were in no small part responsible for helping me become the first elected woman Senator from Louisiana.

As a strong believer in higher education, he continued his own personal education at Xavier University, Southern University, Tulane University and the Union Theological Seminary and the University of New Orleans. Reverend Alexander also served as chaplain for many, many years of the Louisiana legislative black caucus, on the National Board of the Southern Christian Leadership Conference and was a delegate on three separate occasions to the National Democratic Convention.

Mr. President, the citizens of New Orleans and the State of Louisiana have lost a dear friend. Many young leaders in our State and throughout the country have lost a great mentor, and the American people have lost a great civil rights leader. He will be missed. God bless his family, especially his daughter Cheryl, his brother Lymon and all the grandchildren and great grandchildren. We today commend him to you, dear Lord, in your eternal care.

Thank you, Mr. President. I yield back the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

(The remarks of Ms. COLLINS pertaining to the introduction of S. 617 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

UNITED STATES POLICY TOWARD THE PEOPLE'S REPUBLIC OF CHINA

Mr. THOMAS. Mr. President, as the Chairman of the Subcommittee on East Asian and Pacific Affairs, I come to the floor today because I believe that the time has come for a thoughtful and critical re-examination of United States policy towards the People's Republic of China.

There had been encouraging developments in China in the past two years. China has begun tackling the staggering job of reforming an antiquated command economy and opening it to private enterprise; and have begun to move the military out of the private sector. They've taken this difficult step even though they know it will result in the displacement and unemployment of literally millions of people. In addition, the government has greatly increased the number of democratic elections taking place at the village level throughout China. And Beijing has, for the most part, avoided interfering in Hong Kong affairs now that it is again a part of the PRC

But Mr. President, despite these improvements, I cannot ignore the fact that for every step China has taken forward, it appears to have also taken one or two back. And a bilateral relationship that 10 months ago looked as though it were showing improvement is instead, I believe, headed down a rocky road.

FOR EXAMPLE: NUCLEAR AND TECHNOLOGY TRANSFER

Recent press reports have indicated that over the span of the last several years there have been damaging leaks to the Chinese of sensitive United States nuclear technology which has enabled them to advance their own nuclear program. The exact facts of the case are still unclear, and I am sure will be the subject of intense Congressional scrutiny in the months ahead, but what is clear to me is that there is a credible foundation for the accusations and that they are not, as the Chinese would have us believe, the figment of some supposed ''anti-China'' media bias. My examination of the Cox report leads me to the identical conclusion with regards to the transfer and acquisition of satellite technology.

Now it would naive to deny that espionage is a fact of geopolitical life, or that countries act in their own best interests; we should neither be shocked nor appalled that it goes on. But still, China's willingness to systematically circumvent our laws and acquire over the last several years—by stealth or otherwise—nuclear and computer technology is troubling to me, and demonstrates a willingness to take advantage of our relationship when possible.

TAIWAN

After a long-standing chill in relations across the Taiwan Straits, during which the two sides failed to carry on even basic dialog, things had begun looking up lately. The two sides resumed direct meetings last year, and the head of the Taiwanese department that oversees cross-straits affairs visited Beijing a few months ago; his PRC counterpart, Wang Daohan, has agreed to a return visit to Taipei in the near future.

Recently though, there have been some signs that things might turn chilly again. In the last several months, the PRC has relocated a number of its missiles from the interior of the country to Fujian, Zhejiang, and Guangdong Provinces—the three provinces directly across the Straits from Taiwan. Moving so many missiles into these coastal provinces is clearly meant, and understood, to send one signal to Taiwan. Remember, Mr. President, that it was from these provinces

that China launched a series of ''missile tests'' just north and south of Taiwan during its 1996 presidential elections which effectively blockaded the ports of Kaoshiung and Taipei and which we felt were threatening enough to require the movement of part of the 7th Fleet to the Straits.

The movement of those missiles, and the not so veiled threat that accompanies them, can only prove to be another destabilizing effect in the region. Accompanied by rather bellicose statements in the last two weeks by PRC Foreign Minister Tang Jiaxuan which pointedly omitted any promise to rule out the use of military force to achieve the reunification of Taiwan with the PRC, Taiwan cannot be faulted for feeling that the threat against it from the mainland has increased; nor can it be faulted for feeling the only way to protect themselves from that threat is to explore participating in the discussions about establishing a theater missile defense (TMD) system in East Asia.

In reaction to the TMD discussions, last week Beijing started a media blitz charging that any Taiwanese participation in a TMD ''would be the absolute last straw'' is US-PRC relations, and have threatened a series of serious—albeit unspecified—retaliatory steps. Yet China completely overlooks the fact that their missile movements have, in great measure, precipitated Taiwan's interest.

TIBET

Yesterday was the 40th anniversary of the beginning of a failed Tibetan uprising against Chinese occupation of their country—an uprising that was brutally suppressed. And which resulted in the death, arrest, or imprisonment of more that 87,000 Tibetans. It is unfortunate that since that time, the core position that China has vis-a-vis Tibet has changed very little.

Despite a sincere ongoing effort on the part of the Dalai Lama to engage the PRC in a dialog about the future of Tibet, the Chinese have repeatedly refused to meet with the Dalai Lama or his representatives to discuss the issue. Each time Beijing has placed preconditions on the commencement of those talks, and the Dalai Lama has acceded to those conditions despite their unpopularity among his people, the Chinese have effectively moved the goalposts. For example, the Dalai Lama has agreed to negotiate within the framework enunciated by Deng Xiaoping in 1979; namely, that he does not seek independence for Tibet but rather the opportunity for Tibetans to handle their domestic affairs and freely determine their social, economic, and cultural development. Once he acquiesced to that position, however, Beijing apparently decided that Deng's framework was no longer sufficient.

Most recently, during his meeting with President Clinton last year, Jiang Zemin suggested he would meet with the Dalai Lama if the latter would recognize that Tibet and Taiwan are a part of China. His Holiness subsequently made a statement to that effect. But then the Chinese said that ''he is not sincere'' in his statement—that the Dalai Lama is lying—and therefore still refuse to negotiate with him.

And in the meantime, China continues to do all it can to squelch the Tibetan identity. Large numbers of ethnic Han Chinese are still being moved into Tibet in an apparent effort to make Tibetans a minority in their own land. Buddhist monks and nuns are imprisoned, and monasteries closed or their populations severely reduced. The government continues to manipulate and direct the selection of religious leaders more agreeable to the party line.

When confronted with these facts, the Chinese are fond of sidestepping them and noting that the life of the average Tibetan —from a health and economic standpoint—is better than it was before they took over. That may be. But that isn't the issue. The issue is whether the Tibetan people are free to worship as they please. Whether they are free to express their cultural and ethnic identity. Whether they are free to determine their futures for themselves. And at present, the answer to those questions is a simple no.

HUMAN RIGHTS

There has been a disturbing increase in the last six months in government crackdowns on the freedom of expression, as evidenced by a sharp increase in the number of arrests and convictions of prodemocracy advocates. In addition, the government has shut down fledgling prodemocracy organizations, and sought to curb Internet use and access.

I believe I understand, although I certainly in no way condone, the impetus behind the crackdown. As I noted earlier, China has recently embarked on a program to restructure its economy along free-market lines and to open itself more to the world around it. These changes could be viewed as potentially destabilizing for a communist regime which controls over 1.2 billion people. President Jiang admitted as much at the end of last year when he characterized government actions as necessary ''to nip those factors that undermine social stability in the bud.''

As with other campaigns in China's recent past, such as the ''Let 100 Flowers Bloom'' campaign, when this latest openness campaign took hold and began to accelerate, the central authorities got overly anxious about their ability to control the pace of reforms and about it getting out from underneath them and unleashing democracy. They have thus, true to form, begun slamming on the brakes and stifling any dissent, real or perceived.

But in doing so, the Chinese are blatantly flouting international norms and agreements to which they had previously pledged to adhere among them the UN Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Cultural, and Social Rights. And in doing so, the Chinese are turning their backs on us and an issue that is of central importance to us.

NORTH KOREA

As a participant in the Four Party Talks in Geneva, China has helped facilitate getting North Korea to the negotiating table in an attempt to stabilize the Korean peninsula. But while purporting to assist us on the one hand, despite United States requests the Chinese are still not doing all they could—or in their own best interests should—do to defuse the potential powder keg that is North Korea.

Beijing's initial response is to say, as Foreign Minister Tang did this week, that we are overestimating the potential threat North Korea poses to the region. But to anyone with even a passing familiarity with the issue, North Korea is probably the number one threat to peace and stability in all of East Asia. The Chinese fall-back position then is to say that they have no influence over the North that could be used to help us effectuate change. But China continues to supply the North, a country that is literally starving its own people to death to maintain its military and its political elite, with food and technical goods, and serves as its only source of aviation fuel. In fact, it was reported last week that China has supplied the North with missile technology. All those seem to me to be potent incentives that could be used to influence the actions of the North, but which are pointedly not being taken advantage of by the Chinese.

Mr. President, we have had a policy of ''engagement'' with China now for a number of years. I have, since I came to the Senate, generally supported the concept as the best way—in my view—to effectuate change in China. But as a supporter of the concept, I now have to look at the facts and ask what the payoff has been to us. Mr. President, this is what engagement has gotten us lately: a military buildup that seriously threatens Taiwan, a Chinese veto last month in the UN of a proposed peacekeeping operation in the Balkans, an upswing in the harsh suppression of internationally recognized human and political rights, a continuing refusal to address the question of Tibet, the undermining of United States efforts to deal with North Korea, a continuing effort to purchase or steal sensitive computer and nuclear technology from us, and a trade deficit that hit an all-time high this year.

At times, it has seemed to me that this Administration—one that ironically accused its predecessor of ''coddling Beijing''—has been more interested in the concept of engagement than in what results, if any, the application of that concept is achieving. Call it ''engagement for engagement's sake.''

The most glaring, and disturbing, illustration of that tendency may involve the allegations of leaks of nuclear technology from our facility at

Los Alamos to the Chinese which came to light this week. Regardless of when the leaks occurred, initial reports suggest to me that this Administration knew of the problem but soft-peddled it so as to avoid calling its China policy into question. A NSC spokesman recently refuted that allegation by saying that the Administration has kept the relevant committees of Congress closely informed of the problem over the last 18 months, and of what was being done to address it. Mr. President, I have been Chairman of the East Asia Subcommittee for more than four years now. No one from the Administration has ever mentioned it to me, or to my staff. Nor has anyone contacted the staff of the full Foreign Relations Committee, or Chairman HELMS' Asia advisors.

I believe it is time to take a step back—on both sides of the aisle—and give our China policy a very long, hard, critical look. Congress needs to take the lead in examining whether, in the Administration's eagerness to engage China, we have overlooked the fact that our return—an improvement in China's domestic or international behavior—has been negligible at best.

I am not advocating isolating China, or shutting off our contacts or dialog. I do not believe that we can bully or badger the Chinese into accepting our view of the world as the only one that is correct. Instead, I agree that we need to communicate with Beijing on a whole variety of fronts, to engage in open and frank dialog, and that because of its size, its economy, and its geopolitical importance we cannot, and should not, ignore them. But we need to take a look at the level at which that interaction takes place, and what we are willing to give up in exchange for that relationship. And we also need to look at what we want or expect in return.

Mr. President, our relationship with them should be grounded in reality, not in wishful thinking. And it should be a two-way street, not a one-way to a dead-end.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, today, March 15th, is the Ides of March for 1999. Like Caesar, Congress and the Administration are ignoring the one thing that has the potential to cripple our nation by crippling the booming U.S. economy—I am speaking of the Federal Debt.

While the political debate addresses the budget surplus, the balanced budget, and Social Security, it ignores the larger and lingering problem of the federal debt, and the lurking interest on the federal debt. Essentially, Mr. President, the forest cannot be seen for the trees.

Well, Mr. President, I am one who far prefers to examine to see the whole picture. If we continue to ignore the escalating debt and its enormous interest growing almost one billion dollars daily—just to pay the interest, mind you—then we will continue to risk economic bedlam down the road.

With these thoughts in mind, Mr. President, I begin where I left off Friday:

At the close of business, Friday, March 12, 1999, the federal debt stood at 5,653,581,734,840.04 (Five trillion, six hundred fifty-three billion, five hundred eighty-one million, seven hundred thirty-four thousand, eight hundred forty dollars and four cents).

One year ago, March 12, 1998, the federal debt stood at $5,529,750,000,000 (Five trillion, five hundred twenty-nine billion, seven hundred fifty million).

Fifteen years ago, March 12, 1984, the federal debt stood at $1,464,623,000,000 (One trillion, four hundred sixty-four billion, six hundred twenty-three million).

Twenty-five years ago, March 12, 1974, the federal debt stood at $469,792,000,000 (Four hundred sixty-nine billion, seven hundred ninety-two million) which reflects a debt increase of more than $5 trillion—$5,183,789,734,840.04 (Five trillion, one hundred eighty-three billion, seven hundred eighty-nine million, seven hundred thirty-four thousand, eight hundred forty dollars and four cents) during the past 25 years.

HATE CRIMES PREVENTION ACT OF 1999

Mr. LEAHY. Mr. President, I again urge prompt consideration and passage of Hate Crimes Prevention Act.'' I cosponsored this measure in the last Congress and do so again this year. This bill would amend the federal hate crimes statute to make it easier for federal law enforcement officials to investigate and prosecute cases of racial and religious violence. It would also focus the attention and resources of the federal government on the problem of hate crimes committed against people because of their sexual preference, gender, or disability.

As the Ranking Member of the Judiciary Committee, I look forward to working on hearings next month on this important initiative. Violent crime motivated by prejudice demands attention from all of us. It is not a new problem, but recent incidents of hate crimes have shocked the American conscience. The beating death of Matthew Shepard in Wyoming was one of those crimes; the dragging death of James Byrd in Texas was another. The recent murder of Billy Jack Gaither in Alabama appears to be yet another. These are sensational crimes, the ones that focus public attention. But there is a toll we are paying each year in other hate crimes that find less notoriety, but with no less suffering for the victims and their families.

It remains painfully clear that we as a nation still have serious work to do in protecting all Americans and ensuring equal rights for all our citizens. The answer to hate and bigotry must ultimately be found in increased respect and tolerance. But strengthening our federal hate crimes legislation is a step in the right direction. Bigotry and hatred are corrosive elements in any society, but especially in a country as diverse and open as ours. We need to make clear that a bigoted attack on one or some of us diminishes each of us, and it diminishes our nation. As a nation, we must say loudly and clearly that we will defend ourselves against such violence.

All Americans have the right to live, travel and gather where they choose. In the past we have responded as a nation to deter and to punish violent denials of civil rights. We have enacted federal laws to protect the civil rights of all of our citizens for more than 100 years. This continues that great and honorable tradition.

Several of us come to this issue with backgrounds in local law enforcement. We support local law enforcement and work for initiatives that assist law enforcement. It is in that vein that I support the Hate Crimes Prevention Act, which has received strong bipartisan support from state and local law enforcement organizations across the country.

When the Committee takes up the issue of hate crimes next month, one of the questions that must be addressed is whether the bill as drafted is sufficiently respectful of state and local law enforcement interests. I welcome such questions and believe that Congress should think carefully before federalizing prohibitions that already exist at the state level.

To my mind, there is nothing questionable about the notion that hate crimes warrant federal attention. As evidenced by the national outrage at the Byrd, Shepard, and Gaither murders, hate crimes have a broader and more injurious impact on our national society than ordinary street crimes. The 1991 murder in the Crown Heights section of Brooklyn, New York, of an Hasidic Jew, Yankel Rosenbaum, by a youth later tried federally for violation of the hate crime law, showed that hate crimes may lead to civil unrest and even riots. This heightens the federal interest in such cases, warranting enhanced federal penalties, particularly if the state declines the case or does not adequately investigate or prosecute it.

Beyond this, hate crimes may be committed by multiple offenders who belong to hate groups that operate across state lines. Criminal activity with substantial multi-state or international aspects raises federal interests and warrants federal enforcement attention.

Current law already provides some measure of protection against excessive federalization by requiring the Attorney General to certify all prosecutions under the hate crimes statute as being ''in the public interest and necessary to secure substantial justice.'' We should be confident that this provision is sufficient to ensure restraint at

the federal level under the broader hate crimes legislation that we introduce today. I look forward to examining that issue and considering ways to guard against unwarranted federal intrusions under this legislation. In the end, we should work on a bipartisan basis to ensure that the Hate Crimes Prevention Act operates as intended, strengthening federal jurisdiction over hate crimes as a back-up, but not a substitute, for state and local law enforcement.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Ms. COLLINS). Morning business is now closed.

NATIONAL MISSILE DEFENSE ACT OF 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 257, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 257) 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 bill.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Madam President, the National Missile Defense Act of 1999 will make it the policy of the United States to deploy an effective missile defense system to defend against a limited ballistic missile attack as soon as technologically possible. Today, American citizens are completely vulnerable to ballistic missile attack.

Last year, when the Senate debated similar legislation, some suggested that our bill was premature, that there was not yet any reason to suspect that we were confronted with a ballistic missile threat. Now, however, there is no disagreement about the nature of the threat. Consider these recent developments:

(1) In 1997, the Director of Central Intelligence said, ''Gaps and uncertainties preclude a good projection of when 'rest of the world' countries will deploy ICBMs.''

(2) Last year, both Pakistan and Iran successfully tested new medium-range missiles, each based in some degree on a newly deployed North Korean missile, the No Dong.

(3) Also last year, in July, the bipartisan commission headed by the former Secretary of Defense, Donald Rumsfeld, reported its unanimous conclusions that foreign assistance to missile programs was a pervasive fact and that new ICBM threats to the United States might appear with ''little or no warning.''

(4) A few weeks after the Rumsfeld report, North Korea launched the Taepo Dong 1, successfully demonstrating a multiple-staging capability, and using a solid-fuel third stage. According to the National Intelligence Officer for Strategic and Nuclear Systems, instead of having the expected 2,000-kilometer range, the Taepo Dong 1 can attack targets up to 6,000 kilometers away, which puts Alaska and Hawaii within its range. The Taepo Dong 2 is expected to be able to reach the entire United States.

(5) The Secretary of Defense announced in January that the ballistic missile threat to the United States was no longer in question. He said, ''We have crossed that threshold.''

These recent events have answered the question about the threat. The question today is whether we intend to defend ourselves against that threat. The National Missile Defense Act is the appropriate answer to that question. It will send a clear message—to our adversaries, our allies, and our own citizens—that the United States will not leave itself vulnerable to weapons of mass destruction delivered by long-range ballistic missiles.

Some may suggest instead a continuation of our old policy of mutual assured destruction. That was the policy of deterrence we used to deal with the threat from the former Soviet Union. Former Defense Secretary William Perry warned us about using this policy with a new class of rogue states that may be ''undeterrable'' in the sense that we understand that concept.

The fact is, we do not need to be at the mercy of a policy of mutual assured death or destruction. Assistant Secretary of Defense Edward Warner said in January,

I believe that we are unlikely to turn back to the point where we will rely only on deterrence. I think over time we will rely on a combination of deterrence by threat of retaliation and this limited type of national missile defense. . . .

The passage of this bill by the Senate will also send an important message to those who are working to develop our missile defenses. The development program has suffered from the lack of a commitment to deploy the system. No other acquisition program has been handled by the Defense Department without an endpoint of deployment to aim for and reach.

The National Missile Defense Act will put an end to this uncertainty by telling the talented people building this system that it will be put in the field just as soon as they can get it ready. The NMD contractor's program manager testified in the Armed Services Committee last month that passage of this legislation would be a major motivation for those building the system, saying, ''It would make them feel better about the mission they are being asked to carry out than any one thing I can think of [and that] people are much more motivated by knowing that the Government is truly behind this. . . .''

Finally, passage of this bill will tell America's citizens that its Government is meeting its first and most important constitutional duty—providing for the common defense. One legacy of the cold war may be the absence of a defense against a massive and deliberate strategic attack from the former Soviet Union. But vulnerability to attack by everyone who desires to threaten America does not have to continue, and our Government would be irresponsible if it were to let it continue.

Madam President, there is no purpose in this bill other than to clearly establish, as a matter of policy, that the United States will deploy, as soon as technologically possible, an effective national missile defense system which is capable against limited threats. There are no ulterior motives, no hidden goals; there is only an intent to correct a defense policy that leaves us vulnerable to a serious and growing threat.

On the subject of missile defense, there are other things the Senate could legislate, such as system architecture, schedule, costs, or ABM Treaty issues. These issues will have to be dealt with in due course. But none of them has to be resolved in this bill, and we should not let this legislation become an effort to answer all of the questions related to missile defense.

The question this bill addresses is not a simplistic one, as suggested by an administration spokesman; it is more fundamental: Will we, or will we not, commit in a meaningful way to defending ourselves against limited ballistic missile attack? Will we tell the world the United States will not be subject to blackmail by ballistic missile? Will we tell our citizens they will not be hostages to the demands of those nations who seek to coerce the United States?

We have heard many statements made to reassure us about the willingness of the United States to defend itself, but there is always an ''if'' attached—''if'' the threat appears, ''if'' we can afford it, ''if'' other nations give us their permission. With all of these ''ifs,'' these qualifiers, we should hardly be surprised that the world doubts the United States is serious about defending itself from ballistic missile attack. And no one should be surprised that, in the face of this doubt, the threat continues to grow.

The National Missile Defense Act of 1999 will put an end to those doubts. It will tell the world that there is no question of ''if,'' and as soon as it is able, the United States will deploy a system to defend itself against limited ballistic missile attack. I urge all Senators to support this bill.

AMENDMENT NO. 69

(Purpose: To clarify that the deployment funding is subject to the annual authorization and appropriation process)

Mr. COCHRAN. Madam President, to make it crystal clear that this legislation is a statement of policy and not an effort to circumvent legislative and appropriations committees of jurisdiction, I send an amendment to the desk and ask that it be stated.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself, Mr. INOUYE, Mr. LIEBERMAN, and Mr. WARNER, proposes an amendment numbered 69.

On page 2, line 11, insert before the period at the end the following: ''with funding subject to the annual authorization of appropriations and the annual appropriation of funds for National Missile Defense''.

Mr. COCHRAN. Madam President, I will state for the RECORD that the cosponsors of the amendment are Senators WARNER, LIEBERMAN, and INOUYE.

Madam President, I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I share the goal of providing the American people with effective protection against the emerging long-range missile threat from rogue states.

I support developing an operationally effective, cost-effective limited national missile defense, and making an effort to negotiate with Russia, for a reasonable period of time, any appropriate modifications to the Anti-Ballistic Missile Treaty that might be necessary to permit deployment of a limited national missile defense system. That is why, Madam President, I support the Defense Department's National Missile Defense Deployment Readiness Program to develop a limited NMD system to protect the United States against such a developing threat.

But that is not what this bill before us does.

This bill says we are going to deploy a national missile defense system ''as soon as technologically possible.'' No other factors are to be considered. Don't consider if the system is operationally effective.

Those are important words to the military, ''operationally effective.'' But we are not supposed to consider that under this bill.

Don't consider if it is cost-effective. Don't consider whether it ends the elimination of thousands of nuclear weapons in Russia under the START process. Don't consider whether it increases the threat of the proliferation of these terrible weapons to rogue states interested in getting them by any means possible. This bill says to heck with all of these considerations—we are going to deploy a national missile defense system as soon as it is technologically possible, no matter whether it is operationally effective, no matter if it increases the threat of proliferation of nuclear weapons, no matter what it costs.

The fundamental question that we should ask ourselves is whether passing this bill will make us more secure or less secure.

That is truly the fundamental question that all of us must address.

I agree with the President's senior national security advisors that enacting this bill will make us less secure. It puts at risk our decades-long efforts to reduce strategic offensive nuclear weapons in Russia and increases the likelihood that these weapons will proliferate to rogue states.

CONCERNS OF THE UNIFORMED MILITARY

And where is the support of our uniformed military leaders for this bill, Madam President? The answer is, there isn't any. I have not heard any of our senior military leaders say they support this legislation. Our military leaders tell us that we are not ready yet to make a decision to deploy a national missile defense system. They are worried that if we make a hasty and headlong rush to deployment, we will be less able to deal with other very real—and unfortunately more likely—threats to our security, including the proliferation of weapons of mass destruction and their use by terrorists.

General Shelton, the Chairman of the Joint Chiefs of Staff, testified before the Armed Services Committee in January that the decision to deploy a national missile defense system should be made only after considering a number of critical factors:

There are two aspects of the National Missile Defense [issue] that we have to be concerned with. No. 1 is: is the technology that allows us to deploy one that is an effective system, and within the means of this country money-wise? Second is the threat and whether or not the threat, when measured against all the other threats that we face, justifies the expenditure of that type of money for that particular system at the time when the technology will allow us to field it?

Right now it is not a matter of whether or not we should field one because the technology has not reached the point that we have the capability. It is a 12-year system that we have been trying to do within 3 years. It is a high risk program which has yet to prove that we will be able to make a bullet hit the bullet. Certainly we need to continue to pursue this technology, and DOD has that within their program right now to pursue it. They are also putting money into the program so that at the time that we have the technology, that if in fact the threat justifies it, then we in fact could go ahead with the fielding. If not, then we need to continue with the R&D that will develop a system that could provide missile defense.

Listen to just a few of the factors that General Shelton says that we ought to be concerned with; that is, that the technology, one, is effective. Is it within the means of this country moneywise? Assess the threat. Measure the threat against all the other threats that we face, and then see whether or not that justifies the expenditure of that type of money for that particular system at the time the technology will allow us to field it. And he points out that it is a high-risk program.

Lieutenant General Lester Lyles, the Director of the Ballistic Missile Defense Office, made similar points in January:

We've always stated within the National Missile Defense program that a decision to deploy is based essentially on four basic things. One, whether or not we have a valid threat; two, whether or not we have the right amount of dollars budgeted for deployment; three, whether the issue with the treaty has been addressed; and four, are we technically ready, is the technology ready in order to make such a decision and to support the deployment.

That is the Director of the Ballistic Missile Defense Office who says four basic things must be considered. This bill considers one. Is it technologically possible? The Director of the Missile Defense Office in charge of this program, who surely is interested in securing this Nation as much as anybody against an attack, says there are four factors that need to be considered.

General Lyles says that these four factors are essential. At least we surely should not limit General Lyles, General Shelton, and the Secretary of Defense to considering the sole criterion of ''technologically possible,'' as this bill does.

The Joint Chiefs have expressed reservations about the commitment now to deploy a national missile defense system; they have raised these concerns in many ways and at many times.

Last September, Army Chief of Staff General Dennis Reimer told the Armed Services Committee: ''I think we need to have something that's practical; has a degree of success. I think it also has to be balanced against other priorities.''

The question of other priorities—other threats—is a major concern of the Joint Chiefs. In an interview last month, General Shelton pointed out: ''There are other serious threats out there in addition to that posed by ballistic missiles. We know, for example, that there are adversaries with chemical and biological weapons that can attack the United States today. They could do it with a briefcase—by infiltrating our territory across our shores or through our airports.''

Does the bill we are debating today address any of these concerns raised by our senior military leaders? The answer is, Madam President, it does not. And that is one of the many reasons we do not see our senior military leaders supporting this bill.

If this legislation would advance—even by one day—the development of an operationally effective and cost effective NMD system suitable for deployment, then maybe our military leaders would support it. But this bill doesn't do that.

It doesn't advance by one day the development of an operationally effective, cost-effective national missile defense system.

The bill simply says that we are going to deploy a national missile defense system as soon as it is technologically possible, without regard to operational effectiveness, without regard to cost, without regard to the impact on nuclear weapons reduction in Russia, without regard to proliferation of nuclear weapons that could result. If this legislation said that we should stop any further reductions of nuclear weapons on Russian soil, I do not think many Members of this Senate would support it.

That may not be what the language of this bill says, but that will be the likely outcome of the policy in this bill. And here is why. At the Helsinki summit on March 21, 1997, President Clinton and President Yeltsin issued a joint statement on the ABM Treaty, on the Anti-Ballistic Missile Treaty, which began as follows:

President Clinton and President Yeltsin, expressing their commitment to strengthening 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, consider it their common task to preserve the ABM Treaty, prevent circumvention of it, and enhance its viability.

That is a summit statement. That is not some casual comment to a reporter. That is a joint statement that was issued at the highest level by the two Presidents of the United States and Russia.

Defense Secretary Cohen has made it clear that both pursuing a limited national missile defense program and maintaining the ABM Treaty are in our national interests and can both be accomplished. During his press conference in January, Secretary Cohen stated his view on the Anti-Ballistic Missile Treaty as follows:

I believe it's in our interest to maintain that. I think we need to modify it to allow for a national missile defense program that I've outlined, but the ABM Treaty, I think, is important to maintain the limitations on offensive missiles. To the extent that there is no ABM Treaty, then certainly Russia or other countries would feel free to develop as many offensive weapons as they wanted, which would set in motion a comparable dynamic to offset that with more missiles here.

The bill before us, S. 257, states that we will deploy a national missile defense system as soon as it is technologically possible despite our treaty commitment to Russia and the ABM Treaty and its importance to strategic stability and future nuclear arms reductions in Russia. The bill before us will jeopardize our recently begun effort to reach a negotiated agreement with Russia on possible changes to the ABM Treaty that may be necessary to permit deployment of a limited national missile defense system. We cannot, and we will not, give Russia or any other nation a veto over our national missile defense requirements or programs.

I want to repeat that so it is not misunderstood. We cannot and we should not give any nation, including Russia, a veto over our decision whether or not to deploy a national missile defense. But making a decision now to deploy a national missile defense system before we attempt to negotiate changes to the ABM Treaty, before the military and civilian leadership of the Defense Department say that the Nation can responsibly make such a decision, will likely reduce Russia's willingness to continue reducing nuclear weapons under the START process, likely lead Russia to retain thousands of nuclear weapons that it would otherwise eliminate, and thereby dramatically increase the threat of nuclear proliferation.

The Committee on Armed Services has previously recognized the importance of a cooperative approach on missile defense and the ABM Treaty. Last year, the committee included a provision in the National Defense Authorization Act for fiscal year 1999 that encouraged the United States to work in a cooperative manner with Russia on issues of missile defense. The conference report for that bill said the following:

The conferees believe that a cooperative approach to ballistic missile defense could lead to a mutually agreeable evolution of the ABM Treaty, i.e., either modification or replacement by a newer understanding or agreement that would clear the way for the United States and Russia to deploy national missile defenses each believes necessary for its security. If implemented in a cooperative manner, the conferees do not believe that such steps would undermine the original intent of the ABM Treaty, which was to maintain strategic stability and permit significant nuclear arms reduction.

That was from the conference report on our 1999 defense authorization bill. And how different it is from the bill before us, when the conferees said that a cooperative approach, cooperative approach to ballistic missile defense, could lead to a mutually agreeable evolution of the ABM Treaty.

None of that is in the bill before us. Instead, S. 257 is inconsistent with this understanding of the importance of a cooperative approach toward the ABM Treaty, to maintaining strategic stability and permitting large reductions in nuclear weapons because it threatens a unilateral breach of the ABM Treaty.

Passing this bill would make it much more difficult for the administration to maintain the continuing benefits of the ABM Treaty and the cooperative approach to nuclear arms reduction under the START process. Russia's Foreign Minister Ivanov recently noted the following:

We believe further cuts in strategic offensive weapons can be done only if there is a clear vision for preserving and observing the ABM Treaty.

There is no such vision or attempted vision, no reference to modification of the ABM Treaty here as being desired, to allow us to cooperatively move toward the deployment of national missile defense, nothing in the bill before us other than the statement, ''We're going to deploy this system as soon as technologically possible.''

And so by making the deployment decision now, S. 257, the bill before us, would be giving the Russians an ultimatum: We are going to deploy a national missile defense system regardless of the ABM Treaty. That kind of ultimatum will make it more difficult to negotiate possible changes to the ABM Treaty before the scheduled deployment decision in June of 2000.

Some are going to say that we move forward with NATO expansion in the face of Russian opposition. Why not move forward this legislation to commit to deploy a national missile defense system in spite of Russia's objection.

There is a critical difference. When we expanded NATO, we were not taking an action that explicitly violated a bilateral treaty with Russia such as the ABM Treaty. In all likelihood, the unilateral deployment of a national missile defense system that is truly an effective system to defend all 50 States would violate the ABM Treaty. How different from the expansion of NATO. NATO was not a treaty with Russia that we were violating by expanding it.

The ABM Treaty is a treaty with Russia that we would almost certainly be violating with deployment of a 50–State national missile defense.

There is another difference that has to go to the relationship between us and Russia. Russia may be economically extremely weak and militarily weak at the moment, but, nonetheless, Russia is still a power that has huge numbers in military capability and nuclear capability and will someday surely be even more powerful than it is now.

But what did we do before we expanded NATO? All of the NATO members, including the United States, worked with Russia to explain that NATO expansion was not aimed at Russia. Indeed, the alliance entered into the NATO-Russia Founding Act and, as a result of those efforts, Russia has worked constructively with NATO on a number of issues. That is what we are trying to do now with the ABM Treaty. We are trying to negotiate with Russia right now to amend the ABM Treaty, to allow both the United States and Russia to retain this important treaty and the nuclear arms reduction benefits that it has brought us while still moving forward with the development and deployment of a limited missile defense. This bill will make that much more difficult.

The President's National Security Advisor, on February 3, 1999, wrote us that:

If S. 257 were presented to the President in its current form, his senior national security advisors would recommend that the bill be vetoed.

Madam President, I ask unanimous consent that the full text of this letter be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. LEVIN. I will just read a few other portions of Mr. Berger's letter, where he explains the basis for the position of the President's senior national security advisors recommending that this bill be vetoed if it is passed:

The Administration strongly opposes S. 257 because it suggests that our decision on deployment of this system should be based solely on a determination that the system is

''technologically possible.'' This unacceptably narrow definition would ignore other critical factors that the Administration believes must be addressed when it considers the deployment question in 2000, including those that must be evaluated by the President as Commander-in-Chief.

We intend to base the deployment decision on an assessment of the technology (based on an initial series of rigorous flight-tests) and the proposed system's operational effectiveness. In addition, the President and his senior advisors will need to confirm whether the rogue state ballistic missile threat to the United States has developed as quickly as we now expect, as well as the cost to deploy.

Then Mr. Berger went on to say the following:

A decision regarding NMD deployment must also be addressed within the context of the ABM Treaty and our objectives for achieving future reductions in strategic offensive arms through START II and III. The ABM Treaty remains a cornerstone of strategic stability and Presidents Clinton and Yeltsin agree that it is of fundamental significance to achieving the elimination of thousands of strategic nuclear arms under these treaties.

Madam President, senior Defense Department officials have stated repeatedly that the Department of Defense is already developing a national missile defense system as fast as is technically possible. Deputy Secretary of Defense John Hamre testified to the Armed Services Committee on October 2, 1998, that the national missile defense program:

. . . is as close as we can get in the Department of Defense to a Manhattan project. We are pushing this very fast.

And General Joe Ralston, the Vice Chairman of the Joint Chiefs of Staff, testified at the same hearing:

I know of no other program in the Department of Defense that has had as many constraints removed in terms of oversight and reviews just so that we can develop and deploy it as quickly as possible.

As the Department of Defense has made clear on numerous occasions, adding more money will not accelerate the program because we are moving this program, the development program, as quickly as is possible, and there are no resource constraints on that development. In addition, on January 20, Defense Secretary Cohen announced four steps, demonstrating the commitment to develop an operationally effective national missile defense as quickly as possible, achieving the option to deploy, not only as quickly as possible, but also in a way consistent with continuing nuclear arms reductions.

First, Secretary Cohen announced the Defense Department would be budgeting the funds—and they now have $6.6 billion—in the Future Years Defense Program for possible deployment of a limited national missile defense system. This funding will permit deployment if the decision is made to deploy. This would bring the total national missile defense funding for 1999 through 2005 to $10.5 billion.

Second, Secretary Cohen affirmed that the administration expects that the threat of ballistic missiles from rogue nations will continue to grow and will pose a threat to the U.S. territory in the near future.

Third, Secretary Cohen announced that the administration is seeking possible changes to the ABM Treaty with Russia in the event that deployment would require modification.

I was particularly glad to hear that because I had been urging the administration to take this step myself for many, many months. Secretary Cohen also noted that if we cannot agree on changes to the treaty, the United States can exercise its right to withdraw from the treaty under the ''supreme national interest'' clause of the treaty, if necessary for our national security.

Finally, Secretary Cohen announced that the earliest anticipated deployment date for the national missile defense system was going to be 2005 instead of 2003, because of concerns about the technology of the system and because certain critical tests will not occur until 2003.

Secretary Cohen's announcement clearly demonstrates the administration's commitment to moving forward as quickly as possible with the development of an operationally effective national missile defense program. The Department of Defense policy, unlike the bill before us, permits consideration of a number of relevant factors, including operational effectiveness and cost, and permits us to pursue planned negotiations on possible ABM Treaty modifications before making a deployment decision next year, in the year 2000.

The national missile defense program is a high-risk program. It faces numerous technical challenges. The integration of all the component parts into a system that can demonstrate its capability is still years away. The first integrated system test using a production interceptor is not scheduled to take place until the year 2003. Prior to that time, tests will rely on surrogate components for some of the most critical pieces of hardware. But S. 257 will make the deployment commitment now, prior to any demonstration of the capability of the system, prior to any ability to evaluate whether it is operationally effective—key word ''operationally''—and able to meet its system requirements. As the Defense Department and Joint Chiefs of Staff have pointed out, if we were to commit to deployment of an NMD system ''as soon as technologically possible,'' we might be committing ourselves to building a system that is not as effective as we would need or desire to counter the evolving threat.

In 1997, General John Shalikashvili, then-Chairman of the Joint Chiefs of Staff, testified to the committee that the earliest possible system may not provide the necessary capability:

If a decision is made to deploy an NMD 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, DOD can continue to enhance the technology base and the commensurate capability of the NMD program system.

That is why General Shalikashvili stated at the same time that the National Missile Defense Readiness Program of the administration is the program that ''optimizes the potential for an effective national missile defense system.''

The normal Department of Defense acquisition process for major weapons systems requires a rigorous review of numerous technical performance and cost considerations at each major decision point in the development or acquisition process. The Department of Defense has mandatory procedures for major defense acquisition programs that provide that ''threat projections, system performance, unit production cost estimates, life cycle costs, cost performance tradeoffs, acquisition strategy, affordability constraints and risk management shall be major considerations at each milestone decision point.''

S. 257 would make a deployment decision now while ignoring all of those critical requirements that have been applied, I think, with one exception where we paid a huge price, to the acquisition of every major system.

Secretary Cohen's announcement that the actual deployment date is expected no sooner than 2005 is designed to reduce the risk of failure, but in mandating deployment ''as soon as technologically possible,'' the bill before us could undermine the Department's efforts to ensure that the national missile defense system is operationally effective, emphasis on the ''operationally.''

For example, it may be ''technologically possible,'' with a 1 in 20 success rate for a specific system to hit an incoming missile under certain circumstances, but do we really want to make a deployment commitment now to a national missile defense system under those conditions?

The Joint Chiefs of Staff and our warfighting commanders certainly do not want a system that is not operationally effective. Gen. Howell Estes, the then-Commander in Chief of the North American Aerospace Defense Command, testified before the Armed Services Committee in March of 1997 that, from his perspective, ''it is vitally important that any ballistic missile defense system we ultimately deploy must be effective.''

The bill before us also ignores the issue of cost-effectiveness. If a system does not provide us with a capability at a cost that can be justified in light of other high priority national security requirements, then, it seems to me, we are missing an opportunity, indeed, a requirement, that a logical factor be considered as part of the decision process, because what happens then is that we will be saying, regardless of the cost, it makes no difference whether

this is cost-effective or not, in light of whatever its capability is, regardless of whether it is operationally effective, if it is technologically possible, to heck with the cost, to heck with the operational effectiveness, and to heck with the impact on nuclear arms reductions.

This cost-effectiveness issue is one of the four crucial factors that Secretary Cohen and National Security Advisor Berger have said that the administration will take into account in its deployment decision review in June of next year. We should not disregard cost-effectiveness completely, as this bill does.

Madam President, Secretary Cohen has testified that the administration will make the decision in June of 2000 on whether to deploy a limited national missile defense system, after taking into account the threat, the operational effectiveness of the national missile defense system, the cost-effectiveness of the system, and the impact of deployment on nuclear arms reductions and arms control. This bill ignores these factors and reduces the issue to one—what is technologically possible and, when that is shown, then we are going to deploy regardless of what those other factors indicate.

The bill would undermine the current effort of the administration to reach a negotiated agreement on any changes to the Anti-Ballistic Missile Treaty that may be necessary to permit deployment of a limited national missile defense system. Again, the summit statement of the two Presidents, Presidents Clinton and Yeltsin, in March of 1997, underscores the continuing importance of this treaty between us and the Russians for strategic stability and for further reductions in strategic offensive nuclear weapons. It pledges both parties to ''consider it their common task to preserve the ABM Treaty, prevent circumvention of it, and enhance its viability.'' This bill would throw that pledge into the wastepaper basket.

As Secretary Cohen has made clear, we will not negotiate any needed changes to the ABM Treaty forever. There may come a time when we determine that we must withdraw from the treaty under the supreme national interest clause. That would be a very serious step, but it is not one that we need to take now or should take now before we have a system developed, before we have tried to modify the ABM Treaty to allow both the United States and Russia to move toward defenses against limited ballistic missile threats.

Making a decision to deploy an NMD system before we even attempt to negotiate changes to the ABM Treaty and before the Department of Defense says that the Nation can responsibly make such a decision will almost surely reduce Russia's willingness to cooperate with us on reducing nuclear weapons on her soil under the START process, and likely will lead Russia to retain thousands of nuclear warheads it would otherwise eliminate, and would, thereby, dramatically increase the threat of nuclear proliferation. The most likely threat that we face isn't an intercontinental ballistic missile strike with a return address guaranteeing our massive destruction of the sender. The most likely threat is a terrorist using weapons of mass destruction.

This bill increases that threat by significantly increasing the odds that Russia will end the reduction of nuclear weapons, which the treaty that this bill would violate has led to, and for no good reason, because this bill would not accelerate the national missile defense development by a single day. It increases the proliferation risk from thousands of nuclear weapons that would otherwise be eliminated through the START process for no tangible benefit to this program.

This bill reduces our security by increasing the threat of proliferation of nuclear weapons to rogue states, and that is one of the many reasons why this bill has no support among our military leaders.

Next week, the Prime Minister of Russia is coming to Washington for an important series of meetings. Senate adoption of this bill effectively says we are going to deploy a national missile defense system in violation of an important treaty that we have with Russia. The message that we are sending to Russia with this bill is we do not care about our treaty commitment. We do not care about cooperation on nuclear weapons reduction. I just wonder how the U.S. Senate would react if, on the eve of an American President's visit to Moscow, the Russian Duma passed legislation that undermined one of the basic foundations of U.S.-Russian relations. You can bet it would cause one heck of an uproar here, and I think Congress would be leading the chorus.

Those of us who say that this bill will contribute to our national security have to answer the question: why don't our senior military and senior civilian defense and security leaders in this administration support the bill? Where are the senior military leaders supporting this bill? Why don't General Shelton and the Joint Chiefs of Staff support this bill? Why doesn't General Lyles, the Director of the Ballistic Missile Defense Office, support this bill? Why doesn't the Secretary of Defense Bill Cohen, who is a proponent of national missile defense now and when he served in the Senate, support this bill? They don't support this bill because they know it will not contribute to our national security.

Secretary Cohen's national missile defense plan has the strong support of General Shelton, has the support of the Joint Chiefs of Staff. We should stick with it and vote against this bill.

I thank the Chair, and I yield the floor.

EXHIBIT 1

THE WHITE HOUSE,
Washington, February 3, 1999.

Hon. CARL LEVIN,
Ranking Minority Member, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: I understand the Senate Armed Services Committee will consider tomorrow S. 257—The National Missile Defense Act of 1999.

I want to underscore that the Administration shares with Congress a commitment to ensuring the American people are provided effective protection against the emerging long-range missile threat from rogue states. That is why we have since 1996 diligently pursued a deployment readiness program to develop a limited National Missile Defense (NMD) system designed to protect against such threats. We have now budgeted $10.5 billion between FY 1999–2005 for this program, including the funds that would be necessary during this period to deploy a limited NMD system.

Secretary Cohen has recently made clear that the Administration will address the deployment decision in June 2000. The Administration strongly opposes S. 257 because it suggests that our decision on deploying this system should be based *solely* on a determination that the system is ''technologically possible.'' This unacceptably narrow definition would ignore other critical factors that the Administration believes must be addressed when it considers the deployment question in 2000, including those that must be evaluated by the President as Commander-in-Chief.

We intend to base the deployment decision on an assessment of the technology (based on an initial series of rigorous flight-tests) and the proposed system's operational effectiveness. In addition, the President and his senior advisors will need to confirm whether the rogue states ballistic missile threat to the United States has developed as quickly as we now expect, as well as the cost to deploy.

A decision regarding NMD deployment must also be addressed within the context of the ABM Treaty and our objectives for achieving future reductions in strategic offensive arms through START II and III. The ABM Treaty remains a cornerstone of strategic stability, and Presidents Clinton and Yeltsin agree that it is of fundamental significance to achieving the elimination of thousands of strategic nuclear arms under these treaties.

The Administration has made clear to Russia that deployment of a limited NMD that required amendments to the ABM Treaty would not be incompatible with the underlying purpose of the ABM Treaty, i.e., to maintain strategic stability and enable further reductions in strategic nuclear arms. The ABM Treaty has been amended before, and we see no reason why we should not be able to modify it again to permit deployment of an NMD effective against rogue nation missile threats.

We could not and would not give Russia or any other nation a veto over our NMD requirements. It is important to recognize that our sovereign rights are fully protected by the supreme national interests clause that is an integral part of this Treaty. But neither should we issue ultimatums. We are prepared to negotiate any necessary amendments in good faith.

S. 257 suggests that neither the ABM Treaty nor our objectives for START II and START III are factors in an NMD deployment decision. This would clearly be interpreted by Russia as evidence that we are not interested in working towards a cooperative solution, one that is in both our nations' security interests. I cannot think of a worse

way to begin a negotiation on the ABM Treaty, nor one that would put at greater risk the hard-won bipartisan gains of START. Our goal would be to achieve success in negotiations on the ABM Treaty while also securing the strategic arms reductions available through START. That means we need to recognize the address the interrelationship between these two tracks.

The Administration hopes the Senate will work to modify S. 257 to reflect the priority that we believe must be attached to the ABM and START objectives I have outlined above. But if S. 257 were presented to the President in its current form, his senior national security advisors would recommend that the bill be vetoed.

Sincerely,

SAMUEL R. BERGER,
Assistant to the President
for National Security Affairs.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LEVIN. Will the Senator yield?

Mr. COCHRAN. I am happy to yield to my friend.

PRIVILEGE OF THE FLOOR

Mr. LEVIN. Madam President, I ask unanimous consent that the privilege of the floor be granted to David Auerswald of Senator BIDEN's staff.

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

The Senator from Mississippi.

Mr. COCHRAN. Madam President, I, likewise, ask unanimous consent for the Senator from Michigan, Mr. ABRAHAM, that Bill Adkins, a legislative fellow on his staff, be granted the privilege of the floor during the Senate's consideration of S. 257.

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

Mr. COCHRAN. Madam President, it is interesting to hear the comments of my good friend from Michigan. It reminds me, though, of someone who has heard what this bill is about but really hasn't read the fine print yet. That is one reason why when the bill was reported I was hopeful that we could start off by reading the bill. It is very short. Unlike the legislation that was debated last year in the Senate, this bill has really a very small operative section. It is so small and clear and concise that I could almost recite it. I am sure I would leave out something. But the operative words are that it will be the policy upon the passage of this legislation for the United States to deploy a missile defense system—an effective missile defense system—that would be capable of defending the United States against limited ballistic missile attack as soon as technologically possible, and that that attack would include missiles that were launched either intentionally, accidentally or unauthorized. That is the bill that we are debating here.

The suggestion that we are insisting on the passage of this bill that the administration immediately deploy a system that may not be workable, that may not be operationally effective, ignores the clear wording of the legislation. It describes the missile defense system that we are directing be deployed as an effective ballistic missile system. So that is taken care of.

The amendment that has been submitted, which I hope will be adopted by the Senate on a voice vote—it certainly is not controversial or it should not be controversial—says that the deployment would be subject to the authorization of appropriations and the appropriation of funds by the committees of jurisdiction of the Congress.

Like any other defense system or new acquisition of weapons system by the Department of Defense, the deployment of a national missile defense system will be subject to the review of the committees with jurisdiction over that subject in the Congress, and bills to authorize the deployment and to fund the deployment will have to be passed and they will have to be signed by the President.

The suggestion that the passage of this bill is the final step in the process misses the point completely. It is the first step in the process. We are trying to correct an outdated, outmoded, irrelevant policy of wait and see—wait and see if a threat to the security interests of the United States develops from ballistic missiles.

We have waited, and we have seen. We have seen the testing of a multistage rocket by North Korea which they said was launched for the purpose of putting a satellite in orbit. Our analysts have been reported as saying that missile system used a solid fuel in its last stage. It would be capable of striking the territory of Hawaii and Alaska, and the last time I checked, they were part of the United States.

At the present time, we have no defense against such a ballistic missile attack from a rocket like that or from a missile. The design or possible uses are virtually the same.

We are also puzzled over the fact that the Senator seems to suggest in his statement that our relationship with Russia is going to be put at risk if we adopt this bill, the first step in a process to correct an outdated policy. This is our policy. This is our policy to defend the security interests of the United States and American citizens who might be at risk from a ballistic missile attack and weapons of mass destruction that could be delivered by long-range, speedier missiles.

We have known for some time that our administration has been trying to negotiate a so-called demarcation agreement with Russia, distinguishing between theater missile defense capability and other kinds of missile defense capabilities. It has been an excruciating process to watch, and we basically have watched in the Congress as the administration has reached agreements or suggestions of agreements reduced to memoranda of understanding, not submitted to the Senate for ratification as amendments to the ABM Treaty, but changes, nonetheless, in the definition of what is permissible and possible for us to do as a matter of our own national security interests with respect to theater defensive missiles. It limits the speed at which our interceptors can be tested against targets.

The point of this is, this administration has gone to great lengths to try to manage the relationship with Russia so as not to ruffle any feathers, not to upset Russia. Ask Mr. Primakov when he comes to the United States why hasn't his government, his government parliamentarians, ratified START II.

This is an effort to reach an agreement and an arrangement with Russia to reduce and limit strategic arms, missiles systems and nuclear weapons capabilities. We ratified that agreement 3 years ago in the Senate. Russia has not kept its part of the bargain by ratifying that agreement.

My point in saying this is that the relationship between the Russians and the United States is of great importance to us, to me, to this Senate. We cannot ignore the fact that Russia remains heavily armed with nuclear weapons and missile capabilities like no other country in the world, other than the United States. We do have concerns about that relationship. We should take care to try to reach understandings with the Russians on these matters, and I think we will continue to work closely with our administration officials as they negotiate, discuss and try to reach understandings about what are our intentions.

We are not trying to upset the strategic balance between the United States and Russia on missile capability or nuclear weapons or the like. We are trying to change a policy about our relationship with other States that are developing weapons that are capable of threatening our security where we do not have a history of much success.

North Korea is an example. There are other nation states that are now engaged in developing missile capabilities where their missiles can go much farther and much faster than they have in the past, and we have to take that into account. We would be derelict in our duty if we did not.

We think this administration is behind the curve on the policy decisions with respect to ballistic missile defense, and it is putting the security interests of the United States at risk. That is what we are trying to correct.

We are not trying to answer every question that can be raised or every issue involved in ballistic missile defense in this one bill. It just cannot be done. But that is the test that my good friend is trying to measure this bill against. Does it answer every question? Does it answer the question of whether or not a system will be adequately tested? No. But before the Congress will authorize the deployment of a system, it is bound to insist that there be some indication that it is workable, that it is effective. That is why we use the phrase ''effective ballistic missile defense system'' in this bill. We also want to make sure it is ''technologically feasible or possible'' for us to

field a system. And that is why we use that phrase in this bill.

What we are hoping to accomplish is to make this administration recognize that there is a legitimate concern. The threat exists today to the security interests because of developments we have seen over the last several years. Senators will remember that our subcommittee had 2 years of hearings analyzing the problems of proliferation of missile technology, other technologies, computer technology, the proliferation of weapons of mass destruction, the easy access that some countries have to information here in the United States, over the Internet, at universities, at laboratories—we have heard a lot about that recently—at laboratories here in the United States. You can get information from those sources, and you can use them then if you are a country that needs to upgrade its missile capability or nuclear weapons capability. There are suggestions that that has been happening. Are we to just close our eyes to that? Are we to ignore that and say, ''Well, let's wait and see what happens''?

We have been waiting, and we have seen what has happened in North Korea, in Iran, in China, in other countries as well. All of these facts now convince us, the authors and the sponsors of this legislation, that it is time to change our policy. That is what the passage of this bill will do. It will put an end to the outdated wait-and-see policy of the Clinton administration on this issue, and it will say that as a matter of national policy we will deploy an effective ballistic missile defense system as soon as technologically possible to defend our country against limited ballistic missile attack—whether unintentional, unauthorized, or deliberate.

I suggest we keep in mind that we dedicated that proliferation report from our 2 years of hearings to the 28 U.S. servicemen who were killed in the gulf war with a Scud missile. That was several years ago. We have 8 years of experience to build on from that event. But that got the attention of the American people and the families of those soldiers who were killed that the United States is vulnerable and its service men and women and its citizens and its embassies all around the world are very vulnerable to missile attack and other attacks by weapons of mass destruction.

This bill does not solve all those problems but it states as a matter of national policy that we are not going to sit back and wait and see any longer. We are going to move, and as quickly as technologically possible, we are going to deploy a national missile defense system.

I am convinced that that is the right policy. We are not going to disregard our obligations to work toward improving relationships with Russia or China or other countries. That is a part of our responsibility, too. But neither are we going to sacrifice the security of our citizens to those relationships. We are, first of all, going to protect the security interests of this country. That is the highest priority we have as Members of this body.

We have every reason to believe that there are clear and present dangers to the security of American citizens and our country. This is a step, a first step, toward changing that policy and doing what has to be done to fully protect our security interests.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). The Senator from Michigan.

Mr. LEVIN. Mr. President, just a couple of additional brief points. First, there is one thing we do agree on, I hope unanimously, in this body, which is that our highest priority is to defend the security interests of the United States. I do not know of anybody in this body who would disagree with that premise. The question is, Is our security advanced or is it harmed by making a statement that we are going to deploy a system that violates a treaty with Russia, without first trying to at least negotiate a modification in that treaty so that we can do so jointly without a unilateral breach?

The stakes here are huge. We should make no mistake about it. The stakes are that Russia has been reducing the number of nuclear weapons on its soil. Indeed, we have been helping to dismantle those weapons so that we are safer. And what they have told us is that the reason they have done that is because they have a treaty with us which has permitted them to do that called the ABM Treaty, and that without that treaty in place—indeed, without that treaty enhanced—those reductions are going to end.

We want fewer nuclear weapons on Russian soil. The fewer weapons they have on their soil, the more secure we are. We have a treaty which has permitted a significant reduction of those weapons on Russian soil, and other states in the former Soviet Union. The fewer weapons they have, the less the chance of proliferation.

I think most of us would agree that the greatest threat that we face—security threat that we face—is the proliferation of weapons of mass destruction. And the leakage of even one of those weapons from Russian soil to a rogue state or a terrorist organization would create a greater threat to the security of this Nation than any Soviet threat we face, because a rogue nation could use it against us, where the Soviets would have been committing suicide and would have cared about committing suicide if they started an attack.

The proliferation threat against us is real. We keep talking about it in this body. We keep saying the greatest emerging threat is the proliferation of weapons of mass destruction. Before we take any step which would lead Russia to stop reducing the number of nuclear weapons on its soil, surely we ought to sit down and negotiate with Russia to see if we cannot do two things: One, accomplish a national missile defense here, assuming we can come up with one which is operationally effective; and, two, keep those reductions of nuclear weapons flowing. Those goals are not incompatible. We are seeking both of them right now. We are negotiating with the Russians in terms of a modification of the ABM Treaty, and we are developing national missile defense as quickly as is possible to develop.

There is no wait-and-see approach that has been going on here. The uniformed military have told us this is a high-risk development program. We are trying to do in a few years what usually takes us over 10 to develop. So we are engaged as quickly as we can in what Deputy Secretary Hamre called the closest thing to a Manhattan project as exists in the Defense Department. We are trying to develop a national missile defense.

I think most if not all Members of this body are in favor of that development.

The issue here in this bill is whether we commit to deploy that system before it is developed, before it is shown to be operationally effective, with no consideration to cost and without considering the need to try, if possible, to negotiate a modification in a treaty with the Russians which has allowed us and them to significantly reduce the number of nuclear weapons on their soil.

We can accomplish all those things, hopefully, but not if we perceive to tell the Russians, in advance of these negotiations being completed or at least proceeding, that we are pulling out of this treaty in order to deploy a system. There is not the slightest awareness in this resolution of the desirability of modifying the ABM Treaty with Russia so that we can continue to see reductions in nuclear weapons on their soil.

For heaven's sake, aren't we more secure if they have fewer nuclear weapons on their soil and if the ones that are being reduced are dismantled, ''defanged,'' so they no longer threaten us? Shouldn't we ask ourselves, Why is it the senior military leadership of this country does not support this bill, people who spend their lives and have dedicated their lives to the security of this Nation—our top military officials—do not support this bill. Shouldn't we ask ourselves why?

There is no use invoking the question of Scud missiles. The defense against Scud missiles does not violate a treaty between us and Russia. The Patriot antimissile system, which we continue to support I think unanimously in this body and continue to seek to improve it, is a defense against theater ballistic missiles, the missiles such as the Scud missile. There is no issue about that. I think everybody in this body has for decades supported a theater missile defense system. That is not a violation of the ABM Treaty. A limited national missile defense system probably will violate that treaty.

Before we commit to do as this bill does, we should seek to modify a treaty between us and Russia so that we can do two things at once: Deploy a system, assuming we can get one that is operationally effective against the rogue states, at the same time that we continue to obtain and achieve the reduction of nuclear missiles on Russian soil. Those goals are compatible, they are both desirable, they are both achievable. At least we hope they are both achievable. Surely we ought to explore whether they are both achievable without committing ourselves to a course of action which tells the Russians, on the eve of the visit of Prime Minister Primakov we are going to do something, like it or not, whether it violates a treaty between us or not. I must again ask this question: If the Russian Duma had taken an action 1 week before our President went to Moscow, which tore at the basic fundamental security relationship between us and Russia, what would our reaction be in this Senate?

What troubles me the most is it is so needless. We are not advancing by 1 day the development of a national missile defense system in this bill; not by a day. I think everybody in this body wants to develop a national missile defense system as quickly as can be done. The money is in the budget to do so and has been there. The Congress has added some hundreds of millions dollars, by the way, over the years for broad support in order to make sure we do develop a national missile defense as quickly as we possibly can. The President's budget has the money in there to deploy such a system—assuming we can develop it. We are not advancing by 1 day the development of a national missile defense with this bill.

What we are doing is jeopardizing the reductions of nuclear weapons on Russian soil for no gain in terms of the development of national missile defense. That commitment to deploy, which this bill represents, gains us nothing in terms of developing more speedily the system which we all want to be developed, but jeopardizes the reduction of nuclear weapons on Russian soil which is so important to the security of this Nation.

My good friend from Mississippi surely speaks for all of us when he says that is our top priority as a Senate. I couldn't agree with the Senator more. There are very strong differences, however, as to whether or not that priority is achieved with this bill, which ignores one-half of a very important issue, which is the relationship between the deployment of a national missile defense and the reduction of nuclear weapons on Russian soil and the proliferation problem that is increased when we act in a way that reduces the prospects of those continuing reductions.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, the National Missile Defense Act of 1999, in addition to being sort of a jawbreaker of a title, is exceedingly significant legislation which takes the first step toward protecting the American people from the growing threat of attack from ballistic missiles carrying nuclear, chemical, or biological warheads.

Now, I am gladly a cosponsor because this establishes the unmistakable policy of the U.S. Government emphasizing the need to defend the American people from missile attack. This policy is clear, it is unequivocal.

However, it is only the first step. Ultimately, the President must agree or be compelled to agree by an overwhelming congressional override of his veto to begin immediately the building and deploying of a national missile defense.

The construction of a meaningful defense will take time, obviously—time that, given North Korea's recent missile test—we may not have. I am among those who have become increasingly frustrated as the Clinton administration has squandered month after month, year after year, dithering and delaying, and otherwise reacting in ostrich-like fashion to the fast-approaching threat of missile attack by a rogue regime.

I have long regarded as beyond belief that the Clinton administration still refuses to commit to the immediate deployment of a national missile defense. I wonder, given the fact that North Korea now has a three-stage intercontinental ballistic missile capable of dropping anthrax on U.S. cities in Alaska and perhaps Hawaii, how much indifference could so dictate such a perilous do-nothing attitude by the President and his advisors. Nero fiddled as Rome burned—and the crowd in charge on Pennsylvania Avenue may wake up one morning and realize that they have been playing with the safety of the American people and playing fast and loose.

I trust I am very clear on this point: it is an absolute, irrefutable fact that a hostile tyrant today possesses missiles capable of exterminating American cities.

Mr. President, North Korea is not our only concern. The Islamic fundamentalists in Iran continue their crash missile program. The Rumsfeld Commission has warned that Iran has everything it needs to put together an ICBM within a few years. And because the Clinton administration has fooled around in its do-nothing mode for so long, Iran may very well be able to deploy an ICBM before America has a missile defense to counter it, even if the United States breaks ground on construction tomorrow morning.

Perhaps most troubling, however, is Communist China's nuclear missile program. China fields dozens of submarine-launched ballistic missiles, hundreds of warheads on heavy bombers, roughly 24 medium and long-range ballistic missiles, and has several crash modernization initiatives in progress this very moment.

Further, Red China has begun deploying several new types of ballistic missiles. And most troubling, it is now clear that China has stolen America's most sensitive nuclear secret—technical data for the W–88 warhead. Theft of that warhead design, coupled with the multiple-satellite dispenser that China developed working with United States satellite companies, will enable the PRC to deploy MIRVed weapons far sooner than expected.

In other words, China is on the verge of tripling or quadrupling, the number of warheads pointed at our cities, and this, Mr. President, is the same country that flexed its military might by firing missiles in the Strait of Taiwan in an effort to intimidate a longstanding and peaceful ally of the United States. The People's Republic of China—that is to say, Communist China—also is the same nation that engaged in a bit of nuclear blackmail by threatening a missile strike against Los Angeles.

Obviously, Mr. President, with these hostile threats emerging, it would be assumed that the United States would already have deployed a system to protect the American people against this danger; and it would be assumed that the Clinton administration surely is working, in cooperation with a bi-partisan majority in Congress, to make certain that the United States will never be exposed to a missile attack by a terrorist regime.

Well, such assumptions have been woefully wrong. The do-nothing Clinton administration has aggressively blocked every effort by Congress to implement a national missile defense system to protect the American people. More than 3 years have already been lost in deploying a missile defense system because of the President's veto, in December, 1995, of critical legislation designed to protect the American people. The President's people, in fact, are out there right now lobbying against the pending business of the Senate today, the National Missile Defense Act of 1999, of which I am a cosponsor.

Indeed, China, North Korea, and Iran can today hold the American people hostage to missile attack because of the do-nothing attitude of the President of the United States who, here in Washington, has consistently refused to build, or even consider building, the strategic missile defenses necessary to protect the American people from such an attack.

For years, liberals have tut-tutted that no long-range missile threat existed to necessitate a missile defense. But now, in the wake of the Rumsfeld Commission's report and North Korea's missile launch, even the most zealous arms control advocates have been forced to admit that their critical lapse of judgment and foresight has put our nation at heightened risk.

Though these people now admit the existence of a serious threat, just the

same, they cannot bring themselves to agree to the deployment of a shield against missile attack. Why, Mr. President?

I'll tell you why. It is because of an incredible and dumb devotion to an antiquated arms control theory. Critics of the National Missile Defense Act of 1999 claim that Henny Penny's sky will fall because even the most limited effort to defend the American people will scuttle strategic nuclear reductions. One Senator, for example, declared in a recent press release that, if S. 257 is passed, ''Russia would likely retain thousands of nuclear warheads it would otherwise eliminate under existing and planned arms reduction treaties.''

Mr. President, if this is the last, best argument that can be mustered against deploying a national missile defense, opponents of the pending National Missile Defense Act of 1999 had better go back to the drawing board in search of logic. While they are at it, they should ponder the fact that Russia has been threatening to block ratification of START II since almost the day it was signed. For more than 6 years, the United States has been waiting for the Russian Government to put this treaty into force; in the meantime the American people have been subjected to a barrage of Russian threats and demands for concessions on a bewildering array of issues, largely unrelated to the treaty.

For the benefit of Senators, and the American people, I ask unanimous consent that a document, cataloging just a few of these Russian demands regarding START II, be printed in the RECORD.

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

AN EVER-GROWING NUMBER OF RUSSIAN EXCUSES FOR NOT RATIFYING START II

The United States and Russia signed the START II Treaty on January 3, 1993. The Senate provided its advice and consent to ratification on January 26, 1996. Since then, Russia has used START II ratification as a pretext to hold hostage an ever-changing number of issues. As the Chairman of the Duma's International Affairs Committee said on March 14, 1998, the Duma contains people ''who are ready to use any pretext in order to delay consideration of this issue.''

Threat Number 1: No START II unless the U.S. Gives in to Russian demands on the CFE Treaty.

In 1994, Defense Minister Grachev declared that CFE treaty-limits on Russia's conventional armed forces were unacceptable and demanded their revision. No action on START II would be possible, according to Grachev, until this issue was resolved. So what did the Clinton Administration do? The U.S. dutifully changed the treaty to meet the Russian demands. We are, by the way, now changing it yet again to meet more Russian demands.

Threat Number 2: No START II unless the U.S. ratifies the treaty first.

In 1995, the Russian foreign minister, Mr. Primakov—now the Prime Minister—demanded that the U.S. must first ratify START II as a sign of good faith. We did that in January, 1996, and we are still waiting.

Threat Number 3: No START II if the U.S. Does not pay for Russian implementation of START I.

Then the Russians complained that they could not afford to meet their obligations under the START I agreement and threatened not to move on START II unless the U.S. taxpayer paid to dismantle all of Russia's obsolete missiles (to make room for the deployment of far more modern systems). So what did the Clinton Administration do/ It has shelled out billions of dollars in Cooperative Threat Reduction funding to meet this demand.

Threat Number 4: No START II unless the U.S. makes concessions on the ABM Treaty.

As negotiations to clarify the ABM Treaty's demarcation line between strategic and theater missile defenses dragged on, the Russians insisted that tissue had to be resolved before they could ratify START II. The United States agreed to a series of concessions that resulted in a demarcation agreement which did *not* clarify the distinction between theater and strategic defenses but which did impose new restrictions on theater missile defense systems.

Threat Number 5: No START II unless the U.S. makes more foreign aid concessions.

In 1996 the Chairman of the Duma's Defense Committee, Sergei Yushkov, tied START II ratification not just to the ABM Treaty, but to ''the provision of adequate funds for the maintenance of Russia's strategic nuclear arsenal.''

Threat Number 6: No START II unless the U.S. makes other concessions.

In September, 1997, Ultranationalist Vladimir Zhirinovsky, who controls a sizeable bloc of Duma votes, declared that START II should not be ratified until ''a favorable moment'' and that Russia should hold out for more U.S. concessions. According to Zhirinovsky, ''We have created a powerful missile complex, and we must use it to get certain advantages.''

Threat Number 7: No START II if the U.S. strikes against Saddam Hussein.

In connection with the U.S. military build-up in the Persian Gulf, the Deputy Speaker of the Duma declared that START II would never be approved if the United States were to use force against Iraq.

Threat Number 8: No START II unless the U.S. agrees to allow continued Russian violation of the START Treaty.

Most recently, U.S. arms control negotiators were told that their refusal to shelve U.S. concerns over repeated Russian violations of the START Treaty would jeopardize START II ratification.

Bottom line: The Russian threat over deployment of a U.S. missile defense is just one in a long, tired litany of ever-changing excuses for not ratifying START II.

Mr. HELMS. The bottom line, Mr. President, is that it is prima facie ridiculous to still insist that the United States must forgo defending itself against missile attack in order to ensure that Russia ratifies START II. The United States has already paid a dozen ransom notes to Russia in an effort to secure START II's ratification—to no avail. This latest price demanded by Russia is simply too high.

Now, I believe that START II may still be in the United States' national security interests, but it is not of such overriding interest that we must forgo the defense of the American people in order to salvage START II. What will happen if START II is not ratified? Strategic forces are expensive to maintain, as both the United States and Russia have rediscovered. That is why the Clinton administration is seeking permission to fall below START I levels regardless of whether the Russians honor their START II obligations—because it wants the money that would be spent on strategic nuclear forces to be used for other, neglected requirements like readiness.

And what of Russia, Mr. President? The truth is that Russia's strategic force levels are going to plummet far past the levels mandated by START II regardless of whether there is any agreement in force. The strategic missiles Russia (then the Soviet Union) deployed in the 1980s are reaching the end of their useful life, and cannot be replaced. Russia has neither the money nor a reason, to replace them.

In fact, last year the Russian Minister of Defense told Russia's Security Council that even the new SS–27 Topol ICBM currently being deployed, Russia will be unable to field more than 1,500 warheads by the year 2010, which, at the rate things are going, might be about the time the Duma finally gets around to ratifying START II.

The truth is that arms control agreements are not controlling force levels. Fiscal and strategic realities are. Why is Russia allowing its forces to fall to historically low levels? I will tell you. For the same reason as is the United States. We no longer live in a cold war world in which huge nuclear arsenals are our top spending priority. The notion that limited ballistic missile defenses will somehow set off a new arms race—or forestall further reductions—is absurd.

Mr. President, the truth of the matter is that the arguments about START II are really a cover for those who continue to worship the arms control doctrine of mutually-assured destruction. No amount of policy sophistry or arms control rhetoric by the Clinton administration can alter the fact that the United States is vulnerable to nuclear-tipped missiles fielded by China, or any one else. Rectifying this dangerous deficiency requires leadership and action. It is an all the more pressing issue because the current course charted by the administration fails to recognize the inherent danger in China's pursuit of an advanced nuclear arsenal, based—as we have learned in recent days—around the W–88 warhead.

Mr. President, any further delay in the development by the United States of a flexible, cost-effective national missile defense is unconscionable. I am honored to cosponsor the National Missile Defense Act of 1999 and I urge Senators to support this legislation to make certain that the United States Government will finally adopt a policy to protect the American people from attack by ballistic missiles.

Mr. President, I yield the floor. I thank the Chair.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise today to support S. 257, the National Missile Defense Act

of 1999, and, in doing so, I rise to support development and deployment of a limited national missile defense.

Colleagues have said that this debate has begun today, and I am sure each Member of the Senate believes, because we have no greater responsibility under the Constitution than to provide for the common defense of our Nation. That is one of the fundamental reasons people form governments, to provide for their common defense. It is a duty we must fulfill with intellectual honesty and with thoughtful attention to the world in which we reside.

Let us look honestly at the world today. The cold war is over, thankfully. Democracy triumphed over communism. The bipolar strategic tension of the world—two armed camps living in a strange balance of terror where each threatened to destroy the other if the first acted—is over, thankfully over. And in that sense we enjoy today the benefits of that victory. Everybody around the globe—people here in the United States, those in Russia, and certainly those who lived under the tyranny of the Soviet Union, three peoples of which so proudly and joyously joined NATO just this past weekend. Though the existential threats we faced are not there, the threats to our very existence are not there, as the operating tempo of our military makes clear, we face a remarkable series of threats to our security around the world. And we face something like threats we have faced before, but with an intensity and a breadth that are unparalleled; and that is the potential of threats to our homeland, to the United States of America, shielded as we have been by geography, by two oceans. Although we have worried in the past and we have been at war and conflict about threats to our homeland, we have never faced them, I fear, to the same extent we will in the years ahead. And this is a reflection not only of the dispersion of power, the breakup of the two armed camps that dominated and defined the cold war, it is a reflection of what history tells us, which is that whenever there are developments in the nonmilitary world, in the industrial, or, in our time, the technological world, they work their way into the military.

Today, even as nationalism rears its head with a new intensity in places like the Balkans, national boundaries in the conventional sense are seamless and less dominant. We communicate with each other through television and now, dramatically, in two-way communication over the Internet, jumping over traditional national boundaries. We have a growing number of assets, defense and civilian related, which exist in space that affect our lives, civilian and military, in very, very fundamental ways. We have increasing capacity through technology to deliver weapons of mass destruction against other peoples and to fear and face the potential of their delivery against us.

So it is not surprising that, within the community of those who worry about our national security, and particularly, of course, within the Department of Defense, there is new concern, new thinking, talk of new organization, to deal with homeland defense, the defense of the United States of America; that the very technology that has enabled us to reach across national boundaries, to have international commerce at enormous volume and worth with remarkable speed, also begins to subject us in our homes, businesses, neighborhoods, communities, and States to attack.

I don't mean to suggest a panic, but, to be intellectually honest and thoughtful about it, the fact is that we have in our time already seen ourselves subject to terrorist attack here in our homeland, some of which has been inspired from outside, that we know we face a risk of attack to our information systems, which dominate and on which we depend for so much in the lives that we lead so well today.

Another element of that new vulnerability that our homeland faces is from missile attack. We faced it during the cold war when the Soviet Union and the United States were two armed camps with intercontinental ballistic missiles aimed at each other, in which we reached a kind of bizarre agreement, ''rationality'' in the midst of irrationality, that neither would push the button for fear of what damage that would do to the one who pushed the button. Today, we are facing a threat of a different order. Though it is limited, it is coming from people who will not, we fear, bind to the same rationale of a system of mutual assured destruction.

That is what motivates this bill. I see it as a response not just to the proliferation of ballistic missiles and weapons of mass destruction, but as part of a broader, growing concern that we in the Senate and the American people will have to face to raise our defenses once again here at home.

In the very near future—perhaps within a few months—erratic leaders, tyrants of rogue regimes, will control ballistic missiles possibly armed with weapons of mass destruction that can reach our national territory. One or more rogue states may have the technology to do so today. Equally unsettling is the fact that criminal or insurgent elements from countries in turmoil could also have access to those weapons.

So the threat is real and it is current, and everything we know about the rapid dissemination of technological information and the commercial proliferation of ballistic missile technology and weapons of mass destruction tells us that the threat will get worse faster than we had previously thought.

Until this past year, most observers, intelligent observers, thoughtful observers, believed that the emergence of such a threat was way over the horizon, a problem for the future. A national intelligence estimate written in 1993 and revised in 1995 concluded that no country other than the declared nuclear powers would develop or otherwise acquire ballistic missiles that could reach the 48 contiguous United States within the next 10 to 15 years. But in July of 1998, a commission of distinguished experts, chaired by former Secretary of Defense Rumsfeld, concluded that this earlier estimate was far too optimistic.

The Rumsfeld Commission report found that North Korea, Iran, and Iraq were engaged in concerted efforts to build or acquire ballistic missiles. The panel also found that North Korea and Iran could use these missiles to inflict major damage on the United States within 5 years of a decision to do so. Iraq, a rogue state that has constantly challenged its neighbors, the United States, and the international community militarily for two decades now, so the Rumsfeld Commission said, could inflict major damage on the United States within 10 years. The Commission warned that the ability of our intelligence community to provide timely and accurate warning of attempts to produce ballistic missiles was eroding.

So a problem is growing, with the capacity of the intelligence community to warn us of its forward movement eroded. And then the Rumsfeld Commission predicted prophetically, as it turned out, that Iran would soon deploy a Shahab-3 missile on the way to developing intercontinental ballistic missile capability and that North Korea would soon have a missile capable of hitting Alaska or Hawaii.

Well, unfortunately, the Rumsfeld Commission was right on target. Within a month of its report, Iran did flight test the Shahab-3 missile, and 1 month later North Korea launched its Taepo Dong missiles. We had long known North Korea had strong missile technology. Analysts were broadly surprised that the Taepo Dong was a three-stage missile with enough range to hit parts of the United States of America.

The Iranian and North Korean missile tests validated two of the Rumsfeld Commission's findings. First, that rogue states are in possession of missiles that threaten American territory; and, second, that these states have developed this capability far more rapidly than we had assumed possible and with very little warning.

Recent events in places such as North Korea and Iran have contributed to a revision and updated a speeding up of the administration's approach to missile defense, and I appreciate that acceleration very much. Just a few months ago, in January of this year, Secretary of Defense Cohen announced that the administration would seek $6.6 billion over 5 years to field a limited national missile defense.

Secretary Cohen explained:

> We are affirming that there is a threat and the threat is growing, and that it will pose a danger not only to our troops overseas but also to Americans here at home.

The Taepo Dong I test was another strong indicator that the United States will, in fact, face a rogue nation missile threat to our homeland against which we will have to defend the American people.

The bill before us today, S. 257, is designed to respond to that very real threat that rogue states and organizations with missile technology pose to our Nation. S. 257 states what I think we all believe, which is that we should take action to protect ourselves against this threat. We would be derelict in our duty if we did not. I view S. 257 as a statement of policy, a statement of policy that it is the intention of the United States of America, the administration, executive branch, Members of Congress, shoulder to shoulder together, to develop a defense to this threat which could be a cataclysmic threat that we all seem to agree we are now facing.

So I must admit that I am disappointed by the disagreement that still exists over this measure. The statement of policy that came from the Clinton administration in January of this year seems to me to be reflected in and consistent with the simple statement embodied in S. 257. And yet, there is opposition. I hope that the debate and discussion that we are having today and the days ahead will lead us to find a way to express what I believe we all feel: The threat is real and we have to do something about it as quickly as possible.

As I understand the concerns of the administration and my colleagues in the Senate who oppose S. 257, they are as follows: They argue that this bill considers only technological feasibility in making a commitment now to deploy a national missile defense without taking into account the actual threat, the operation, the effectiveness of the system against a threat, the affordability of the system, including the balance of other critical defense needs, and the impact of the policy stated in this bill on nuclear weapons reductions and arms control efforts particularly with Russia.

I know that some are also concerned that S. 257 contradicts the administration's policy of not deciding on deployment until June of 2000 after a series of tests. Some also fear that this bill will make it less likely that the Russians would continue arms control negotiations. Some still feel that since the administration has budgeted $6.6 billion for national missile defense development and deployment, S. 257 is not necessary and will not advance the deployment deadline, as the effort is technology constrained, not policy or resource constrained. And there are others who say that this response does not help defend against the most likely methods of delivery such as maritime vessels.

Of course, the most likely methods of delivery, if they are in fact the most likely methods of delivery such as maritime vessels, if I may start with the last argument, should only lead us to want to accelerate the development of a limited defense because delivery from the water, from the oceans may speed up the date by which the United States will be vulnerable to this attack.

Let me try to respond to some of the arguments that have been made. First, while it is true that S. 257 does state that the United States should deploy a limited national missile defense when technologically feasible, that is a broad statement of policy which does not preclude consideration of other important factors. It simply says—and I hope when I join with Senator COCHRAN, Senator INOUYE and others, that it would be a broad enough statement of policy—that it would lead a broad bipartisan majority to feel comfortable coming to its support.

The fact is that we will consider questions of affordability and other questions each year, as we in Congress carry out our responsibility to authorize and appropriate with regard to a limited national missile defense and other defense programs, to decide how to proceed and how much money to devote to the program. To me, that is implicit in the bill, because it is inherent in the legislative process. A policy statement saying that it is our intent to deploy a national missile defense when technologically feasible doesn't mean it will happen automatically or overnight, it doesn't mean that Congress will be precluded from participation in the program and that the Ballistic Missile Defense Office will essentially be given a blank check. Quite the contrary. Each year we will authorize—which this bill does not do; it is a policy statement—and we will appropriate, which this bill most certainly does not do.

Though I think that is clear from the wording in S. 257, I am very pleased to be a cosponsor of the amendment which has been laid down by the Senator from Mississippi which makes clear that this policy that we would declare in S. 257 is subject to the annual authorization and appropriations process.

As to the question of the administration's policy or plan to make a judgment about deployment in June of 2000 based on some tests that will be done by then—four tests, I believe, that would be done by then—to me the bill before us neither negates nor endorses that policy. In fact, under the bill before us, it is possible that the decision to deploy would not be made until well after June of 2000, because the threshold of technological feasibility, technological possibility, would not have been reached. But the fact that we are not ready now to deploy a system surely cannot mean that we should not now declare our policy to deploy such a system, to get ready to defend our territory and our people as soon as possible. In fact, we should declare that policy unequivocally, and I think this bill, S. 257, gives us the opportunity to do that.

Let me now talk of the concerns about the impact that passage of this bill will have on our relations with Russia and particularly on arms control negotiations that are going on with Russia. I have long supported those negotiations, they are so clearly and palpably in our national security interests. They have run into obstacles along the way—START agreements ran into political difficulties in the Russian Duma. But of course we are part of a process in which we are trying to move those forward in our national security interests.

But I must say, I fail to see how passage of this measure, in which we in the U.S. Senate would be declaring our intention to develop a limited national missile defense, should be stopped by our concern about what I believe is a misunderstanding or misapprehension, if in fact it exists, in Russia, about our intentions here. In all the debate and discussion I have heard about the development of a national missile defense, a limited national missile defense, I have not heard anybody—certainly I have not, Senator COCHRAN has not, Senator INOUYE has not—suggest that the country we are developing this defense against is Russia.

The countries we are developing this defense against are rogue nations, subnational groups that may attempt to inflict harm, intimidate us, leverage us to extract compromises on our national security from our leadership—not Russia. In fact, I believe the administration has spoken these words to the Russians.

We have common enemies here in these rogue states. This system is not being developed against the nations of the former Soviet Union or Russia. This is not star wars. Star wars was aimed at—speaking simplistically, if I may—putting a security umbrella over the United States to protect us from a massive ICBM attack from the Soviet Union. This is a highly limited system aimed at trying to preserve a measure of security for our people against limited missile attack from rogue nations.

So I am puzzled and troubled about why we should not simply state our policy to develop a defense of our homeland against rogue nations because there may be some in Russia who misunderstand our intention. We understand that doing so will compromise the ABM Treaty, negotiated in a very different context for very different reasons more than a quarter of a century ago at the height of the cold war. That is why top level officials of our administration have already begun to speak with the Russians about our intention. It is clearly evident from the policy that Secretary Cohen articulated in January, clearly evident from the additional billions of dollars that President Clinton has put into the defense budget in the coming years to accelerate our development of a national missile defense. But I, for one, would feel irresponsible—put it another way. I would feel we had not worked hard enough to reassure the Russians that this national missile defense that we state in

this measure that we intend to build is not aimed at them. It is aimed at common enemies that they and we have.

The fact is, in some measure the content of S. 257 is an honest expression to the leadership in Russia, with whom we are working on so many different matters, that this has now become a matter of American national policy—self defense. And, as much as we value good relations with Russia, as much as we adhere to our treaty obligations, we are saying to them here that we have made a judgment in our own national self-interest and self-defense that we must develop a limited national missile defense and therefore we must begin, as we have, to renegotiate the ABM Treaty. But to not go ahead with this policy statement for fear of the way it will be misread in Russia seems to me to be an underestimation of both our relationship and of our ability to speak truth to the Russians and of their ability to understand it.

So, mindful as I am, respectful as I am of the importance of ongoing arms control negotiations with the Russians, I think we do not serve our national interests if we yield to that misapprehension when we know that this system is not being developed to defend against hostile action by them.

Mr. President, we need the national missile defense. We face a real and growing threat that cannot be countered by our conventional forces and which will not be deterred by the threat of retaliation. Remember, Russia, on whom we are focused in our judgment on this measure—and some are focused to the extent that they will oppose it because of concerns in Russia—we and the Russian-dominated Soviet Union reached this meeting of minds during a cold war that we were each rational enough to be deterred by the threat of massive retaliation. Deterrence, after all, requires rationality. By definition, accidental, unauthorized, or rogue acts are not the acts of rational leaders and cannot be reliably deterred.

Thus, we have a choice: Either we will endure the possibility of limited missile attack on our country with weapons of mass destruction, or we will commit ourselves, with all that we have in us, and will state so honestly in this measure, that we are going to do everything we can to defend against such an attack.

I don't agree that this measure is not needed. It is needed. It is a clarion statement of policy about a critical national security vulnerability at an important transitional period in our national history. The fact is, its very existence has already acted as a catalyst in moving this debate forward, the debate about the threat. After all, congressional concern about this led to the Rumsfeld Commission, which led to the report, which predicted the North Korean-Iranian action, which now has led to a coming closer together between congressional opinion and administration policy.

Mr. President, both sides in this debate are, after all is said and done, separated by very little. A critical national security decision such as this should not be partisan. The amendment that Senator COCHRAN and I and others, I believe Senators WARNER and INOUYE, put down, which makes clear what was implicit before, that S. 257 will naturally be subjected to the annual authorization and appropriations process, makes clear that Congress each year will consider the affordability, the extent of the threat, the impact funding of this system has on other defense needs, and even the impact of the level of funding on our relations with Russia and other arms control negotiations.

I think that defending against limited missile attacks is something that all of us, both parties, 100 strong, clearly want to do. I take it that the disagreement is how to do it and what we should express, if anything, in a statement of policy. This is such an important matter and at such a critical moment that I hope in this debate we will listen to each other, that we will reason together, and that we will ultimately come up with a proposal here that a broad bipartisan majority can support.

I thank the Chair, and I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mrs. HUTCHISON). The Senator from Mississippi.

PRIVILEGE OF THE FLOOR

Mr. COCHRAN. Madam President, I ask unanimous consent that the privilege of the floor be extended to John Rood and Gordon Behr, who are legislative fellows from the staff of Senator JOHN KYL.

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

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I have sought recognition to support the pending legislation. I am listed as a cosponsor, and I believe that it is an important statement of U.S. policy which we ought to adopt. This is one of the most direct bills that I have seen in my tenure in the Senate, providing:

> 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.

The most basic purpose of government is to protect its citizenry. The most basic purpose of the Government of the United States of America is to protect the people of the United States from foreign and domestic dangers. We have focused a great deal of attention on the threat of weapons of mass destruction, and the top of the list involves the issue of ballistic missile attack.

Beyond ballistic missile attack, we know that there are many other concerns of biological warfare and chemical warfare. Right now a commission is working to try to streamline the Federal Government to try to make some organizational sense, organizational improvements out of the 96 separate agencies which now deal with weapons of mass destruction.

During my tenure as chairman of the Senate Intelligence Committee, working collaboratively at that time with CIA Director John Deutch, a provision was inserted in the Intelligence Authorization bill in 1996 to provide a commission to take a look at the 96 separate agencies dealing with weapons of mass destruction. We find that the Department of Health and Human Services is involved in this venture, as is the Department of Defense, as is the Department of Justice. Tomorrow we are holding a hearing on some aspects of the domestic problem.

Internationally, the strategic defense initiative has been a hotly contested subject for debate for more than a decade, going into the early administration of President Reagan when he articulated the idea of a strategic defense initiative, popularly known as Star Wars. At that time many people debunked the idea that there could be a shield to protect the United States from a ballistic missile attack, and we have relied upon the theory of mutual assured destruction—accurately labeled, in shorthand, MAD, for mutual assured destruction—with our basic defense posture being that the Soviet Union, our principal adversary, would not fire ballistic missiles at the United States because of fear of retaliation, so that the balance of power was maintained.

More than a decade ago, we had some very lively debates on the Senate floor as to whether the Anti-Ballistic Missile Treaty should have a narrow or a broad interpretation, going back to the origin of the treaty, the history. The debate then was whether we might be able to deploy some sort of strategic defense initiative under a broad interpretation of the Anti-Ballistic Missile Treaty. That treaty, entered into in 1972, has been a subject of very extended debate on the floor of the U.S. Senate and beyond. It may well be that with the enactment of this policy, there will have to be some negotiations with Russia, with other parties to the ABM Treaty. It was entered into by the Soviet Union, which no longer exists. There have been many modifications of the policy with the former Soviet Union, with Russia, where the United States, under the Nunn-LUGAR program, has appropriated very substantial sums of money to acquire and destroy Russian missiles, missiles formerly housed by the U.S.S.R. I do believe that with the changing relationship between the United States and the former Soviet Union, and with the expansion of NATO, a move that many thought Russia would never tolerate but now has become acclimated to,

there are signs of a maturation process, a changing relationship between the United States and Russia.

I do believe that it is important to have talks with Russia about the Anti-Ballistic Missile Treaty, but I do think that the treaty is subject to modification. There are provisions for revocation of the treaty on notice by the United States, but we now face a very different kind of a threat. We now face a threat, perhaps, from North Korea, perhaps soon from rogue nations like Iran or Iraq. It is none too soon to look toward the deployment of a national missile defense system which is intended to deal with the threat posed by the rogue nations.

The technology is very hard to calculate as to what can be achieved.

When President Reagan articulated the principle, or the idea of a strategic defense initiative, people said it was impossible. I recall reading a commentary more than a decade ago about Vannevar Bush's comment back in the mid-forties, about 1945, when Vannevar Bush said it would be an impossibility to have intercontinental ballistic missiles. Now look at what has happened; we have them by the thousands.

In 1965, then Secretary of Defense McNamara said that the United States was so far ahead of the Soviet Union that they could never catch up. They did. For a time, they passed the United States, until we rearmed America, leading, in effect, to the bankruptcy of the Soviet Union and the disintegration of the Soviet Union in 1991.

There is a story many people believe to be apocryphal, but it is a true story, about a man who worked for the Patent Office shortly after the turn of the 19th century who resigned his post because everything that could be discovered or invented had been discovered or invented. We see how modern science has produced discoveries, inventions unthought of, uncontemplated. So, too, we may be able to find an effective system to protect the United States from missiles from rogue countries.

I believe this is an important bill. We could not bring it to the floor in the 105th Congress because we were one vote short of cloture. There are some 54 cosponsors on this bill, and I believe it articulates a very important principle, to defend America, to defend Americans and to find a national missile defense system which would protect our country against rogue nations, against accidental, unauthorized, or deliberate attacks.

We will have other considerations to deal with regarding Russia, other considerations to deal with in relation to China where recent events have shown advances in China's missile technology, in part, according to reliable reports, as a result of China having gained access to United States technology through espionage. But this principle—of having a national missile defense policy—is something which ought to be adopted.

I thank the Chair and yield the floor.

Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

PRIVILEGE OF THE FLOOR

Mr. REED. Madam President, first, as a procedural matter, I ask unanimous consent that Anthony Blaylock, a defense fellow working in Senator DORGAN's office, be granted the privilege of the floor during debate on S. 257.

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

Mr. REED. Madam President, we are here today debating an issue of fundamental importance to the United States and to the world community, and that is whether or not we will adopt a resolution of this Senate to proceed with a national missile defense as soon as it is technologically possible.

As many of my colleagues have indicated, I believe there is strong recognition of the need for the careful deployment of a national missile defense because we are at a historical crossroads.

First, there have been technological advances by rogue states which, for the first time, allow them in the near future to be able to launch intercontinental ballistic missiles that would strike the territory of the United States. That, in and of itself, has focused our attention, our resolve, and our commitment to begin accelerated development and, one would hope, the eventual deployment of a national missile defense.

But the issue before us today is whether this legislation, S. 257, will materially aid that effort without unduly complicating our ability, first, to defend the United States and, second, to maintain the regime of deterrence that has lasted throughout the cold war and has avoided to date, and we hope indefinitely, the use of nuclear weapons in the world.

I mentioned that we are at a historical crossroads, the first element of which is the fact that rogue nations can, in fact, begin to launch in the near future intercontinental ballistic missiles. But the second aspect of this historical crossroads is the fact that we have been maintaining over decades a strategic balance which always contemplated limits on offensive capability and which has led to treaties between ourselves and the former Soviet Union, and now Russia, with respect to limitations on offensive weapons. Complementing that has been, since 1972, the limitation on antiballistic missile systems.

Sometimes I think we take this balance for granted. We assume that is the way it always will be because it exists today. But we are seeing pressure on this balance. First and most obviously, because of the collapse of the Soviet Union and the constrained position of Russia, we are seeing some operational wearing around the edges in terms of their ability to maintain the same type of controls that they had at the height of the cold war.

We are also seeing a situation where operationally they might, regretfully, be a little bit quicker on the draw, since they do not have the same type of panoply of long-term observation or radars that they had or those that they have are beginning to deteriorate.

The point I want to make with respect to strategic balance is that this is not something automatically that comes into play, it is something that has to be sustained and maintained, and when we look at legislation like the bill before us, we have to seriously ask the question, Will this aid the maintenance of this strategic balance, or will it give incentives to act unilaterally? That is a serious question which I think we have to address.

There is a second factor with respect to the historical crossroads, and that is, for the first time in recent memory, Russia, as the legatee of the Soviet Union, is not able to match dollar for dollar, ruble for dollar, if you will, developments that we, in fact, might put in place. Unlike the cold war, where they could accelerate their offensive missile capability by putting out more launches if we did something, they cannot do that too easily. Nor could they easily copy an extensive national missile defense if we put it in place. Again, this is another strategic aspect that has to be considered when we consider this legislation.

All of these issues together suggest a few things. First, we have to seriously address the issue of the rogue state with intercontinental ballistic missiles, but, just as seriously, we have to be concerned about doing something that might destabilize the overall arms control regime in the world. What we want to avoid is the temptation for states with nuclear weapons and a capacity for intercontinental-range launches to start taking unilateral actions which may imperil us just as much as the development of missiles by a rogue state.

Having said that, I think we can look at the situations which we potentially are trying to cover with this national missile defense and pose two questions which I think are at the heart of our debate.

First of all, we are really focused at this juncture, with respect to this legislation, on what is called the simple case, as the Ballistic Missile Defense Office will describe it, the C–1 situation: A few simple ICBMs, no sophisticated countermeasures. In that context, we are proposing to create a system to deter that threat and also, in some respects, to undermine or simply, hopefully, to modify, through mutual assent, the arms control regime in the ABM Treaty. That is just one situation.

The second situation is what they call C–2. That is not just some simple ICBMs but a few advanced ICBMs—those having, for example, multiple independent reentry vehicles and some more sophisticated countermeasures.

Finally, the category of many sophisticated reentry vehicles, many with

independently targeted warheads, and also with sophisticated countermeasures.

For this latter category we have to ask ourselves, is that technologically possible, national missile defense scoped and designed for the first simple threat going to meet what might evolve into the more complicated threat? That is a technological question. I think that is a question that gives us some pause in the sense of rushing into this, this declaration that we are going to do it now and we are going to do it with respect to the rogue nation threat.

Again, I think we have to ask two basic questions: First, will this first technologically possible solution be the best solution, not just to our short-run dilemma with respect to potential missile development in North Korea or Iran but over time as these systems may well evolve from a simple missile threat to a very sophisticated missile threat? Then second, we have to ask ourselves, will we build a system designed to counter this simple threat, the rogue threat, and cause, unwittingly, the precipitation of a much more sophisticated threat—to cause, unwittingly, powers like Russia, that have the capacity to put MIRVs on top of their launchers, to have, through strained resources and through frayed nerves, perhaps the potential to shoot a little quicker than they did in the cold war? That, I think, would be a tremendous misstep in maintaining our strategic balance.

For all these reasons, I suggest that we must move with caution—with deliberation but with caution. I think we have to move not with some single-factor analysis, simply ''technologically possible,'' but with a multifaceted analysis which I hope would undergird all our decisions with respect to momentous decisions and costly decisions. We have to consider cost. We have to consider the evolution of the threat. We have to consider our diplomatic relationships and the fact that we have maintained this nuclear balance through mutual decisions.

First we maintained it through the policy of mutual assured destruction. We built enough offensive weapons so that no enemy thought they could conduct a successful first strike. And then we moved down a much more promising road by talking about limiting offensive weapons and limiting defensive weapons through diplomacy.

The rejection of this mutuality would be a casualty which I do not think any of us would like to see. So I think we have to be very, very careful. And if we need an anecdote to suggest the care which we must devote to this exercise, I think it could be seen from a story I recently read in the Washington Post about an incident that took place on September 26, 1983, where a Russian lieutenant colonel was sitting in his bunker and suddenly all the lights went on that said ''start.'' And what the ''start'' meant was to start a nuclear retaliation round.

But because of that officer's judgment, in the environment of that time of 1983, an environment in which the thought was that a nuclear attack by the United States would not be possible—the fact that there was no effective ABM system providing national defense—the fact that the operative motivation was not ordering a counterstrike but waiting for further information, that could be changed by what we do in the next several months, particularly, I think, if we do not make a good-faith effort to modify, through negotiation and through mutuality, the ABM Treaty.

We could have a situation in which, through an error of software, an error of misperception, instead of waiting the extra second, a lieutenant colonel in the Russian rocket forces could decide that this very well could be an active launch by the United States and that his only recourse is to launch a retaliatory strike.

So we have to be careful. I believe that such care would lead us, I hope, to consider legislation that does not just talk about technological possibility but talks about a range of things, including, we hope, a mutual adjustment of the ABM Treaty.

Missile defense is a situation, a topic, that has followed us since 1940, when we first became aware that Germany was developing intercontinental ballistic missiles. It has followed us through my entire life, and it will go on, we hope, without a dramatic conclusion, for as long as we can foresee. We have been able to manage these issues, and each administration has taken them seriously, and the Clinton administration is no stranger to the seriousness of this endeavor.

We have also seen changes in terms of programs, in terms of budget. Just a few years ago, in the Persian Gulf we discovered that there was a real threat to our theater forces, our forces in the field, and we began actively upgrading our theater missile defense, a program which we also bought and which we consider to be vital to the operational effectiveness of our forces around the world.

In 1996, the administration announced that they were moving forward with respect to national missile defense with their 3+3 approach. That would be 3 years devoted to research and development, a deployment decision due in June of 2000, and then, if required, the deployment would take place within the next 3 years. All of this, of course, supposed and presumed that there would be active discussion with Russia and others with respect to the ABM Treaty.

We have devoted not only conceptual energy to this project, we have also devoted dollars. We have increased the administration's proposal for efforts through fiscal year 2005 to the order of $10.5 billion. This is not a project that is languishing without financial support and financial resources.

In short, in sum, both the Congress and the administration agree on the importance of missile defense, of providing the resources to do that, and are hoping that we can in fact develop a technologically feasible, cost-effective system that will be appropriate to our needs and also, hopefully, will be agreed upon by the world community as a necessary part of our defense.

I have mentioned before what I think some of the limitations are of the approach that we are debating today with respect to S. 257. Principally, it is the sole reliance upon one criterion, and that is, ''technologically possible.''

There are other parameters that we have to look at.

The threat: Again, today we are looking at a very limited threat, that C–1 threat, a rogue nation with a simple IBM, without any countermeasures. But that threat quickly will mature to something else. It does not take too much to incorporate countermeasures on our reentry vehicle. And once we do that, we might be into a configuration of national defense which does not fit that neat picture of what is technologically possible right now.

Of course, we have to look at cost. And it is not just an issue of cost in and of itself, it is the classic issue of opportunity cost. To develop this system immediately might preclude us from taking other steps which are just as important with respect to our defense, with respect to our missile defense, with respect to other aspects of our defense policy.

And then we certainly, I think, have to look at the effect on arms control agreements.

Consideration of these factors I think would mitigate against unconstrained, unconditional support for S. 257 and would suggest that we would amend this measure and adopt a more comprehensive and a more realistic approach to the decision matrix we face when it comes to national missile defense.

Just briefly, there is a threat out there; no one is denying that. The administration is not denying it. No one in this body is denying it.

We have seen just recently, in May of 1998, India and Pakistan conduct nuclear tests.

We have also been the beneficiaries of the Rumsfeld Commission report that anticipates the ability of a rogue nation to have an intercontinental capability by the year 2010.

Then, on July 22, 1998, Iran test fired an intermediate-range ballistic missile capable of hitting most of the Middle East.

Then, finally, perhaps most chillingly, on August 31, 1998, North Korea launched a Taepo Dong 1 missile that was far more advanced than we thought capable at that time. These threats are serious. They are not taken lightly.

It is because of these threats that we are moving and committing dollars for the development of a national missile defense system. As General Shelton, our Chairman of the Joint Chiefs of

Staff, pointed out in ''Seapower'' magazine:

> There are other serious threats out there in addition to that posed by ballistic missiles. We know, for example, that there are adversaries with chemical and biological weapons that can attack the United States today. They could do it with a briefcase—by infiltrating our territory across our shores or through our airports.

Essentially, it raises the issue that if we, in a break-neck race to just deploy our first technologically possible system, all of these resources—are we missing out on providing effective deterrence and defense for these other approaches? I think we raise that issue with respect to S. 257.

Now, the other aspect of this is we don't want to buy a system with billions of dollars that will work for a couple of years and then be obsolete. We don't want to go through the trouble of renegotiating a treaty—or perhaps the worst case, of walking away from a treaty for a system that is just not going to work.

William Perry, our former Secretary of Defense, put it well when he said:

> Think of this problem in terms of buying a personal computer for college. If you had ordered your computer as a high-school sophomore it would have been obsolete by the time you started college. It would lack the capabilities you now need and would be impossible, or prohibitively expensive, to update.

In many respects, that is the same type of intellectual dilemma we face today. Putting a system in the field because it is technologically possible might not be the best approach. That is the only criterion in S. 257.

We know this is also a very difficult technical problem, essentially because we are using ''kill'' vehicles that are target upon target, using kinetic energy—i.e. impact. It is like a bullet hitting a bullet. That is a tough problem. In fact, we have had very few successes in the experiments we have tried to run to date. So few, in fact, a Pentagon review panel has called the program to date a ''rush to failure.'' We don't want to rush to failure. We want ''progress to deployment'' of a system that works for us, defends the country and maintains our strength—not just in the small case of a rogue nation but in the larger case of international nuclear stability.

Now, S. 257 will require us to deploy this system as long as it is technologically possible. Again, one could ask, what does that mean? Is that the first step that succeeds? Is it a series of two or three tests to succeed in any case? That type of analysis alone is not, I think, the optimal way to approach this issue.

As I mentioned before, we have to consider costs. Between 1984 and 1994, the Congressional Research Service estimated that the Pentagon spent $70.7 billion on ballistic missile defense activities, yet no system was deployed. I hope valuable information was gained and research could be applied to the ongoing projects, but $70 billion was spent in a decade without the breakthrough deployment, the breakthrough technology of a system. Again, we have to consider costs.

Just the simple preparation of one site for a national missile defense would range between $6 and $13 billion. These costs would be justified in many respects by the threat if we are confident or more confident that the system we are putting in place would be something that could evolve to the greater threats in the future and is something that really does provide comprehensive protections to the United States—not just today but in the future. This legislation does not call for such a comprehensive measure in which to determine whether to deploy or not to deploy.

As mentioned before, every dollar we spend on national missile defense is important, but there are some other measures of defense which are equally important and which may find themselves shortchanged if we have this rush for deployment as soon as we are technologically possible. Again, we have to consider, I think, this issue in broader terms beyond just technological possibility.

Then we have to consider, as I have mentioned, the effect of arms control agreements. Since 1940, we have been wrestling with this issue of how to defend the United States against intercontinental ballistic missiles. We tried to develop defense mechanisms. We have had systems in place. We were developing in the 1970s and the late 1960s a central system. The central system turned into Safeguard and Safeguard was moving forward, but at the height of the cold war at a time when the tensions between ourselves and the Soviet Union were extremely pronounced, President Nixon negotiated and ultimately agreed to an antiballistic missile treaty. In fact, this treaty limited what was technically possible. The Safeguard system was going in place to protect our ICBM fields. It was technically possible, it was thought then that we would be more secure if we limited the deployment of ballistic missile systems—mutually limited—amongst ourselves and the Soviet Union. That decision was made. That decision has stood the test of time to date.

The ABM Treaty has been questioned over time, but it has provided us a situation where we have a more stable balance between ourselves, certainly, and at one time the Soviet Union, and now Russia.

I think, however, recognizing the rise of these rogue states with their missile capability, it is appropriate to look at ABM. It is appropriate to go back and attempt to modify the treaty—modify it not just in terms of the simple case, the C–1 case, but look at it in terms of modifications that will carry us through the medium and the long run for systems that very well may not be technically possible today or in 2 years but would be extremely important, indeed perhaps necessary, in 5 to 10 years. We could do this if we negotiate with the Russians.

We have to ask ourselves what kind of message S. 257 would send, basically saying we are going to deploy this as soon as we think it works, without any mention of negotiation of ABM. I don't think it sends the right message. It sends the message at a time when the Soviet missile force has been transferred to the Russians. We know it is fraying on the edges in terms of command control, in terms of its replacement, in terms of its technological sophistication.

Again, do we really want to change what was the operative rule in the cold war—that a missile strike by the United States, a first strike; or by Russia or the Soviet Union—would be unlikely if not impossible? That is the type of mindset which gave a lieutenant colonel in the Russian rocket forces the gut feeling to disregard all the warnings on his computer and on the screen to say, ''This can't be right; it would be reckless and foolish for the United States to launch five or so missiles against us.'' We certainly don't want a situation where some lieutenant colonel says, ''They have an ABM system which they put in unilaterally without our consent, over our opposition. You know what? Maybe these five missiles are more than a mistake on my computer.''

We have to very serious about this. I know we are all serious, but I suggest, and I think Senator LEVIN would suggest later, that this legislation could benefit mightily from the amendments that at least acknowledge the importance of negotiation, the importance of cost estimates, the importance of evaluation or threat before we go forward.

The other aspect of this legislation is that it will not speed up the deployment of a national missile defense. The administration is committed to developing, doing the research, making a decision based on all of these factors I mentioned and deploying a missile defense, at the same time negotiating with the Russians with respect to the ABM Treaty. As the President indicated, if those negotiations are fruitless, if we are ready to deploy, if the threat is there with respect to rogue states, he is quite prepared at that point to make a decision to deploy.

That is a far cry from standing here today saying, ''Disregard negotiations, disregard the evolution of the threat, disregard the cost. As soon as we have one successful test we are going to put it in the field.'' I don't think that is the wisest course. I think we can do better. Indeed, I believe that everyone—the sponsors of the legislation, those who disagree with the legislation—want to do the best for this country and want to ensure that we are protected, want to ensure that in the long run we have comprehensive national

security; that we don't have a situation where we might provide for the inherent missile strike from a rogue nation, yet we have undermined the balance between ourselves and another major nuclear power—Russia or, indeed, China.

I think we can do this, but I think we have to begin with the conception that it is just not one parameter, one criteria, and that it is done in a careful way on a multiplicity of issues like cost, technological possibility, threat, and also maintaining a strong regime of arms control, which has benefited us mightily over the course of many decades.

So I hope very much that we will be able to amend this legislation to reflect those different aspects and, having amended it, to agree unanimously to send it forward to the President for his signature. I hope we can do that in the days ahead. We will see.

At this time, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Madam President, I rise in support of S. 257, the National Missile Defense Act of 1999. This straight-forward bill 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).'' This bill is essentially identical to last year's measure which was filibustered by the minority and failed to gain cloture by a single vote. I would ask those who opposed the bill last year to consider the events over the intervening period which reinforce the arguments in favor of national missile defense:

First, North Korea launched a three-stage missile last August that overflew Japan in an attempt to orbit a satellite. This missile, the Taepo Dong 1, has sufficient range to reach Alaska and Hawaii as demonstrated by the fact that its debris landed 4000 miles out in the Pacific. The range and the presence of a third stage was a surprise to the Intelligence Community, according to unclassified statements by Robert Walpole, National Intelligence Officer for Strategic and Nuclear Programs. Furthermore, successor missile, the Taepo Dong 2 is expected to be able to reach all of the American mainland and may be ready for testing this year. As the Chairman of the CIA's National Intelligence Council noted last October, ''An ICBM threat from North Korea is looming.''

Second, Iran tested a medium range missile last July that is capable of reaching Israel and U.S. forces throughout the Middle East. This missile, the Shahab-3, may already be in production and Iran, with Russian assistance, is developing a longer-range missile capable of reaching Central Europe. Russian missile assistance to Iran has continued despite intensive U.S. efforts to halt this deadly trade. As CIA Director Tenet noted in testimony last month to the Armed Services Committee, ''Especially during the last six months, expertise and materiel from Russia has continued to assist the Iranian missile effort in areas ranging from training, to testing, to components.'' General Zinni, our CENTCOM commander has stated that Iran may have nuclear weapons within five years. Iran has been typically bloody-minded in its propaganda. During a military parade in Tehran last year, slogans were written on sides of missiles that read ''Israel should be wiped off the map'' and ''the USA can do nothing''. Moreover, last year's hopeful signs that Iranian moderates were gaining ascendancy now look much less clear.

Third, Iraq has achieved its long-sought goal of escaping from UNSCOM inspections. Chief UN arms inspector Butler has stated that Iraq has resumed its weapons programs. There is now no inspection regime in place, the UN embargo is under mounting attack including by erstwhile allies, potential suppliers are eager to be of assistance, and Iraq retains a significant missile production and support infrastructure upon which to build. UN inspectors had uncovered drawings of multi-stage missiles and they are within a decade of an intercontinental missile capability.

Fourth, China continues measured but steady improvement in its existing force of ICBMs which are already capable of hitting American cities. China's ICBMs have benefitted from both the outright theft and the unwisely permitted transfers of American space launch vehicle technology. Recently there have been disturbing published reports that China stole the design of the nuclear warhead of our Trident missile. This sophisticated multiple independently-targeted reentry vehicle or MIRV design has the capability to be a real force multiplier. Moreover, the technology that China obtains from the United States may not remain there. According to a Washington Times report on February 23, China has assisted North Korea's missile and space technology. China has also developed a habit of using ballistic missiles to intimidate its neighbors. On the eve of Taiwan's first democratic elections in 1996, China launched M–9 missiles to areas within 30 miles of Taiwan's two primary ports. A report just released by the Defense Department states that China is engaged in an intense buildup of ballistic and cruise missiles opposite Taiwan. Easy assumptions that the U.S. can enjoy a constructive relationship with China may be rooted in hope rather than reality. Beijing's recent crackdown on the fledgling Democracy Party serves as a reminder that China remains an authoritarian and potentially hostile regime with a highly uncertain future.

Finally, the condition of Russia is cause for serious concern. Russia retains over 6000 strategic nuclear warheads and is still conducting limited modernization even as their strategic forces experience overall decay. While a return to cold war confrontation is unlikely today, the prospects for Russia's successful transition to democracy remain unclear. Their economic meltdown last summer further aggravated problems of nuclear weapons security, and command and control. The competence and morale and, hence, the safety of their nuclear forces are increasingly in question.

The timeliness of the warnings of the bipartisan Rumsfeld Commission Report last summer have been more than borne out by these events. The North Korean and Iranian missile tests followed within weeks of that report. You will recall that the Rumsfeld Commission offered three major conclusions. (1) The missile threat to the United States is real and growing. (2) The threat is greater than previously assessed and a rogue nation could acquire the capability to threaten the U.S. with an ICBM within as little as five years. And (3) we may have little or no warning of the emergence of new threats. How prescient these conclusions were. How quickly they were borne out by subsequent events.

Madam President, the administration is to be commended for its recognition that a missile threat to the United States exists. On January 20, Secretary of Defense Cohen stated that ''the United States will, in fact, face a rogue nation threat to our homeland against which we will have to defend the American people'' and that ''technological readiness will be the sole remaining criteria'' in deciding when to deploy a national missile defense system. But subsequent statements by administration spokesman have hedged on this forthright statement and suggested that other considerations may affect our deployment decision. For example, Secretary of State Albright has suggested that any deployment was conditional on the actual emergence of a threat and on the successful renegotiation of the Anti-Ballistic Missile Treaty.

I've just outlined the threat and, in particular, the recent events which demonstrate that it is closer than many believed. There may well be rogue nations with the capability to reach American shores with weapons of mass destruction before we can deploy even a limited missile shield under the administration's most optimistic scenarios of successful tests and timely decisions. And even after Secretary Cohen's announcement, there has been slippage in a key program, namely the Space-Based Infrared System (SBIRS) satellites for missile detection and tracking. I joined several others Senators in expressing my concern at this unfortunate decision by the Air Force to delay development of this vial component of any missile defense architecture. If left unchanged, this decision will delay the deployment of any NMD

system until 2006 when the first SBIRS-low satellites are launched. The bottom line is that the threat is developing more rapidly than our response to it. We cannot afford additional delays while our potential adversaries develop and deploy increasingly capable missiles.

Second, Secretary Albright and other administration officials have spoken of the need to revise the ABM Treaty to accommodate deployment of a national missile defense. Mr. President, the ABM Treaty is an anachronism. It is the last relic of the cold war. Whatever its merit then, it has none now. In fact, some legal scholars believe the ABM Treaty is no longer binding on the United States since one of the original parties to the Treaty has ceased to exist. Renegotiation of the ABM Treaty is likely to prove a long and fruitless undertaking. Russia will not doubt hold out the prospect of START II ratification as they have done for six years now. The United States has purchased START II ratification several times over and we should not do so again. The economic situation in Russia today renders it unlikely that a START II level, let alone a START I level, of weapons is sustainable. To hold hostage the defense of the United States for the constantly receding mirage of START II would be strategic folly. Russia is not the target of American national missile defense except in so far as we seek the capability to defend against accidental or unauthorized launch. We can and should continue cooperative efforts with Russia, but they should not exercise a veto over our decision to defend ourselves against an Iran or a North Korea.

Some of my colleagues on the other side of the aisle have advanced arms control arguments in opposition to missile defense. I suggest that American deployment of national missile defense will actually be a profoundly stabilizing step. If we have the prospect of defending our country from attack by weapons of mass destruction, we are less likely to have to resort to nuclear retaliation. Further, our deployment of a national missile defense will reduce the incentive for nuclear and missile proliferation by our prospective adversaries. It will reduce the ability of a North Korea to successfully blackmail us and our allies with its nuclear and missile programs.

The bill before the Senate does not, however, address the ABM Treaty. The bill does not say what kind of 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. It simply states a national goal, a goal on which bipartisan agreement should be possible. I am surprised and disappointed that the administration has chosen to oppose this bill, the purpose of which seems identical to the policy announced by the Secretary of Defense in January. I would have hoped that we could agree on the goal and turn our attention to the means to achieve it.

There is an important debate that has only just begun as to the best means of providing a national missile defense. For example, one option that I don't think has received enough attention is a sea-based missile defense. While the best defense is obviously an integrated land, sea, and space combination, I think it is becoming more and more clear that sea-based systems offer our best near term solution to both theater and national missile defense needs. This is because of their operational flexibility, cost-effectiveness, ability to deploy rapidly where needed, and the potential for ascent-phase intercepts. As you will recall, the ABM Treaty precludes sea-and space-based defenses. Unfortunately, the Clinton administration is attempting to remain within the sacred scripture of the ABM Treaty by proposing one or two fixed land-based sites and hasn't vigorously pursued research and funding of more promising technologies.

We need a better alternative. For my money, that alternative is to develop a robust theater navy system which can provide a limited defense against some strategic missiles possibly at an earlier date than the administration's proposals would allow. Such a system can be a bridge to a complete national defense later. For many years now, the Navy has been heavily involved in missile defense and has invested over $50 billion in the Aegis fleet which now comprises more than 60 ships with more than 5,000 missile launchers. The Navy is currently working on two missile defense programs to be based on Aegis ships—the area or ''Lower Tier'' system that will provide protection for point targets against short-range missiles, and the Theater Wide or ''Upper Tier'' system capable of defending areas as large as several countries against much longer range missiles. The Pentagon's current plans do not call for the Navy Theater Wide system to be deployed before 2010 but this timing is driven by budget constraints rather than technology development. In fact, both the navy and the Ballistic Missile Defense Office have recently concluded that if funding were increased by roughly $300 million per year, the system could be deployed between 2003 and 2005 without a significant increase in risk.

Madam President, it is a more dangerous world out there than it was two or five years ago. Rogue nations have been able to pursue missile and nuclear programs with little effective hindrance from international proliferation regimes. The past twelve months have witnessed the first tests of the North Korean Taepo Dong I and the Iranian Shahab-3, the latter based on North Korea's No Dong design. Russia flirts with chaos and China once again reminds us that they remain a repressive, authoritarian regime, not a ''strategic partner'' in the administration's ill-chosen phrase. Both continue to assist rogue nations in their weapons of mass destruction. The administration's diplomacy has been inconsistent, distracted, and shortsighted at best. Its military programs are hobbled by outdated arms control strictures. Proliferation outstrips anti-proliferation efforts and rogue state offensive weaponry is advancing more rapidly than the administration's programs to counter them. 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. I urge my colleagues to support its passage.

Madam President, I would like to respond to my friend from Rhode Island and to speak to the question of whether or not we ought to maintain a window of vulnerability, because that is basically what has been presented here. My friend acknowledged the threat to the United States, but said we ought to go slow; after all, this might cost a lot and technology is hard and the Russians are going to be nervous about it. Therefore, maybe we ought to go slow.

Let me remind my colleagues what this amendment says. It is very simple:

> It is the policy of the United States to deploy, as soon as is technologically possible, an effective missile defense capable of defending the territory of the United States against limited ballistic missile attack.

Madam President, that is pretty straightforward. We are saying that when it is possible, we should deploy such a system. Why? Because we are threatened. Is that threat sometime off in the future? No. The threat is now. There is a window of vulnerability between the time that we are threatened and the time we can deploy a system to protect ourselves against the threat. Why is this important? We know that Russian missiles can reach the United States already. We know Chinese missiles can reach the United States, and we now know that the North Koreans probably have a missile that can at least reach some of the United States, and they are testing further missiles that would have a longer range and eventually have the capability of reaching the continental United States.

Have we ever been threatened by any of these countries? Yes, as a matter of fact, we have. Back when the Chinese were launching missiles across Taiwan before the Taiwanese elections in an obvious effort to intimidate them, the United States decided to send carriers to the Taiwan Strait. One of the Chinese generals is supposed to have said to an American: ''You know, we believe in the long run that you care more about Los Angeles than you do about Taiwan''—the implicit threat being, of course, if you get in our way, if we are ever serious about doing something to Taiwan, we can threaten to launch ballistic missiles against Los Angeles.

Is it fair for the people of the United States, for their leaders, knowing this

vulnerability exists, to do nothing about it, or to take the ''let's go slow'' approach that has just been suggested by my colleague? I think not. We would be negligent to the utmost degree if we understood that a threat existed, yet, we failed to protect the American people against a potential attack by a foreign country. That is the first and most important obligation of the U.S. Government—to protect the American people.

We now know that ballistic missiles and weapons of mass destruction carried by them are the weapon of choice—and not just by our old adversary, the Russians, but by rogue nations. That is why we should not allow a piece of paper—the ABM Treaty—to get in the way of defending us. Back in the days my colleague was just referring to, the United States and Russia—whether for good reasons or bad—decided we would remain neutrally vulnerable to an attack by the other; thereby, we would create stability. That may or may not have worked in those days.

I argue that there were other factors at play, but let's assume that was the reason. There were only two countries that could threaten each other; therefore, this was a workable arrangement. But to tie our hands behind our back mutually with the Russians doesn't account for today's reality in which there are other nations that could attack us. So while we politely agree with the Russians to maintain a lack of defense against ballistic missile attack, other countries have developed that capability and can threaten us, impede our foreign policy goals and, God forbid, even use the weapons against us with impunity because we don't have the means to defend ourselves.

Some would argue that we have the nuclear retaliatory capability to respond to such an attack. Well, Madam President, I for one would not like to have to launch a massive nuclear retaliation against North Korea, or anyone else, as the price of being attacked myself. I would rather deter that attack in the first place by having a defense—a limited defense—which would threaten in no way the Russian system because it would easily overwhelm it, but which would provide limited protection against an attack by a rogue nation.

I applaud Senator COCHRAN for his perseverance in continuing to bring this before the body, even though many on the other side of the aisle have not up until now allowed us to have a vote on this, and even though the administration strongly opposes it.

What were the arguments posed against the amendment? First is that we should not rush to this, and I think I have already made the point. There is no doubt about the threat here. The window of vulnerability will be in the neighborhood of a minimum of 5 or 6 years. That is too long. Under the administration's plan, we would deploy, maybe in 2005, a system that could defend us—or probably in 2006. We are talking 6 to 7 years from now. I don't think that trying to deploy this system as soon as technologically possible is rushing in any sense that is bad for the United States. Rather, I see a 6- or 7-year window of vulnerability as the problem. I would like to rush even more. I wish we could create the technology tomorrow and deploy this tomorrow. I don't think waiting 6 or 7 years and being threatened during that interim is rushing too much.

Secondly, my colleague suggested that we have to consider the threat. I don't know of anybody that denies the threat. The Rumsfeld Commission made it crystal clear that the Russians, Chinese, and the North Koreans have the capability, and that other countries will soon have the capability of reaching States of the United States. Now, that is a threat from weapons of mass destruction.

How about the cost? Of course, we have to consider the cost. So how much is this going to cost? Well, about as much as it has cost us to go to Bosnia. The estimates there range from $12 billion to $20 billion. Whatever the cost is, certainly protecting the American people from ballistic missile attack ought to at least be as important as what we have spent in Bosnia, shouldn't it? How about 1 percent of the defense budget? That is what we are talking about. The administration is talking about adding about a billion dollars to a defense budget of $260 billion, or maybe $270 billion. So, Madam President, that is less than 1 percent of the defense budget. It is a fraction of the overall budget of the United States.

If this represents the No. 1 threat to the United States from rogue nations, and if it is 1 percent of the defense budget, is that too much? How much is too much to protect the American people, I ask my colleagues? Can you put a number on it? I can't. Certainly, 1 percent of the defense budget is not too much.

So first of all, there is a threat and there is a window of vulnerability. We are not rushing this, and we are not spending too much money on it. I challenge my colleagues to answer the question: How much is too much to protect the American people? When we don't even want to see one American life lost in a place like Bosnia, and we go to great lengths to protect our service people when we deploy them abroad because we don't want to lose one person, how much is too much to protect the people of Hawaii or Alaska, the States that are currently threatened by a country like North Korea, which is a country that absolutely cannot be predicted in terms of its behavior?

The third issue is diplomacy. We have the ABM Treaty to deal with. I am going to get into a little bit more detail on that in just a moment because we certainly have to think about strategic stability. We don't want to do anything here that would be so disruptive to our relationships with other nations, that somehow we would find ourselves in greater danger than from this particular threat. I suggest to my colleagues that there is no upsetting of the strategic stability of the world if we proceed to defend ourselves, especially from rogue nations.

As a matter of fact, I suggest that the deployment of missile defenses to protect the people of the United States will be profoundly stabilizing. If we have the prospect of defending our country against a ballistic missile attack, we are less likely to have to use massive nuclear retaliation, which is more destabilizing. Furthermore, our deployment of a national missile defense will reduce the incentive for nuclear and missile proliferation by our potential adversaries knowing that they can't succeed against us because we have this defense.

That is one of the key things that brought down the Soviet Union—knowing that we were committed to develop what was then the Strategic Defense Initiative to preclude the Soviet Union from ever succeeding in an attack against us. They basically packed it up. They said: We cannot compete with that; therefore, we are going to quit.

It seems to me that a strong commitment to defend ourselves will have the right effect. It will cause other countries to get realistic about the ability to try to push the United States around by the development of these threatening weapons. They will decide that discretion is the better part of valor and will decide that they can spend their money on more useful things. It will certainly reduce the ability of countries like North Korea to successfully blackmail the United States and our allies because we can't defend ourselves against their weapons.

Madam President, let me show, with the aid of a couple of charts, some things that I think are very interesting. This first chart shows the level of offensive weapons, nuclear warheads, permitted under different regimens today under treaties. This is the one we are currently under. It is called the START I. It said both Russia and the United States had to limit our nuclear warheads to about 6,000. So that is where we are.

We proposed, and the United States has ratified, the START II treaty, which almost cuts this in half—down to 3,500. We have been waiting, I believe now for 6 years, for Russia to ratify the START II treaty. They haven't ratified it yet.

We are worried here about making the Russians upset. How about us being upset? For a long time we have said: Let's create a more stable world; let's get rid of these dangerous weapons; you don't need them; we don't need them; let's reduce them down to 3,500—6 years ago. The Russians still haven't ratified. We have given a lot to the Russians as inducements for them to ratify. We bought the START II treaty many times. But they have yet to deliver. So we are still waiting.

Some argue that, because it is so costly to maintain these weapons, actually the Russians would prefer to go right to a more realistic level that they could sustain, a START III level, about 2,000; maybe they can afford to keep 2,000 weapons around; and, therefore, we ought to just jump right over START II and go all the way down to START III. Let's examine that argument for a minute.

It turns out that it is not the ABM Treaty at all, or the START II treaty, that is determining the strategic parity between the United States and Russia with respect to nuclear weapons. It turns out that this stability is created more by a very practical situation; that is, how much can the Russians afford? How much, frankly, can the United States afford?

As it turns out, Igor Sergeyev, the Russian Minister of Defense, last summer told the Russian Security Council that Russia will be unable to muster a strategic nuclear force of more than 1,500 warheads by the year 2010 and that the reasons have nothing to do with armaments control. They can't afford it. Their economy is broken. They have no money. Much of their military force is in disrepair. And, indeed, the only part they have been modernizing is their strategic nuclear offensive capability. As a result, Sergeyev points out that this is the maximum level they are going to be able to maintain with or without an ABM Treaty, with or without a START II or START III treaty.

So it is not what we do with respect to these arms control agreements that is going to dictate the parity of nuclear weapons between our two countries; it is the stark reality of what we can both afford.

Frankly, this level of 1,500 to 2,000 is about where we are going to end up. So it doesn't matter whether we deploy another defensive system or not, or a defensive system against nuclear-tipped missiles or not. The fact is, the Russians are going down to this level because they can't afford to do anything else.

I think, therefore, that the notion that offensive reductions in strategic nuclear warheads will not occur if this bill is passed is simply not borne out by the facts. This bill has nothing whatsoever to do with that. It is happening and will continue to happen regardless of what we do today.

But let's suppose something. Let's make believe something—that some of the arguments similar to those that have just been made are correct and that ''Russia would likely retain thousands of nuclear warheads'' and somehow they would develop the money to do this that they would ''otherwise eliminate'' under these arms control agreements. Suppose some miracle occurs and Russia finds the resources to rejuvenate its strategic forces.

What rationale would Russia have for doing this?

Bear in mind that what we are talking about here is a national missile defense system. We qualified it, it says ''limited,'' and the reason is that we do not intend to build anything more, and we would not build anything more, than a limited system capable of providing a defense against a limited attack, an attack that we currently believe we are threatened by a rogue nation like North Korea, or, given the debate about China these days, perhaps a China, which doesn't have the same quantity of missiles that Russia does.

There are other nations in the world that I will not list that also are developing this capability.

Suppose that when we develop this system, Russia looks at it and says, ''How is this going to affect our strategic missile offensive warhead situation? Maybe we ought to have more warheads, because the United States system is going to degrade our capability of successfully attacking them.'' In other words, ''If they have a good defense, maybe we need more offense.''

I pointed out that the defense we are talking about is a minimal defense, perhaps capable of defending against just a handful of missiles, not the 6,000 warheads that the Russians may have today. If the strategic stability argument is to be believed, it has to be because the Russians would find the idea of the United States missile defense so threatening that they would have to retain thousands and thousands of warheads in order to be sure they could overcome our defense.

So, let's examine the defensive side of the equation.

I have another chart which I think will explain this situation. The offensive warheads again are in red. This is what was originally permitted under START I. You can see that we had about 2,000 warheads at the time. But START I eventually got to the level of 6,000 that I mentioned a while ago. That is where we are today—both countries in the neighborhood of authorized 6,000 warheads. That is the column in red. This is the way it began back when START I was actually ratified, and when the ABM Treaty was created. Back in those days, each side was limited by the ABM Treaty to 200 interceptor missiles. In 1974, at the time the treaty was negotiated, or signed, neither side having plans to deploy the full complement of defensive missiles it was allowed, that number was reduced to 100. That remains the limit today. So both countries have 100 authorized interceptors. Of course, Russia has built its system. We have not built our system.

The limited missile defense system the United States is developing will be capable initially of shooting down, as I said, a handful of relatively unsophisticated warheads. The plans for ''Capability 1,'' as we will call it, called for deployment of 20 interceptor missiles to do this job—just 20 interceptor missiles. This is the system the administration claims can be deployed by 2005. Subsequently, this will grow to ''Capability 2,'' which, according to the Ballistic Missile Defense Organization, will consist of up to 100 interceptor missiles able to shoot down a somewhat larger number of sophisticated warheads.

Although the concept of operations envisions firing several interceptors at each warhead, let's assume for the purpose of argument that each interceptor will work absolutely perfectly and kill one warhead. That is never going to be the case, but we will give the other side the absolute maximum benefit of the doubt. That means that, at most, as envisioned today, the United States system will be capable of destroying 100 Russian warheads, out of a START III total of no fewer than 2,000, or perhaps 1,500, if Minister Sergeyev is correct. Let's examine what that means.

Back in 1974, when the ABM Treaty was created, there was a 10-to-1 ratio in terms of offensive to defensive, because you had about 2,000 warheads and 200-interceptor authorized capability, although we never built it. We have now built up to 2,000 warheads, and we have an authorized 100-interceptor capability. The blue line here is the defensive warheads, or the defensive missile capability.

So you have 6,000 warheads existing, and a 60-to-1 ratio, because you can only intercept 100 at the absolute most, because you get 1 for 1. Under START II, that ratio would be 35 to 1, because you would have 3,500 warheads and you still have 100 authorized interceptors. Under START III, it would be 20 to 1, because you would have 2,000 warheads, 100 interceptors. Even if Minister Sergeyev is correct, as I said, you would have no more than 1,500 warheads in the Soviet Union and you would have 100 interceptors, for a 15-to-1 ratio—15-to-1 ratio. That is still greater than the ratio that existed at the time of the signing of the ABM Treaty, the time and the age we are trying to go back to and preserve. This is the way things ought to be—1974, a ratio of 10-to-1, offensive weapons to interceptors. That was strategic stability. That was the ratio, the parity that we wanted, and so we negotiated it. That is what is in jeopardy now.

That is what is in jeopardy now, Madam President? If you give the other side the absolute maximum of a 1-to-1 kill ratio, you hit 100 missiles with 100 interceptors, the ratio today at 15 to 1 is still a greater ratio than 10 to 1. How could the Russians be more threatened today with a 15-to-1 ratio of offensive over defensive capability when they were perfectly happy to sign the ABM Treaty back in 1974 with a 10-to-1 ratio? How could this be more destabilizing? How could any Senator argue against the protection of the American people today because it would threaten the Russians because it would be destabilizing, it would create a worse situation than existed back in 1974, when the ratio then was 10 to 1? And it would be 50 percent more than that today—15 to 1.

You cannot argue it; it is illogical. And for the Russians to contend otherwise would be irresponsible. Certainly for us to act on behalf of their irrational objections would be irresponsible on our part.

Incidentally, I might add that this Nation that will allegedly be so angered and concerned about the deployment of our limited defense has the world's only ABM system, nuclear armed, recently upgraded, now in its fourth generation. It is deployed around Moscow with all 100 interceptor missiles allowed under the ABM Treaty. So how is it that a comparable U.S. system cannot be deployed without unduly angering the Russian leadership? They have 100 very modern interceptor missiles today. We have none. So if we have 100 just like they have, how is that going to be destabilizing? It is we who should be arguing about instability, not the Russians.

I think the argument that strategic stability would be somehow upset if the United States did what the ABM Treaty authorizes, and that is create a capability to intercept first 20 and then 100 missiles, would hardly be destabilizing, at least to the point that we should delay or preclude ourselves from doing it.

Obviously, the Russians will complain; it is in their interest to do so. Although the cold war has ended and we still enjoy a much more positive relationship with the Russians, all traces of rivalry have not disappeared. They still find it in their interest when possible to work in ways inimical to U.S. interests, and they know that our defenselessness against ballistic missile attack constrains our actions around the world, and that, in the Russian view, is not necessarily a bad thing.

So one realistically understands that there will be objections, but one must realistically evaluate those objections. I wish my colleague who just spoke a few minutes ago, who so tortuously examined all of the reasons why we could not move forward with this—it is going to cost a lot, the technology is hard, diplomatically we need to think of how the Russians would feel—I wish that we were as concerned about the threat to the United States as we are the feelings of the Russian leadership. And I wish we were as concerned about our ability to project our national interests in our foreign policy against the threat of rogue nations such as the Irans and the Iraqs and the North Koreans of the world as we are about the feelings of the Russians. Russian soldiers and scientists understand the reality that is portrayed on these charts just as well as we do, and we know that a very limited missile defense system that we have the right to deploy in no way threatens strategic stability, no matter how loudly they may protest that it does. Our relationship with Russia is something that must be taken very seriously, but it cannot prevent us from taking reasonable actions to defend the American people against threats from other countries. The day that we conclude that unduly taking Russian concerns into account would inhibit our ability to defend ourselves is the day we have to move forward.

So, in summary, strategic stability as defined by the other side in this debate, the ABM Treaty at the time that it was negotiated, which created a 10-to-1 advantage of strategic offensive over defensive weapons, that 10-to-1 ratio is not degraded even under the worst set of conditions that one might imagine in terms of our ability to defend ourselves here, or I should say even under the best of conditions because the ratio will still be 15 to 1 under this condition. It is more likely to be in the neighborhood of 20 to 1 or 35 to 1, the point being that no Russian could feel threatened with this kind of relationship if they didn't feel threatened back here anyway. And this defines the golden mean, remember.

With respect to the cost, I think I have covered that. Even this administration is willing to add money to the budget to pay for what it believes will be a system that it can build when it is technologically feasible. Recognizing that the technology is hard, we provide in this amendment that it is our policy to deploy as soon as is technologically possible an effective missile defense system.

So we are not saying deploy something that is not technologically possible. Yes, we know technology is hard, but we also know we can get there, the administration believes, by about the year 2005.

So to the thought we should not be rushing forward with this amendment, I simply say how long do you want to leave the American people vulnerable? How valuable is it to you to leave the American people vulnerable to a missile attack, or to leave our Nation subject to blackmail, to the threat of such an attack; to prevent us, for example, from defending our friends in South Korea because the North Koreans have a nuclear weapon with a missile capable of hitting Alaska or Hawaii; to prevent us from defending Taiwan against Chinese aggression because they have missiles that can reach Los Angeles; to prevent us from supporting a country like Japan or any of the other interests that we may have around the world?

Eventually, it boils down to this: We have an obligation to defend the American people. We will have the technological capability of doing that soon in the next century. There is a threat to the American people today. The cost of building a national missile defense is not prohibitive. Even if it were 1 percent of the defense budget, it would not be prohibitive—I submit, even if it were 10 percent, but it is obviously not going to cost that much.

So given the nature of the threat, given the fact that technology is taken into account in this proposal, that it clearly is not going to cost too much even by this administration's analysis, and the fact that it will not disrupt strategic stability in the world, it seems to me that we would be derelict in our duty as representatives of the people not to move forward.

The first step in moving forward is to adopt this simple resolution because, as is clear from the debate on the other side, unless we are committed to deploying a national missile defense, we are going to find excuses for not doing it. And until the Senate and the House of Representatives pass a resolution that says we are going to do this, the bureaucrats and the naysayers and those who don't want to do it will have good reason for not moving forward. We will not have spoken on the issue in a definitive way. That is why I applaud my colleague, Senator COCHRAN. He understands that we have to get an expression of serious intent in order to be able to convince the naysayers to move forward. And that is why adoption of this resolution is so important.

So I urge my colleagues to support this bill when we have a chance to do so; we do it with great pride and with understanding that it fulfills the most important responsibility we have to the American people, and that is to provide for the national defense.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Rhode Island.

Mr. REED. Mr. President, if I may just respond briefly to the comments made by my colleague, the Senator from Arizona.

First, let me again emphasize something that I think is implicit in his statement, and that is we all recognize the threat that is posed by the potential development of intercontinental delivery systems by these rogue nations. No one is discounting that. That has changed the calculus significantly. The question is whether we are going to move forward on the very simple—and one might say simplistic—criterion of ''technologically possible,'' or if we are going to, in this legislation, and in practice, address the complexities of this issue.

Historical analogies are never perfect, but I suspect back in the 1930s when France was debating defense policy, the notion of building a series of concrete forts along their territorial line was not only technologically feasible but ultimately was constructed. But when it came to 1940, the Maginot Line just did not work to defend the people of France. I am not suggesting we are in the same type of debate, but I think it is sometimes too alluring to think in the simple terms of: If we have the technology of doing something, let's do it—particularly when we get to the issue of national missile defense.

The Senator talked about a window of vulnerability, and there is increasing potential, because of the development of these missiles by North Korea and others, of threats to our territory. But I ask that we think also of the potential vulnerability if Russia, for example, decides, because of our actions, to abandon reasonable arms control;

decides, instead, to walk away from START II, to keep their launchers, their land-based systems with multiple independent reentry vehicles which complicate our defense enormously; if it decides, in fact, to more aggressively deploy its submarines with cruise missiles that may have nuclear warheads, all of which could easily defeat the system that we are proposing to spend billions of dollars on today to counter a limited military threat.

Put that new sort of spirit—an ill spirit, I should suggest—together with what one can see as a decaying command and control system and we might be increasing our vulnerabilities by moving forward with this particular legislation.

I think we have to be sensitive to those issues. I would not readily accept the notion that simply because of the number of launchers that we have, the number of launchers that they have, that the Russians would simply disregard our unilateral abandonment of the ABM as not a threat to them.

We feel threatened, I think with good reason, when the North Koreans—a very, very remote and ill-prepared power—begin to experiment with intercontinental ballistic missiles which would have a capability years from now. To hear on the floor the suggestion that the Russians will just casually shrug their shoulders, although we have made no attempt to renegotiate the ABM and we will have a law that says we have to put the system in place as soon as we can technologically do it, I think misreads their character and, frankly, the predictable character of any country—particularly one like Russia which sees its national greatness eroding greatly, to react, perhaps not rationally but predictably—to not be cooperative, in fact creating more vulnerability.

The issue, too, of how much is too much, is a question that can be raised in every context. But, frankly, we all understand that there are opportunity costs, not with respect to using defense dollars for other nondefense matters, but within the context of defense. Take, for example, not the theoretical but the operational possibility of an enhanced submarine fleet which the Russians might deploy with cruise missiles. By the way, those cruise missiles launched reasonably close to our shores could not be countered by any type of national missile defense, C–1, C–2, or C–3.

So, in respect to what we have to do, I think we have to ask ourselves, for one thing, is this the wisest course of action? Are we truly protecting the American public? And there can be many answers to that question. But I hope, in the course of this debate and in the conclusion of this debate, we will simply embrace the reality of the situation. It is not one dimensional. It is not just technological feasibility. It has to do with cost, it has to do with threat, it has to do with the evolution of a threat. It has to do with already-existing agreements with respect to international arms control.

If we reflect those issues in our legislation, we will find, I suspect, unanimous support for a strong message which would correspond with the administration's message on national missile defense.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise to speak in favor of the Cochran-Inouye Missile Defense Act because I think it is long overdue that this Senate take an action that is so very crucial to the security of our Nation. I commend Senator COCHRAN and Senator INOUYE for trying so hard to get our Congress to move forward, to deploy this defense system in the face of opposition from the President of the United States.

I appreciate that they have twice come to the Senate and twice been filibustered and have been unable to set this very important national security policy. In fact, the question is, Shall it be the policy of the United States to deploy, as soon as technologically possible, an effective national missile defense capable of defending the United States against limited ballistic missile attacks? It is a very simple question, and most people in this country think we already have a defense to an incoming ballistic missile. But in fact we do not.

We now know that Chinese missiles can reach our mainland. In a few short years, Iran, Iraq and North Korea could also be able to attack the United States. Today, we cannot defend the people of our country nor any place in the world where we have troops on the ground.

The Clinton administration said that we would have 15 years' warning for missiles from North Korea and Iran, but the Rumsfeld report said the danger could arise at any time. I commend former Secretary of Defense and former Congressman Don Rumsfeld for really delving into this issue in a very bipartisan commission. He had a very tough row to hoe. But he said we are going to get to the bottom of this and he did not stop until he had a unanimous report from his commission, some of whom were naysayers in the beginning, that said this danger is upon us and we better do something about it. He gave us the wake-up call, and we should be forever grateful to Don Rumsfeld for having the guts to get to the truth so we would have the facts to back up the need for this security for our country.

Unfortunately, U.S. espionage has shown that China has tremendously boosted its military space and missile capabilities. There is just no good argument against this resolution.

The bill has support from both sides of the aisle. It really shows that people are beginning to be aware that we have a security threat to the United States. This bill is not what many of the critics have said. It does not mandate a missile defense architecture. It does not authorize a particular funding level. It is not a production decision, and it doesn't lead to the signing of any contracts. Instead, it is a policy statement by the Senate of the United States. But it is an important step for our national security.

America, the innovative Nation that landed a man on the Moon, has built up an impressive array of antimissile technology. We have had a formal missile defense program since President Ronald Reagan launched SDI in 1983, and there were various antimissile technologies in research before that. An operational system is now within our reach. The experts say we could have one in 2 years, 3 years, perhaps 4. But because of misinformation, this promising system remains confined to the laboratory, and the Government has never taken the policy step that is illustrated in this bill.

As long as we continue to ignore this basic policy question, we won't have an antimissile protection for our country, nor an effective theater defense for our forces and allies abroad. We have a chance to take that first step, and it is time that we did this.

What do the opponents of a missile defense system fear so much that they will not even permit us to go forward to try to get the technology in place? The danger of ballistic missiles can no longer be ignored. The Clinton administration stubbornly sticks to the old ABM Treaty.

In a letter to Senator LEVIN on February 3, the President's National Security Adviser, Sandy Berger wrote:

> . . . a decision regarding national missile defense deployment must also be addressed within the context of the ABM treaty and our objectives for achieving future reductions in strategic offensive arms through START II and START III. The ABM treaty remains a cornerstone of strategic stability. . . .

The letter promises a Presidential veto of this measure if it is passed in its present form. Our choice is clear. We deploy a missile defense system as soon as technologically feasible, or we hide behind a 25-year-old treaty with a country that no longer exists. In fact, many legal and treaty scholars believe that as a matter of international law, the treaty terminated when the U.S.S.R. collapsed. How anyone can believe that the ABM Treaty is the cornerstone of strategic stability, when so many nations outside the treaty are flagrantly ignoring its principles, I do not understand, when nearly three dozen countries are building or transferring ballistic missile technology. How does the ABM Treaty protect us from high-tech missiles in North Korea, in Iran, in Iraq and in China?

In fact, Mr. President, the White House cannot even say who the treaty partner is right now. To solve that problem, the administration negotiated a new ABM Treaty, signed in 1997 in New York, that would make

Russia, Belarus, Ukraine and Kazakhstan parties to the new treaty. It would also impose new limits on the most promising theater missile defenses, limits that were never envisioned in the ABM Treaty of 1972. The New York treaty would handcuff us, crippling our defenses.

Where is that treaty now? The Senate has gone on record on several occasions insisting that the new treaty be submitted for our constitutionally required advice and consent, but the President has consistently refused to submit the treaty that would put new countries into it to the Senate for ratification.

Have we learned nothing from the Rumsfeld Commission report, from the test of a three-stage ICBM by North Korea that went right over Japan where we have thousands of troops on the ground, from the launch of Iran's Shahab-3, from China's own threats? Eight years after the fall of the U.S.S.R., we are still fighting the last war. We are basing our safety in the cold war strategy of arms control with Russia, coupled with deliberate vulnerability to missile attack.

Polls show that most Americans believe we have antiballistic missile protection. Can you imagine our country being vulnerable and not even taking the first step, the first step to a policy that says we are not going to leave ourselves open when countries are threatening that they have ballistic missiles that will reach our shores, based on an obsolete treaty that is not even in the best interest of Russia, which is the country that this administration says is the other party to the treaty? I think we would sit down with Russia, and it would be in both our best interests to have a defense for both of our countries from rogue nations that have already shown that they have ballistic missile capabilities, and some even have nuclear capabilities to put right on one of those ballistic missiles.

Mr. President, there is no responsibility any greater for the U.S. Senate than the security of our country. That we would not pass the Cochran-Inouye resolution immediately and go forward with a technology that would protect our country is unthinkable; it is unthinkable. Yet, we have seen a filibuster of this very resolution twice in the last year in the U.S. Senate. I urge my colleagues not to let one more day pass that this country is not in high gear, pursuing the security of our Nation and our forces in any theater in the field and our allies who depend on us for their protection as well.

Mr. President, we should not let another day pass or we will be walking away from one of the key responsibilities that Congress has, and that is to stand up to the President of the United States, to admit that the ABM Treaty is obsolete and no longer in the best interest of the former U.S.S.R., nor the United States of America, and to say we are going to protect the people of America and the troops that are fighting for our freedom wherever they may be in the world, that we would protect them from an incoming ballistic missile with nuclear, chemical or biological capabilities. That is the statement that we will be making if we pass the Cochran-Inouye bill. I urge my colleagues to do it, hopefully very soon, to start the first step.

This does not appropriate the money. It doesn't designate the authorization. It only says it is the policy of this country to go forward to make the technology something that will work and to put our very best minds on this issue. Then we will authorize it. Then we will appropriate for it. We cannot shirk this responsibility, Mr. President.

Once again, I thank Senator Cochran and I thank Senator INOUYE for being determined that on their watch we will do the right thing for the people of the United States of America and all of our allies, wherever they may need us in the future.

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

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, first let me thank the distinguished Senator from Texas for her remarks on the bill and other Senators who have spoken today on both sides of the aisle on this subject. I think we have a better understanding now of this issue.

UNANIMOUS-CONSENT AGREEMENT

Mr. COCHRAN. Seeing no other Senators seeking recognition on the floor at this time, in behalf of the majority leader, I ask unanimous consent that the Senate resume the pending missile defense bill at 11:30 a.m. on Tuesday and at that time there be 1 hour for debate on the pending Cochran amendment, with a vote to occur on or in relation to that amendment No. 69 at 2:15 p.m. on Tuesday and that no other amendments be in order prior to that vote.

Mr. LEVIN. Mr. President, there is no objection on this side.

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

Mr. COCHRAN. Mr. President, in light of this agreement, the leader has asked that we announce that the next rollcall vote will occur in the Senate at 2:15 p.m. on Tuesday, March 16.

MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Members permitted to speak for up to 10 minutes each.

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

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGES FROM THE PRESIDENT—PM 16

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c), I transmit herewith a 6-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12957 of march 15, 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 15, 1999.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2144. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report on a violation of the Antideficiency Act that occurred at the Naval Computer and Telecommunications Area Master Station Mediterranean Detachment, Rota, Spain during fiscal year 1993; to the Committee on Appropriations.

EC–2145. A communication from the Director of the Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Rules of Practice and Procedure for Administrative Hearings Before Administrative Law Judges in Cases Involving Allegations of Unlawful Employment of Aliens, Unfair Immigration-Related Employment Practices, and Document Fraud'' (RIN1125–AA17) received on March 5, 1999; to the Committee on the Judiciary.

EC–2146. A communication from the President and Chairman of the Import-Export Bank of the United States, transmitting, pursuant to law, a report on the commitment of a Working Capital Guarantee to GSE Power Systems, Inc., of Columbia, Maryland; to the Committee on Banking, Housing, and Urban Affairs.

EC–2147. A communication from the Acting Assistant General Counsel for Regulatory Law, Office of Declassification, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Identifying Classified Information'' (M475.1–1) received

on March 4, 1999; to the Select Committee on Intelligence.

EC–2148. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report on recommended legislative action regarding electronic filing thresholds, campaign-cycle reporting, and the application of the $25,000 Annual Limit; to the Committee on Rules and Administration.

EC–2149. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's annual report under the Government in the Sunshine Act for calendar year 1998; to the Committee on Governmental Affairs.

EC–2150. A communication from the Deputy Associate Administrator for Acquisition Policy, Office of Governmentwide Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Review of FAR Representations'' (Case 96–013) received on March 5, 1999; to the Committee on Governmental Affairs.

EC–2151. A communication from the Assistant General Counsel for Regulations, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Child Care Assess Means Parents in School Program; Notice of Final Priority and Invitation for Applications for New Awards for Fiscal Year 1999'' (CFDA No. 84.335) received on March 5, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–2152. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Foods and Drugs; Technical Amendments; Correction'' received on February 22, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–2153. A communication from the Deputy Executive Secretary, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners: Charge for Self-Queries'' (RIN0906–AA42) received on March 8, 1999; to the Committee on Environment and Public Works.

EC–2154. A communication from the Assistant Secretary of the Army for Civil Works, transmitting a post authorization change report on the ''Sacramento River Flood Control Project; Glenn-Colusa Irrigation District; Riverbed Gradient Facility'' received on March 5, 1999; to the Committee on Environment and Public Works.

EC–2155. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Kern County Air Pollution District'' (FRL6235–4) received on March 9, 1999; to the Committee on Environment and Public Works.

EC–2156. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Arizona and California State Implementation Plan Revision; Maricopa County, Arizona, Antelope Valley Air Pollution Control District, San Diego County Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, and Ventura County Air Pollution Control District'' (FRL6235–5) received on March 9, 1999; to the Committee on Environment and Public Works.

EC–2157. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, transmitting a draft of proposed legislation entitled ''The Scotts Bluff National Monument Boundary Adjustment Act''; to the Committee on Energy and Natural Resources.

EC–2158. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, transmitting a draft of proposed legislation to amend the Act establishing the Keweenaw National Historic Park; to the Committee on Energy and Natural Resources.

EC–2159. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, transmitting a draft of proposed legislation to revise the boundary of Fort Matanzas National Monument; to the Committee on Energy and Natural Resources.

EC–2160. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, transmitting a draft of proposed legislation entitled ''The El Camino Real de los Tejas National Historic Trail Act''; to the Committee on Energy and Natural Resources.

EC–2161. A communication from the Acting Assistant General Counsel for Regulatory Law, Office of Safeguards and Security, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Personnel Security Program Manual'' (M475.1–1) received on March 4, 1999; to the Committee on Energy and Natural Resources.

EC–2162. A communication from the Acting Assistant General Counsel for Regulatory Law, Office of Safeguards and Security, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Emergency Management Guide'' (G151.1–1) received on March 4, 1999; to the Committee on Energy and Natural Resources.

EC–2163. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department or the Interior, transmitting, pursuant to law, the report of a rule entitled ''Procedures for State, Tribal, and Local Government Historic Preservation Programs'' (RIN1024–AC44) received on March 9, 1999; to the Committee on Energy and Natural Resources.

EC–2164. A communication from the Secretary of Labor, transmitting, pursuant to law, the Department's report on the Expenditure and Need for Worker Adjustment Assistance Training Funds Under the Trade Act of 1974; to the Committee on Finance.

EC–2165. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled ''The Independent Living Program Improvement Act''; to the Committee on Finance.

EC–2166. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation entitled ''The United States—Caribbean Basin Trade Enhancement Act''; to the Committee on Finance.

EC–2167. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rules for Certain Reserves'' (Rev. Rul. 99–10) received on March 8, 1999; to the Committee on Finance.

EC–2168. A communication from the Assistant Secretary for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Child Support Enforcement Program; State Plan Approval and Grant Procedures, State Plan Requirements, Standards for Program Operations, Federal Financial Participation, Audit and Penalty'' (RIN0970–AB81) received on February 10, 1999; to the Committee on Finance.

EC–2169. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Raisins Produced from Grapes Grown in California; Relaxations to Substandard and Maturity Dockage Systems'' (FV99–989–1 FIR) received on February 26, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2170. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Hazelnuts Grown in Oregon and Washington; Establishment of Final Free and Restricted Percentages for the 1998–99 Marketing Year'' (FV99–982–1 IFR) received on February 26, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2171. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Potato Leaf Roll Virus Resistance Gene (also known as orf1/orf2 gene); Exemption from the Requirement of a Tolerance'' (FRL6052–3) received on March 9, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2172. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''2,4–D; Time-Limited Pesticide Tolerance'' (FRL6065–3) received on March 5, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2173. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Carboxin; Extension of Tolerance for Emergency Exemptions'' (FRL6065–1) received on March 5, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2174. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Maleic hydrazide; Extension of Tolerances for Emergency Exemptions'' (FRL6064–1) received on March 5, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2175. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Metolachlor; Pesticide Tolerances for Emergency Exemptions'' (FRL6062–5) received on March 5, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2176. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled ''The Coast Guard Authorization Act of 1999''; to the Committee on Commerce, Science, and Transportation.

EC–2177. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's biannual report of the Aquatic Nuisance Species Task Force and Smithsonian Institute relating to ballast water delivery management; to the Committee on Commerce, Science, and Transportation.

EC–2178. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled ''Carrier Automated Tariff System'' (Docket 98–29) received on March 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2179. A communication from the Chairman of the Federal Maritime Commission,

transmitting, pursuant to law, the report of a rule entitled ''Service Contracts Subject to the Shipping Act of 1984'' (Docket 98–30) received on March 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2180. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled ''Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984'' (Docket 98–26) received on March 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2181. A communication from the Acting Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''NASA Mentor-Protege Program'' received on March 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2182. A communication from the Acting Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Application of Earned Value Management (EVM)'' received on March 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2183. A communication from the Acting Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Waiver of Submission of Cost or Pricing Data for Acquisitions With the Canadian Commercial Corporation and for Small Business Innovation Research Phase II Contracts'' received on March 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2184. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Table of Allotments, TV Broadcast Stations (Kansas City, Missouri)'' (Docket 96–134) received on March 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2185. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Table of Allotments, FM Broadcast Stations (Brewster, Massachusetts)'' (Docket 98–58) received on March 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2186. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Table of Allotments, FM Broadcast Stations (Spencer and Webster, Massachusetts)'' (Docket 98–174) received on March 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2187. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Table of Allotments, FM Broadcast Stations (Pottsboro, Roxton and Whitesboro, Texas, and Durant, Leonard, Madill, and Sopher, Oklahoma)'' (Docket 98–63) received on March 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2188. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Utility Vehicle Label'' (RIN2127–AG53) received on March 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–2189. A communication from the Research and Special Programs Administration Attorney, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions'' (RIN2137–AD15) received on March 4, 1999; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following report of committees was submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs:

Report to accompany the bill (S. 557) to provide guidance for the designation of emergencies as a part of the budget process (Rept. No. 106–14).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COVERDELL (for himself and Mr. CLELAND):

S. 604. A bill to direct the Secretary of Agriculture to complete a land exchange with Georgia Power Company; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HOLLINGS:

S. 605. A bill to solidify the off-budget status of the old-age, survivors, and disability insurance program under title II of the Social Security Act and to protect program assets; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the Committee have thirty days to report or be discharged.

By Mr. NICKLES (for himself, Mr. HATCH, Mr. MACK, and Mrs. FEINSTEIN):

S. 606. A bill for the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical, LLC (successor to Kerr-McGee Chemical Corporation), and for other purposes; to the Committee on the Judiciary.

By Mr. CRAIG (for himself and Mr. MURKOWSKI):

S. 607. A bill reauthorize and amend the National Geologic Mapping Act of 1992; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI (for himself, Mr. CRAIG, Mr. GRAMS, and Mr. CRAPO):

S. 608. A bill to amend the Nuclear Waste Policy Act of 1982; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI:

S. 609. A bill to amend the Safe and Drug-Free Schools and Communities Act of 1994 to prevent the abuse of inhalants through programs under the Act, and for other purposes; read the first time.

By Mr. ENZI (for himself and Mr. THOMAS):

S. 610. A bill to direct the Secretary of the Interior to convey certain land under the jurisdiction of the Bureau of Land Management in Washakie County and Big Horn County, Wyoming, to the Westside Irrigation District, Wyoming, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL:

S. 611. A bill to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes; to the Committee on Indian Affairs.

S. 612. A bill to provide for periodic Indian needs assessments, to require Federal Indian program evaluations; and for other purposes; to the Committee on Indian Affairs.

S. 613. A bill to encourage Indian economic development, to provide for the disclosure of Indian tribal sovereign immunity in contracts involving Indian tribes, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 614. A bill to provide for regulatory reform in order to encourage investment, business, and economic development with respect to activities conducted on Indian lands; to the Committee on Indian Affairs.

By Mr. CAMPBELL:

S. 615. A bill to encourage Indian economic development, to provide for a framework to encourage and facilitate intergovernmental tax agreements, and for other purposes; to the Committee on Indian Affairs.

By Mr. WELLSTONE:

S. 616. A bill to amend the Child Care and Development Block Grant Act of 1990 and the Higher Education Act of 1965 to establish and improve programs to increase the availability of quality child care, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS:

S. 617. A bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of insulin pumps as items of durable medical equipment; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 618. A bill to provide for the declassification of the journal kept by Glenn T. Seaborg while serving as chairman of the Atomic Energy Commission; to the Committee on Energy and Natural Resources.

By Mr. WELLSTONE:

S. 619. A bill to provide for a community development venture capital program; to the Committee on Small Business.

By Mr. SARBANES (for himself, Mr. WARNER, Mrs. MURRAY, and Mr. CAMPBELL):

S. 620. A bill to grant a Federal charter to Korean War Veterans Association, Incorporated, and for other purposes; to the Committee on the Judiciary.

By Mr. ROCKEFELLER (for himself, Mr. DORGAN, Mr. BURNS, Mr. ROBERTS, and Mr. CONRAD):

S. 621. A bill to enhance competition among and between rail carriers in order to ensure efficient rail service and reasonable rail rates in any case in which there is an absence of effective competition; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS:

S. 605. A bill to solidify the off-budget status of the old-age, survivors, and disability insurance program under title II of the Social Security Act and to protect program assets; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the committee have 30 days to report or be discharged.

SOCIAL SECURITY FISCAL PROTECTION ACT OF 1999

Mr. HOLLINGS. Mr. President, on tomorrow afternoon, we begin to mark up the budget. That is, when I say we, I mean that the Budget Committee on the Senate side meets to mark up the budget for the year 2000 commencing October 1 this year, and immediately we will hear the cry, ''Surplus.''

I am constrained to say—as in the earliest days of the Republic when Patrick Henry said, ''Peace, Peace, everywhere men cry peace,'' and there was no peace—''surplus, surplus, everywhere men cry surplus,'' but there is no surplus.

The fact is that we are spending $100 billion more than we are taking in already this fiscal year, and under current policy the deficit for next year will be right at $90 billion.

Also, Mr. President, another thing to note is the fact that you are going to hear the cry, ''Saving Social Security.'' I can tell you categorically that neither the Republican plan, policy or approach nor the Democratic White House plan, policy or approach will save Social Security. Both spend 100 percent of the Social Security moneys coming in the fiscal year 2000, as is the case already this year. And otherwise, all the wonderful talk about paying down the debt is nothing more than fancy rhetoric for a flawed policy that has got us into a situation of fiscal cancer.

Now let me go right to the meaning of ''Surplus.'' Yes, we are making progress on the budget and the deficit. At a news conference earlier today I was asked about this and when did we ever expect to get some results. Well, I see that we are beginning to understand that there is no surplus. Most of the nation's astute commentators on the budget see this, too. Allan Sloan of Newsweek said, of course, that the President's plan was double accounting. Paul Samuelson talks about when they said ''surplus,'' it was ''surplus in the sky.'' The Concord Coalition, made up of our former colleagues, Senators Rudman and Nunn, with whom I have had an on-going engagement, finally says there is no surplus. And only two weeks ago Barron's, the conservative financial newspaper—which I hold it here—said: ''Hey, Guys, There is no Budget Surplus.''

But be that as it may, the White House and many members of Congress are going to start dealing around the so-called surplus, nonexistent that it is, for education, Medicare, tax cuts, anything and everything—everything but saving Social Security. It has been a constant charade on messages of the party caucuses on both sides since January, even during the impeachment days; we have got to get our message out. Unfortunately, most of the media falls right in line with the message. They don't look into the actual fact or the reality.

On the matter of the so-called surplus and the $100 billion that we are spending now: mind you me, Mr. President, we set spending caps year before last, and last year we broke the caps by $12 billion, and we have already broken the cap in this year's budget by $21 billion, which would mean in marking up 2000's budget we would immediately have to cut spending $33 billion to conform to the fiscal year 2000 budget cap.

Instead of doing that, we have already met in unison, almost like a chorus singing ''Whoopee for the military,'' and we have spent $18 billion on the military, money which is unaccounted for. Instead of cutting back, the Senate has already exceeded the agreed-to caps by $18 billion. Unless, of course, they intend to cut $18 billion in domestic programs or cut $18 billion in operation, maintenance and readiness within the defense budget.

We are going in the wrong direction. No one should think that Social Security has a surplus. This fiscal year, we have a surplus of the amount required to be paid out, but since we have been spending it each year there is a $730 billion deficit due and owing. Social Security is in the red.

So there are no surpluses. Even trying to get around that to try to get something to politic on for this year and next year, the Campaign 2000, they say, ''Well, wait a minute; we will start our tax cuts in the year 2002 when there is one document to the effect there might be a slight surplus in Social Security, over and above the Social Security amount or otherwise we can spend it on Medicare beginning in 2000''—anything for the Campaign 2000.

They talk in the Chamber about the Chinese. Come, come, come. It is not the Chinese. It is not the baby boomers in the next generation. It is the adults in Congress who are looting the Social Security trust fund. Each one of these particular plans spends 100 percent of the Social Security so-called surplus.

How do I say that? Well, it is easy. You go back into the original law—and I have a copy of the law itself—section 201.

I ask unanimous consent to have that printed in the RECORD.

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

THE SOCIAL SECURITY ACT (ACT OF AUGUST 14, 1935) [H.R. 7260]

TITLE II—FEDERAL OLD-AGE BENEFITS OLD-AGE RESERVE ACCOUNT

Section 201. (a) There is hereby created an account in the Treasury of the United States to be known as the Old-Age Reserve Account hereinafter in this title called the Account. There is hereby authorized to be appropriated to the Account for each fiscal year, beginning with the fiscal year ending June 30, 1937, an amount sufficient as an annual premium to provide for the payments required under this title, such amount to be determined on a reserve basis in accordance with accepted actuarial principles, and based upon such tables of mortality as the Secretary of the Treasury shall from time to time adopt, and upon an interest rate of 3 per centum per annum compounded annually. The Secretary of the Treasury shall submit annually to the Bureau of the Budget an estimate of the appropriations to be made to the Account.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts credited to the Account as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Account. Such special obligations shall bear interest at the rate of 3 per centum per annum. Obligations other than such special obligations may be acquired for the Account only on such terms as to provide an investment yield of not less than 3 per centum per annum.

(c) Any obligations acquired by the Account (except special obligations issued exclusively to the Account) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Account shall be credited to and form a part of the Account.

(e) All amounts credited to the Account shall be available for making payments required under this title.

(f) The Secretary of the Treasury shall include in his annual report the actuarial status of the Account.

Mr. HOLLINGS. Mr. President, I will send that momentarily to the desk, section 201 of the Social Security Act. Under section 201 of Social Security, we required at this moment—and have been doing so for years—under law to invest only and immediately in T-bills, Treasury bills, these special securities of the Federal Government. Once we do that, of course, we get a bond or IOU; the Government gets the money, and immediately all of those moneys are transferred to the Government account and it is spent, allocated, or used to pay down the so-called public debt.

The one way to stop that is a bill, which I will send to the desk and for which I request proper referral. Mr. President, this bill simply says, amongst other things—and I will read section 5—that:

Notwithstanding any other provision of law, throughout each month that begins after October 1, 1999, the Secretary of Treasury shall maintain, in a secure repository or repositories, cash in a total amount equal to the total redemption value of all obligations issued to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund pursuant to section 201(d) of the Social Security Act that are outstanding on the first day of each month.

Advisedly, Mr. President, this was worked out by none other than my Social Security friends. At one time, I had the distinction of being the chairman of the Budget Committee. We had an outstanding staffer then named Ken Apfel. He is now the Social Security Administrator. I called over there and I said: Let's stop this roundabout dance

about surpluses and spending all the money and everything else; I want you to write a provision whereby we can do exactly what we said when Congress passed the Social Security Act.

Remember old John Mitchell, under the Nixon administration? He said, ''Watch what we do, not what we say.'' I am afraid on budget matters we have arrived exactly at that point. But, in any event, to do what we say, we have prepared this bill and now it has been introduced and, if passed by the Congress, yes, we will save Social Security.

Immediately, one of the distinguished Senators said, ''Wait a minute. Is the money going to just sit there?''

No. Mr. President, that money will be invested in T-bills, just as it has been all these years. Or, if there is an additional plan, like the Kerrey-Moynihan plan, like our Thrift Savings Plan—a certain percentage invested in the market in order to make more money but take on more risk—we can debate that. What this particular bill really does is save Social Security. Social Security funds will not be spent, save and excepting on Social Security purposes.

This is exactly what was intended by Mr. Greenspan when he headed the Greenspan Commission in 1983. In 1983, section 21 of the Greenspan Commission report said to take Social Security outside of the unified budget, outside of the unified deficit, and set it aside in trust. I struggled from 1983 until 1990 to translate Chairman Greenspan's recommendations into law. I thought we had done it in 1990, when we passed the Budget Act by a vote of 98 Senators here on the floor of the Senate and almost an equal majority, overwhelming as it was, over on the House side. President Bush, on November 5, 1990, signed the bill into law, including section 13301 of the Budget Act, which stated Congress could not spend Social Security moneys on anything other than the Social Security program; you had it outside of the unified budget and the deficit.

Unfortunately, Mr. President, that has been ignored. That is why I have to reword it this way. But the contemplation at the particular time, the law itself, the policy of the U.S. Government with respect to corporate America—we passed the Pension Reform Act of 1994 saying: Thou shalt not, in corporate America, spend your pension fund to pay off the company debt.

The most interesting and ironic thing is, when Denny McLain, the former great pitcher for the Detroit Tigers, became the head of a corporation and paid off its debt with the pension fund, he was sent to jail for 8 years. If you can find what jail poor Denny is in, say to him, ''Denny, next time, run for the U.S. Senate. Instead of a jail term, they will give you the good government award.''

That is exactly what we are doing. We violate our own policy. We pay off the debt with the Social Security Trust Fund and have been doing it for 15 years.

That gets me immediately to the point of so-called paying off the public debt. You know, they have these euphemisms and different expressions that come around budget time and make you think you have a real policy on board. That has been the policy.

Admittedly, if you had a stagnant economy, if you had a dormant stock market, you could welcome paying off the public debt to get the economy and the stock market moving and everything else. But to do it, not over just a year or 2, but to do it for the last 15 years to the tune of in excess of $100 billion, what it has really done is given us fiscal cancer. We have gone up, up, and away with the national debt, and the interest costs are killing us.

Let me dwell a minute on the interest costs on the national debt. The interest cost, when President Lyndon Johnson last balanced the budget, was $16 billion. Today the interest cost is projected to be $357 billion, almost a billion dollars a day. What it says to me is, this year I have to spend—and next year I have to spend—$357 billion for nothing. If I had been fiscally prudent, I could have had $80 billion for tax cuts plus $80 billion for spending increases plus $80 billion to pay down the debt plus $80 billion to save Social Security. That is $320 billion. I would have had $37 billion for you to have a party out here on the west front when I jump off the Capitol dome.

Since 1995, I have been telling Chairman DOMENICI, trying to bring sense to this entire budget debate by talking in the extreme, that by the year 2002, if he had a balanced budget, truly balanced—if we were paying out less than what we were bringing in or just at that amount—I would jump off the Capitol dome. And I reiterate the pledge. Let's make the bets—''Get old HOLLINGS to jump off the dome.'' Because under current policies, no one can possibly balance the budget while exceeding revenue by over $100 billion. Nobody is cutting $100 billion. They are spending $18 billion more unaccounted for, breaking the caps. Nobody is spending less than $90 billion. So we know with all of this spending for tax cuts, Medicare, education, housing, and everything else of that kind, that we are in deep trouble.

We have fiscal cancer. What we really should do, probably, as Mr. Greenspan, the head of the Federal Reserve, finally came around to saying, is do nothing: take this year's budget for next year. I did that as the Governor of South Carolina. I capped the debt. By the way, that would bring truth in budgeting to this crowd, if they are right. Let's plead guilty: They are right, I am wrong, there is a surplus and we are going to pay down the debt. If that occurs, we can cap the debt as of October 1 of this year, the beginning of the next fiscal year. Whatever it is, since there is a surplus and since we are going to pay down the debt, let's cap it so it does not exceed that particular amount.

You cannot get the White House—I faced them down in one of these briefings—to go along with it. I will make the motion and we will see how many people vote for that.

I am trying to bring truth to our federal budget. I am trying to avoid the fiscal cancer. The Republicans talk about an $80 billion across-the-board tax cut. I want a $357 billion tax cut this year, next year, and right along the line. I want, in that 10-year period, $3.5 trillion in tax cuts, not just this $800 billion tax cut. I want to get rid of this waste in Government.

I served on the Grace Commission to Eliminate Waste. I know what waste is. I speak advisedly. Before long, if those interest rates go up, instead of $357 billion, we will be up around $500 billion in interest costs. It is the largest item in the domestic budget for spending at this minute.

What we ought to do is get a hold of ourselves, start talking sense to each other, work out a plan to take care of the needs of Government, but quit using the Social Security surplus and trust fund as a political slush fund for any and every idea on the media message. And the media are going along with this nonsense and act like we actually are doing it. My particular bill will bring sobriety to the entire process and debate.

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

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

S. 605

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Social Security Fiscal Protection Act of 1999''.

SEC. 2. OFF BUDGET STATUS OF SOCIAL SECURITY TRUST FUNDS.

Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 3. EXCLUSION OF RECEIPTS AND DISBURSEMENTS FROM SURPLUS AND DEFICIT TOTALS.

The receipts and disbursements of the old-age, survivors, and disability insurance program established under title II of the Social Security Act and the revenues under sections 86, 1401, 3101, and 3111 of the Internal Revenue Code of 1986 related to such program shall not be included in any surplus or deficit totals required under the Congressional Budget Act of 1974 or chapter 11 of title 31, United States Code.

SEC. 4. CONFORMITY OF OFFICIAL STATEMENTS TO BUDGETARY REQUIREMENTS.

Any official statement issued by the Office of Management and Budget or by the Congressional Budget Office of surplus or deficit totals of the budget of the United States Government as submitted by the President

or of the surplus or deficit totals of the congressional budget, and any description of, or reference to, such totals in any official publication or material issued by either of such Offices, shall exclude all receipts and disbursements under the old-age, survivors, and disability insurance program under title II of the Social Security Act and the related provisions of the Internal Revenue Code of 1986 (including the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund).

SEC. 5. REPOSITORY REQUIREMENT.

Notwithstanding any other provision of law, throughout each month that begins after October 1, 1999, the Secretary of the Treasury shall maintain, in a secure repository or repositories, cash in a total amount equal to the total redemption value of all obligations issued to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund pursuant to section 201(d) of the Social Security Act that are outstanding on the first day of such month.

By Mr. NICKLES (for himself, Mr. HATCH, Mr. MACK, and Mrs. FEINSTEIN):

S. 606. A bill for the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical, LLC (successor to Kerr-McGee Chemical Corporation), and for other purposes; to the Committee on the Judiciary.

PRIVATE RELIEF BILL

Mr. NICKLES. Mr. President, today I introduce S. 606 for Senator MACK, Senator FEINSTEIN, Senator HATCH, and myself. This bill is intended to resolve litigation between the federal government and Kerr-McGee Corporation and Kerr-McGee Chemical, LLC (successor to Kerr-McGee Chemical Corporation) and Global Exploration and Development Corporation. This legislation embodies an agreement that has been reviewed and accepted by the Hearing Officer and a three judge reviewing panel. The Department of Justice has no objection to this legislation. In addition, this legislation would also make it a criminal act to distribute certain information relating to explosives, destructive devices, and weapons of mass destruction. This bill was reported by the Committee on the Judiciary in this form during the 105th Congress.

As background to this relief for Kerr-McGee and Global Exploration, in 1964, they first filed applications for phosphate prospecting permits in Osceola National Forest. Under Sec. 211(a) of the Mineral Lands Leasing Act, the Secretary can only grant prospecting permit applications following a determination that the public interest will be served by doing so. The U.S. Forest Service must also consent to the issuance of the prospecting permits. The permits were granted, and the plaintiffs subsequently discovered phosphate deposits.

The plaintiffs then filed applications with the Department of Interior for leases to mine the deposits in January of 1969. Whether the plaintiffs are entitled to leases is governed by the Mineral Lands Leasing Act (30 U.S.C. sec. 181 et. seq.) which requires the Secretary of Interior to issue leases to a permittee that has discovered a ''valuable deposit'' of mineral. The U.S. Geological Survey, the Bureau of Mines and the Office of Minerals Policy Department all confirmed that valuable deposits had in fact been discovered (valued at $100 to $300 million in 1970's dollars).

Kerr-McGee filed suit in 1973 and Global filed suit in 1978 seeking the immediate issuance of the leases. In 1981, the U.S. Forest Service began setting out the requirements for reclamation. The Department of Interior concluded the reclamation technology did not exist based on an Environmental Assessment (''EA'') prepared by Interior and issued in January of 1983. Based on that conclusion, the plaintiffs' applications for leases to mine the deposits were rejected.

Agency personnel had told plaintiffs that they would be able to comment on the EA findings before their final issuance. By law, the government was required to permit the applicants to participate in the EA process by submitting comments and expert analysis on the feasibility of reclamation. Plaintiffs were never given a chance to participate in the EA process, to show feasibility of reclamation, or to comment on the draft EA.

In 1984, the Florida Wilderness Act (Pub. L. 98–430, 98 Stat. 1665) was enacted which prevented the issuance of phosphate mining leases in Osceola, effectively foreclosing a legal remedy since plaintiffs could no longer ask for reversal of the prior decision or for relief for damages incurred. The House Committee Report accompanying the Act stated that ''in the event the courts ultimately determined that applicants have established lease rights, [the Act] provides that leases will not be issued. The applicants would instead be compensated as required in accordance with constitutional principles.'' H. Rpt. 98–102 Part I, 97th Cong., 1st Sess., at 7.

The plaintiffs pursued their case in federal district court and the Court of Appeals for the D.C. Circuit. The Court of Appeals vacated the district court's judgment and remanded the case with instructions to dismiss the suit as moot in light of Florida Wilderness Act. The U.S. Court of Federal Claims then questioned whether or not it had jurisdiction to hear the case, leaving plaintiffs without a forum to be heard.

Under 28 U.S.C. 2509, a congressional reference empowers a judge of the Court of Federal Claims to sit as a Hearing Officer, hold a hearing and determine the facts of the case. The Hearing Officer's findings and conclusions are then reviewed by a three-judge panel. The panel then adopts or modifies the findings and conclusions and submits its report to the Chief Judge who then transmits the recommendations to the house of Congress which referred the case.

On Jan. 10, 1991, H. Res. 29 and H.R. 477 were introduced during the 102nd Congress to refer the case to the U.S. Court of Federal Claims in order to compensate plaintiffs for any damages incurred on account of the failure of the Secretary of the Interior to grant and permit mining operations pursuant to phosphate leases in the Osceola National Forest. On July 10, 1991, the House Judiciary Subcommittee on Administrative Law and Government Relations held hearings on H.R. 477 and H. Res. 29. On October 3, 1991, the Subcommittee reported the resolution, with a technical amendment, to full Committee. On July 21, 1992, the House of Representatives passed H. Res. 29, referring H.R. 477 to Court of Claims. The formal Congressional reference confirmed jurisdiction for the plaintiffs' suit in the U.S. Court of Federal Claims.

In the Court of Federal Claims, the Government moved for summary judgement. The Court ruled that plaintiffs did not have a legal claim but did have an equitable claim since the government failed to comply with the legal requirement of the EA. The court ruled that the Secretary of Interior had made an error in denying phosphate mining leases on the basis of an EA without allowing plaintiffs the opportunity to comment. The court concluded that the error was not harmless.

Remaining was the question of fact whether reclamation was feasible, according to Forest Service standards as of January of 1983. A 6 week evidentiary hearing was held on that issue from October 13 to December 14, 1995. Plaintiffs presented leading experts in reclamation who showed they could have successfully reclaimed the land, that the analysis in the EA was scientifically incorrect, and that EA members who concluded successful reclamation had their conclusions omitted.

Before the court issued its opinion, the parties agreed to a joint stipulation of settlement and submitted this stipulation to the Court: Global is to received $9.5 million; Kerr-McGee is to receive $10 million, which it will return to the government as partial payment for a Superfund cleanup site in Louisiana; and Kerr-McGee Chemical LLC is to receive $0. Global, Kerr-McGee and the Department of Justice accepted the report of the Hearing Officer, dated November 18, 1996, and the Review Panel endorsed the decision.

On November 18, 1996, the court published its recommendations to Congress that the disputes be settled for the amounts set forth in the joint stipulation of settlement. The court's recommendation was based on a finding that the settlement was fair, just, equitable and supported by the evidence. As noted in the Hearing Officer's report, ''if the case were to proceed to final disposition and plaintiffs to prevail, then the Government would face a potential liability substantially in excess of the proposed settlement amounts. Conversely, however, a victory for the Government would not assure it of protection against all future liability.''

This legislation would implement this settlement, and we urge its prompt consideration and approval by the Senate.

For the information of all Senators, I have included the House Committee Report from the 105th Congress which provides a very clear background and the need for this provision.

In addition, the bill includes language related to the prohibition of distribution of information related to destructive devices, explosives, and weapons of mass destruction in furtherance of a violent crime. This language was added to this legislation during markup of H.R. 1211 during the 105th Congress in the Senate Judiciary Committee by Senator FEINSTEIN and is a reasonable resolution of an issue pushed by Senator FEINSTEIN for several years.

I urge quick consideration and passage of this overdue and important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 606

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

SECTION 1. SATISFACTION OF CLAIMS AGAINST THE UNITED STATES.

(a) PAYMENT OF CLAIMS.—The Secretary of the Treasury shall pay, out of money not otherwise appropriated—

(1) to the Global Exploration and Development Corporation, a Florida corporation incorporated in Delaware, $9,500,000;

(2) to Kerr-McGee Corporation, an Oklahoma corporation incorporated in Delaware, $10,000,000; and

(3) to Kerr-McGee Chemical, LLC, a limited liability company organized under the laws of Delaware, $0.

(b) CONDITION OF PAYMENT.—

(1) GLOBAL EXPLORATION AND DEVELOPMENT CORPORATION.—The payment authorized by subsection (a)(1) is in settlement and compromise of all claims of Global Exploration and Development Corporation, as described in the recommendations of the United States Court of Federal Claims set forth in 36 Fed. Cl. 776.

(2) KERR-MCGEE CORPORATION AND KERR-MCGEE CHEMICAL, LLC.—The payment authorized by subsections (a)(2) and (a)(3) are in settlement and compromise of all claims of Kerr-McGee Corporation and Kerr-McGee Chemical, LLC, as described in the recommendations of the United States Court of Federal Claims set forth in 36 Fed. Cl. 776.

SEC. 2. CRIMINAL PROHIBITION ON THE DISTRIBUTION OF CERTAIN INFORMATION RELATING TO EXPLOSIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.

(a) UNLAWFUL CONDUCT.—Section 842 of title 18, United States Code, is amended by adding at the end the following:

''(p) DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'destructive device' has the same meaning as in section 921(a)(4);

''(B) the term 'explosive' has the same meaning as in section 844(j); and

''(C) the term 'weapon of mass destruction' has the same meaning as in section 2332a(c)(2).

''(2) PROHIBITION.—It shall be unlawful for any person—

''(A) to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence; or

''(B) to teach or demonstrate to any person the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.''.

(b) PENALTIES.—Section 844 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''person who violates any of subsections'' and inserting the following: ''person who—

''(1) violates any of subsections'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(2) violates subsection (p)(2) of section 842, shall be fined under this title, imprisoned not more than 20 years, or both.''; and

(4) in subsection (j), by striking ''and (i)'' and inserting ''(i), and (p)''.

By Mr. CRAIG (for himself and Mr. MURKOWSKI):

S. 607. A bill reauthorize and amend the National Geologic Mapping Act of 1992; to the Committee on Energy and Natural Resources.

THE NATIONAL GEOLOGIC MAPPING REAUTHORIZATION ACT OF 1999

Mr. CRAIG. Mr. President, I am today introducing along with Senator MURKOWSKI, the National Geologic Mapping Reauthorization Act of 1999. This is an act that has been very beneficial to the Nation and deserves to be reauthorized.

The National Cooperative Geologic Mapping Act (NCGMA) was originally signed into law in 1992. The purpose of this geologic mapping program is to provide the nation with urgently needed geologic maps that can be and are used by a diverse clientele. These maps are vital to understanding groundwater regimes, mineral resources, geologic hazards such as landslides and earthquakes, geology essential for all types of land use planning, as well as providing basic scientific data. The NCGMA contains three parts; FedMap—the U.S. Geological Survey's geologic mapping program, StateMap—the state geological survey's part of the act, and EdMap—a program to encourage the training of future geologic mappers at our colleges and universities.

StateMap is a competitive program wherein the states submit proposals for geologic mapping that are critiqued by a peer review panel. A requirement of this section of the legislation is that each federal dollar be matched one-for-one with state funds. Each participating state has a StateMap Advisory Committee to insure that its proposal addresses priority areas and needs. The success of this program insured reauthorization of similar legislation in 1997 with widespread bipartisan support in both the House and Senate.

According to a recent poll conducted by the Association of American State Geologists, the 50 states have produced over 1,900 new geologic maps since the program authorized by this legislation started. There are an additional 300 maps currently being completed. Also, the states have digitized 650 existing geologic maps (1:24,000 scale) so they can be used as a computer data base. All of these maps have been submitted to the U.S. Geological Survey for inclusion in a national geologic map database. One of the purposes of this database is to eventually provide a digital geologic map of the entire nation at a scale of 1:100,000. This national database will assure that future maps will be easy to use by anyone.

The Edmap and Fedmap sections of the legislation support mapping projects led by Universities and regional mapping projects that address needs for geologic information to deal with land, water, mineral resource, natural hazard mitigation and environmental protection issues. Fed map projects are coordinated with State and university mapping portions of the program, through regional meetings, liaison groups and national reviews of ongoing projects.

Mr. President, the National Geologic Mapping Reauthorization Act benefits numerous citizens every day by assuring there is accurate and usable geologic information available to communities and individuals so better and safer resource use decisions can be made. I encourage my colleagues to support this legislation and am committed to its timely consideration.

Thank you, Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 607

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Geologic Mapping Reauthorization Act of 1999''.

SEC. 2. FINDINGS.

Section 2(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31a(a)) is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) by redesignating paragraph (8) as paragraph (10);

(3) by inserting after paragraph (7) the following:

''(8) geologic map information is required for the sustainable and balanced development of natural resources of all types, including energy, minerals, land, water, and biological resources;

''(9) advances in digital technology and geographical information system science

have made geologic map databases increasingly important as decision support tools for land and resource management; and''; and

(4) in paragraph (10) (as redesignated by paragraph (2)), by inserting ''of surficial and bedrock deposits'' after ''geologic mapping''.

SEC. 3. DEFINITIONS.

Section 3 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31b) is amended—

(1) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (6), (7), (8), and (10), respectively;

(2) by inserting after paragraph (3) the following:

''(4) EDUCATION COMPONENT.—The term 'education component' means the education component of the geologic mapping program described in section 6(d)(3).

''(5) FEDERAL COMPONENT.—The term 'Federal component' means the Federal component of the geologic mapping program described in section 6(d)(1).''; and

(3) by inserting after paragraph (8) (as redesignated by paragraph (1)) the following:

''(9) STATE COMPONENT.—The term 'State component' means the State component of the geologic mapping program described in section 6(d)(2).''.

SEC. 4. GEOLOGIC MAPPING PROGRAM.

Section 4 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c) is amended—

(1) in subsection (b)(1)—

(A) in the first sentence, by striking ''priorities'' and inserting ''national priorities and standards for'';

(B) in subparagraph (A)—

(i) by striking ''develop a geologic mapping program implementation plan'' and inserting ''develop a 5-year strategic plan for the geologic mapping program''; and

(ii) by striking ''within 300 days after the date of enactment of the National Geologic Mapping Reauthorization Act of 1997'' and inserting ''not later than 1 year after the date of enactment of the National Geologic Mapping Reauthorization Act of 1999'';

(C) in subparagraph (B), by striking ''within 90 days after the date of enactment of the National Geologic Mapping Reauthorization Act of 1997'' and inserting ''not later than 1 year after the date of enactment of the National Geologic Mapping Reauthorization Act of 1999''; and

(D) in subparagraph (C)—

(i) in the matter preceding clause (i), by striking ''within 210 days after the date of enactment of the National Geologic Mapping Reauthorization Act of 1997'' and inserting ''not later than 3 years after the date of enactment of the National Geologic Mapping Reauthorization Act of 1999, and biennially thereafter'';

(ii) in clause (i), by striking ''will coordinate'' and inserting ''are coordinating'';

(iii) in clause (ii), by striking ''will establish'' and inserting ''establish''; and

(iv) in clause (iii), by striking ''will lead to'' and inserting ''affect''; and

(2) by striking subsection (d) and inserting the following:

''(d) PROGRAM COMPONENTS—

''(1) FEDERAL COMPONENT.—

''(A) IN GENERAL.—The geologic mapping program shall include a Federal geologic mapping component, the objective of which shall be to determine the geologic framework of areas determined to be vital to the economic, social, environmental, or scientific welfare of the United States.

''(B) MAPPING PRIORITIES.—For the Federal component, mapping priorities—

''(i) shall be described in the 5-year plan under section 6; and

''(ii) shall be based on—

''(I) national requirements for geologic map information in areas of multiple-issue need or areas of compelling single-issue need; and

''(II) national requirements for geologic map information in areas where mapping is required to solve critical earth science problems.

''(C) INTERDISCIPLINARY STUDIES.—

''(i) IN GENERAL.—The Federal component shall include interdisciplinary studies that add value to geologic mapping.

''(ii) REPRESENTATIVE CATEGORIES.—Interdisciplinary studies under clause (i) may include—

''(I) establishment of a national geologic map database under section 7;

''(II) studies that lead to the implementation of cost-effective digital methods for the acquisition, compilation, analysis, cartographic production, and dissemination of geologic map information;

''(III) paleontologic, geochrono-logic, and isotopic investigations that provide information critical to understanding the age and history of geologic map units;

''(IV) geophysical investigations that assist in delineating and mapping the physical characteristics and 3-dimensional distribution of geologic materials and geologic structures; and

''(V) geochemical investigations and analytical operations that characterize the composition of geologic map units.

''(iii) USE OF RESULTS.—The results of investigations under clause (ii) shall be contributed to national databases.

''(2) STATE COMPONENT.—

''(A) IN GENERAL.—The geologic mapping program shall include a State geologic mapping component, the objective of which shall be to establish the geologic framework of areas determined to be vital to the economic, social, environmental, or scientific welfare of individual States.

''(B) MAPPING PRIORITIES.—For the State component, mapping priorities—

''(i) shall be determined by State panels representing a broad range of users of geologic maps; and

''(ii) shall be based on—

''(I) State requirements for geologic map information in areas of multiple-issue need or areas of compelling single-issue need; and

''(II) State requirements for geologic map information in areas where mapping is required to solve critical earth science problems.

''(C) INTEGRATION OF FEDERAL AND STATE PRIORITIES.—A national panel including representatives of the Survey shall integrate the State mapping priorities under this paragraph with the Federal mapping priorities under paragraph (1).

''(D) USE OF FUNDS.—The Survey and recipients of grants under the State component shall not use more than 15.25 percent of the Federal funds made available under the State component for any fiscal year to pay indirect, servicing, or program management charges.

''(E) FEDERAL SHARE.—The Federal share of the cost of activities under the State component for any fiscal year shall not exceed 50 percent.

''(3) EDUCATION COMPONENT.—

''(A) IN GENERAL.—The geologic mapping program shall include a geologic mapping education component for the training of geologic mappers, the objectives of which shall be—

''(i) to provide for broad education in geologic mapping and field analysis through support of field studies; and

''(ii) to develop academic programs that teach students of earth science the fundamental principles of geologic mapping and field analysis.

''(B) INVESTIGATIONS.—The education component may include the conduct of investigations, which—

''(i) shall be integrated with the Federal component and the State component; and

''(ii) shall respond to mapping priorities identified for the Federal component and the State component.

''(C) USE OF FUNDS.—The Survey and recipients of grants under the education component shall not use more than 15.25 percent of the Federal funds made available under the education component for any fiscal year to pay indirect, servicing, or program management charges.

''(D) FEDERAL SHARE.—The Federal share of the cost of activities under the education component for any fiscal year shall not exceed 50 percent.''.

SEC. 5. ADVISORY COMMITTEE.

Section 5 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d) is amended—

(1) in subsection (a)(3), by striking ''90 days after the date of enactment of the National Geologic Mapping Reauthorization Act of 1997'' and inserting ''1 year after the date of enactment of the National Geologic Mapping Reauthorization Act of 1999''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''critique the draft implementation plan'' and inserting ''update the 5-year plan''; and

(B) in paragraph (3), by striking ''this Act'' and inserting ''sections 4 through 7''.

SEC. 6. GEOLOGIC MAPPING PROGRAM 5-YEAR PLAN.

The National Geologic Mapping Act of 1992 is amended by striking section 6 (43 U.S.C. 31e) and inserting the following:

''SEC. 6. GEOLOGIC MAPPING PROGRAM 5-YEAR PLAN.

''(a) IN GENERAL.—The Secretary, acting through the Director, shall, with the advice and review of the advisory committee, prepare a 5-year plan for the geologic mapping program.

''(b) REQUIREMENTS.—The 5-year plan shall identify—

''(1) overall priorities for the geologic mapping program; and

''(2) implementation of the overall management structure and operation of the geologic mapping program, including—

''(A) the role of the Survey in the capacity of overall management lead, including the responsibility for developing the national geologic mapping program that meets Federal needs while fostering State needs;

''(B) the responsibilities of the State geological surveys, with emphasis on mechanisms that incorporate the needs, missions, capabilities, and requirements of the State geological surveys, into the nationwide geologic mapping program;

''(C) mechanisms for identifying short- and long-term priorities for each component of the geologic mapping program, including—

''(i) for the Federal component, a priority-setting mechanism that responds to—

''(I) Federal mission requirements for geologic map information;

''(II) critical scientific problems that require geologic maps for their resolution; and

''(III) shared Federal and State needs for geologic maps, in which joint Federal-State geologic mapping projects are in the national interest;

''(ii) for the State component, a priority-setting mechanism that responds to—

''(I) specific intrastate needs for geologic map information; and

''(II) interstate needs shared by adjacent States that have common requirements; and

''(iii) for the education component, a priority-setting mechanism that responds to requirements for geologic map information that are dictated by Federal and State mission requirements;

''(D) a mechanism for adopting scientific and technical mapping standards for preparing and publishing general- and special-purpose geologic maps to—

''(i) ensure uniformity of cartographic and scientific conventions; and

''(ii) provide a basis for assessing the comparability and quality of map products; and

''(E) a mechanism for monitoring the inventory of published and current mapping investigations nationwide to facilitate planning and information exchange and to avoid redundancy.''.

SEC. 7. NATIONAL GEOLOGIC MAP DATABASE.

Section 7 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31f) is amended by striking the section heading and all that follows through subsection (a) and inserting the following:

''SEC. 7. NATIONAL GEOLOGIC MAP DATABASE.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Survey shall establish a national geologic map database.

''(2) FUNCTION.—The database shall serve as a national catalog and archive, distributed through links to Federal and State geologic map holdings, that includes—

''(A) all maps developed under the Federal component and the education component;

''(B) the databases developed in connection with investigations under subclauses (III), (IV), and (V) of section 4(d)(1)(C)(ii); and

''(C) other maps and data that the Survey and the Association consider appropriate.''.

SEC. 8. BIENNIAL REPORT.

The National Geologic Mapping Act of 1992 is amended by striking section 8 (43 U.S.C. 31g) and inserting the following:

''SEC. 8. BIENNIAL REPORT.

''Not later 3 years after the date of enactment of the National Geologic Mapping Reauthorization Act of 1999 and biennially thereafter, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that—

''(1) describes the status of the national geologic mapping program;

''(2) describes and evaluates the progress achieved during the preceding 2 years in developing the national geologic map database; and

''(3) includes any recommendations that the Secretary may have for legislative or other action to achieve the purposes of sections 4 through 7.''.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

The National Geologic Mapping Act of 1992 is amended by striking section 9 (43 U.S.C. 31h) and inserting the following:

''SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act—

''(1) $28,000,000 for fiscal year 1999;

''(2) $30,000,000 for fiscal year 2000;

''(3) $37,000,000 for fiscal year 2001;

''(4) $43,000,000 for fiscal year 2002;

''(5) $50,000,000 for fiscal year 2003;

''(6) $57,000,000 for fiscal year 2004; and

''(7) $64,000,000 for fiscal year 2005.

''(b) ALLOCATION OF APPROPRIATIONS.—Of any amounts appropriated for any fiscal year in excess of the amount appropriated for fiscal year 2000—

''(1) 48 percent shall be available for the State component; and

''(2) 2 percent shall be available for the education component.''.

By Mr. MURKOWSKI (for himself, Mr. CRAIG, Mr. GRAMS, and Mr. CRAPO):

S. 608. A bill to amend the Nuclear Waste Policy Act of 1982; to the Committee on Energy and Natural Resources.

NUCLEAR WASTE POLICY ACT OF 1999

Mr. CRAIG. Mr. President, I come to the floor today with my colleague, Senator FRANK MURKOWSKI of Alaska, chairman of the Energy and Natural Resources Committee, and Senator ROD GRAMS to introduce the Nuclear Waste Policy Act of 1999.

Once again, Congress must clarify its intention toward the disposal of spent nuclear fuel and nuclear waste. It is for this reason that I introduced the Nuclear Waste Policy Act of 1997, which passed with broad bipartisan support in this body last year, as did similar legislation in the other body. It is why I am an original cosponsor of the legislation this year.

We must resolve the problem that this Nation faces with disposing of nuclear materials. Congress must recognize its responsibility to set a clear and definitive nuclear material disposal policy. With the passage of this legislation in the last Congress, the Senate expressed its will that Government fulfill its responsibilities. This legislation makes one significant change to the course we are currently on by directing that an interim storage facility for nuclear materials be constructed at area 25 at the Nevada test site and that the interim facility be prepared to accept nuclear materials by June 30, 2003.

The President and the Vice President do not support this provision. They do not support an interim storage facility at one safe, secure location in the Nevada desert. What they do support, according to Energy Secretary Bill Richardson, is an interim storage at 70 some sites spread across this Nation. They support storage near population centers and major bodies of water, but not at a site located right next to a permanent repository, a site where hundreds of nuclear explosions have already been detonated over the last 50 years.

In an announcement last month, the administration proposes to federalize storage of spent fuel at commercial reactors around this country by having the Government come in and take responsibility for each site. But do not worry, folks, because they promise to come and pick up the waste eventually, or at least that is what they have been promising for a long, long while. Well, I have some experience with the DOE and its promises, as many of my colleagues have, especially in the area of nuclear waste over the last number of years.

In 1995, the Secretary of Energy promised the State of Idaho, and signed a court enforceable agreement, that transuranic waste in Idaho would be headed out of the State to the Waste Isolation Pilot Plant no later than next month. Now DOE says they can't meet that deadline. Why? The Environmental Protection Agency has said that the Waste Isolation Pilot Plant is safe and ready to receive waste, but the State of New Mexico won't issue a permit for the disposal and that the court won't lift its injunction.

Now, I do believe our Secretary of Energy is trying in good faith to honor his commitment to the State of Idaho in moving that waste, but, once again, on issues of this kind of political sensitivity, our Government has shown no willingness to lead on this issue, and this administration is the prime example of a government without leadership.

I know something about the politics of nuclear waste. I know something about DOE's broken promises. I mentioned the example of WIPP as a misuse of environmental regulation to subvert the will of Congress. It is this kind of game playing that we must eliminate.

I guess my bottom line advice to those living next to one of these commercial nuclear reactors is, when DOE says they will come in and take responsibility for spent fuel and move it later, do not be fooled. You need a centralized interim storage facility and you need this legislation to make it happen.

This administration has said that interim storage in Nevada will prejudge the repository site investigation now going on at Yucca Mountain. I think it is important to note that this legislation calls for beginning operation of an interim storage facility in the year 2003, 2 years after DOE will have recommended the repository site to the President and 1 year after DOE will have submitted a license application for the repository to the Nuclear Regulatory Commission. This can hardly be called rushing ahead recklessly on interim storage. What it is is sealing the deal, trying to build credibility with the American people on this Government's responsibility and dedication toward the appropriate handling of high-level nuclear waste.

In addition to the billions of dollars that utility ratepayers have contributed to the disposal fund, taxpayers have contributed hundreds of millions of dollars to the disposal program for the removal of spent fuel and nuclear waste from the Nation's national laboratory sites. This legislation will make good on the Government's commitment to the communities which agreed to host our defense laboratories—that cleanup of these sites will happen, that it will happen sooner rather than later, and that defense nuclear waste, our legacy from the cold war, will be disposed of responsibly.

Just this past week, before the appropriate Appropriations Committee, I and Senator DOMENICI heard at length what this administration is doing to help Russia get rid of its cold war nuclear waste legacy. While we are going headlong to help them, it is ironic that we cannot help ourselves. This administration has promised and yet, in 6 years, has delivered nothing and finally gave up on its promises and found itself in a box canyon with a lot of lawyers lining up in lawsuits, because they are now out of compliance with an act that this Congress passed in the mid-1980s to deal with nuclear waste.

This bill will assure that the spent fuel from our nuclear fighting ships and submarines, currently stored at the Idaho National Engineering and Environmental Laboratory, can be sent to the interim storage facility beginning in the year 2003. This is good news for both the Navy and for Idaho. Our nuclear Navy ought to be concerned that DOE is still playing games with the real hard fact that sooner, rather than later, they must have a permanent repository for spent nuclear fuel coming from our Navy vessels.

Spent nuclear fuel will be moved out of Idaho well before the agreed date of the year 2035 called for in the agreement between Idaho Governor Batt, DOE and the Navy. This legislation will provide assurance that nuclear waste now in Idaho for permanent storage will eventually be disposed of at the repository. The tragedy here, of course, and we understand it, in the building of safe facilities, is the long lead time necessary. That is why this legislation is important now, to construct an interim storage facility ready to receive by the year 2003.

Critics of this legislation will attempt to distract you over the issue of transportation. In just a few months we will hear on the floor of the Senate the term ''mobile Chernobyl.'' This is just so much politics or political statement. There is absolutely no fact or record behind that statement other than a scare tactic that some of my colleagues will attempt to use to support an absence of fact. The fact is that there have been over 2,500 commercial shipments of spent fuel in the United States and that there has not been a single death or injury from the radioactivity nature of the cargo. In my State of Idaho, there have been over 600 shipments of naval fuel and over 4,000 other shipments of radioactive material. Again, there has been not one single injury related to the radioactive nature of these shipments.

This is a phenomenal safety record, but it is a real safety record, because this Government has insisted that the appropriate handling of our spent nuclear fuels and waste long term be dealt with in the right way. The proof is in the reality and the responsibility that this country has taken for years in the transportation of its waste. Those are the facts as I have related them.

I know that many people would prefer not to address the problem of spent nuclear fuel disposal. Some of my colleagues are probably fatigued at the prospect of debating this issue once again in the 106th Congress. Unfortunately, as long as this administration continues to stick its head in the sand, sand that is now going to cost millions of dollars in legal fees, my colleagues and I have no choice but to address this issue once again for the sake of our country, for the future of energy production in our country from radioactive materials, and just the tremendous responsibility we have in making sure to our public that all of it is done well and safely.

As this legislative body sets policies for the Nation, the Congress cannot sit by and watch while key components of the energy security of this Nation, the source of 20 percent of this country's electricity—and that is coming from nuclear powerplants—risk going down simply because we cannot manage our waste.

The Nuclear Waste Policy Act of 1999 will address what neither the 1982 nor the 1987 Act did, and that is to provide a cost-effective and safe means to store spent fuel in the near term while we continue to investigate and provide for the ultimate disposal.

I thank you, Mr. President. I see my colleague, the chairman of the full committee, has joined me now on the floor. I yield my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I wish the Presiding Officer a pleasant afternoon.

I thank my colleague, Senator CRAIG, for his statement relative to the reality that 22 percent of the Nation's power is generated by nuclear energy.

Here we are again today, Mr. President, with an obligation to fulfill a commitment. That obligation and that commitment was made to the ratepayers, the individuals all over America who depend on nuclear energy for their power. They paid $14 billion over the last 18 years.

What have they paid for? They have paid the Federal Government to take the waste under contract in the year 1998. That was a year ago. Shakespeare wrote in Henry III, ''Delays have dangerous ends. . . .'' We might also add, ''expensive ends.''

In addition to what the ratepayers have paid, there has been over $6 billion expended by the Federal Government in preparation for the waste primarily at Yucca Mountain. Delay has been the administration's answer to the problem of what to do with nuclear waste in this country. This administration simply doesn't want to take it up on its watch under any terms or circumstances.

In 1997, the administration objected to siting a temporary storage facility before 1998 when the viability assessment for Yucca Mountain would be complete.

The so-called ''dangerous ends'' to that delay is that 1998 has come and gone. The viability assessment was presented and guess what? There were no show stoppers. Safety issues requiring that we abandon the proposed Yucca Mountain nuclear waste repository project were not called for. The next step, of course, is to move on with the licensing, which is to take place in the year 2001.

What is the delay this year? It is the inability of the administration to recognize its contractual commitment under the agreement. To his credit, the new Secretary of Energy Bill Richardson has come forward with the first ever—and I mean first ever—administration proposal on nuclear waste. The Department of Energy would assume ownership of the used nuclear fuel and continue storing it at its commercial and defense sites in the 41 States across the country. The cost of the storage would be offset by consumer fees collected by the Department of Energy over the past 18 years, as I have stated. These are fees that were to have been dedicated to the removal and permanent storage of the spent fuel.

While this proposal may seem interesting, let's reflect on it a little bit, because what it means is that there is no date certain to remove the waste. The waste would sit onsite near the reactors.

It seems that we have gone full cycle in one sense. If you recognize that the Government had contracted to take the waste in 1998, the court has specifically stated that the Federal Government is liable to take that waste. So the court says, in effect, the Federal Government owns the waste onsite.

The proposal is the Government take the waste onsite. In fact, it owns the waste anyway. Think about it. There is a duplication, of course. I have a map here that I think warrants a little consideration. It shows some of the sites where we have nuclear fuel and radioactive waste that is destined for the geologic disposal.

The commercial reactors are in brown in California, in Washington, in Arizona, in Texas, up and down the east coast, in Illinois.

We have the shutdown reactors with the spent fuel onsite. These are the little triangles. We have them in Oregon, California, and Illinois. We have them in Michigan. This is significant amounts of waste that would go to a central repository at Yucca Mountain if this administration would come to grips with its responsibility.

Commercial spent nuclear fuel storage facilities are depicted by the little black squares. There are a few of them around.

Non-DOE research reactors. These are reactors that are spread through the country.

Then we have the Navy reactor fuel in Idaho. And we have the Department of Energy-owned spent fuel, high-level radioactive waste in New Mexico.

We have this all around the country, Mr. President, and the whole purpose of this legislation is to provide for and put this waste in one central repository at Yucca Mountain in Nevada where it would be retrievable. As a consequence, as we look at this proposal—and, again, I would like to point out there is no date for removal—one of the more interesting things is that there are claims now brought about by the nuclear industry against the Federal Government for nonperformance of its contract. Those claims total somewhere between $60 billion and $80 billion.

The Government is in default for nonperformance of its contractual obligation. One of the proposals circulated

is if the Government agrees to take the waste onsite, that those claims be dropped. If you think about this a little bit more, the Government has already collected a significant amount of money from the ratepayers over the last 18 years, some $14 billion. Now the Government is going to take this waste and use that money, paid for by the ratepayers, to store the nuclear waste onsite for no timeframe that can be ascertained. In other words, this waste is going to sit where it is, Mr. President. We do not know how long because there is no definite date in the proposal for the administration to take the waste.

So what have we done? We have simply gone full circle. The court said the Federal Government owned the waste. The Federal Government says they will take it and store it at site. They will not tell you when they are going to get rid of it. They use the money the ratepayers pay to store it there. I don't think that is satisfactory. It is a little different. It is acknowledging that they have come up with a proposal, but I do not think it is workable.

What we have here is, if you will, more delay. The Department of Energy—and really it is not the Department of Energy's fault—it is the administration that has broken its promise to the electric consumers, who depend on nuclear energy, people who have paid more than $14 billion to the Federal Government.

That $14 billion paid by consumers was designed specifically to remove this waste, Mr. President, to a single—a single—storage facility at Yucca Mountain. And that is what we have been building. The waste, again, was supposed to be taken in the year 1998.

Where have we been over the past 15 years? We have done nothing but slip the schedule on nuclear waste. First it was to have this waste removed by the year 2003, then 2005, then 2010, now 2015. With this proposal that I have just mentioned, that is in draft form, they are proposing it go back to 2010. Maybe that is progress; I don't know. Through it all, the nuclear ratepayers have paid the bill, but we are not through with the cost.

As I have indicated previously, the U.S. Court of Appeals has ruled the Department of Energy had an obligation to take possession of the waste in 1998, whether or not a repository was ready. The court ordered the Department of Energy to pay contractual remedies. This is a pretty big hit on the Federal Government and, hence, the taxpayer, Mr. President.

Estimates of damages range as high as $40, $50, $60—up to $80 billion. How do the damages break down? Here they are: the cost of storage of spent nuclear fuel, $19.6 billion; return of nuclear waste fees, $8.5 billion; interest on nuclear waste fees, $15 to $27.8 billion; consequential damages for shutdown of 25 percent of nuclear plants due to insufficient storage—these are power replacement costs—$24 billion.

That is a pretty disastrous scenario for the consumers. It would add, if you will, the high cost of replacement power if these reactors go down as a consequence of not being able to basically remove their waste. There is loss of emissions, a free source of electric energy if the nuclear plants are forced to close. And again, I would remind you that 22 percent of our total electric power is generated from nuclear energy.

These costs, these ''dangerous ends'' can be fixed. It is really time for the administration to stop trying out bats, if you will, and step up to the plate on its obligation. So today I once again, along with Senator CRAIG, and a number of my colleagues, Senator GRAMS, are introducing the Nuclear Waste Policy Act to solve our immediate liability problems by establishing an interim nuclear waste facility at the Nevada test site.

Why the Nevada test site? Over the last 50 years, we have tested nuclear bombs, nuclear weapons in that area numerous times. As a consequence, it appears, and was selected, to be the best site for a permanent repository.

What we are proposing, by this legislation, is to move this waste out and put it at site, but have it retrievable so when the permanent repository is ready it can be placed there. In the meantime, we will remove the waste from some 70 sites around the country.

In addition, this measure improves the process towards a permanent nuclear waste repository by making sure that funding is adequate and that the process to reach that goal is sound and viable?

While my committee will examine the proposal put forth by the Secretary, there is some circular reasoning inherent in it.

One, the administration's arguments to date have been that building an interim storage facility would divert funds from the study of the proposed permanent repository. But the Secretary's proposal for continued onsite storage would do just that. It would redirect consumer funds to pay for continued onsite storage.

Do we really want this nuclear waste piling up at 71 sites around the Nation rather than one? That is the critical question, Mr. President. Here is the proposed site for the nuclear waste—out in the Nevada desert. And the Nevada test site was previously used for more than 800 nuclear weapons tests. There it is.

There is some conversation that suggests, What if the current repository at Yucca Mountain does not prove to be licensable, what will you do with it then? Obviously, we will have to address that. But in the meantime, we would concentrate it out in this area in retrievable casks that would allow us to move it someplace for permanent storage. Or there is the technology that is developing on reprocessing that the Japanese and the French have proceeded with, which is to recover the plutonium out of the spent nuclear fuel and put it back in the reactors. That is another alternative.

So the alternative to leaving it at the 71 sites, vis-a-vis putting it out in one place where we have had over 800 nuclear tests over the past 50 years, obviously is a logical and reasonable progression to remove this from the various sites around the United States.

Finally, Mr. President, the time for delay is long past. We have had enough delay now. In the last Congress, we had a vote on this matter. It was overwhelmingly bipartisan. There were 65 Members of the U.S. Senate that voted yes—that voted yes—to put the waste in a temporary retrievable repository at Yucca Mountain. In the House there were 307 Members that voted yes.

Obviously the time is now at hand to move this bill out, to meet the responsibility that we have committed to with the ratepayers over these last 18 years and take that $14 billion and move this waste out to the Nevada test site once and for all until the permanent repository is licensed.

So, Mr. President, I encourage my colleagues to reflect on the merits of this bill—the debate went on in the last Congress—and recognize that we simply cannot put our heads in the sand and ignore this. This is a contract commitment. You have to recognize the sanctity of that contract and the recognition of 22 percent of our power is from nuclear energy, and if we are to allow this industry to strangle on its high-level waste, we are doing a great disservice and simply are going to have to come up with power sources from other generating capabilities that do not offer the air quality that is available by nuclear energy.

As we look at global warming and greenhouse gases and various legislative proposals by the administration, the role of nuclear energy is noticeably absent. I think that is unfortunate as we recognize that nuclear energy contributes to reducing greenhouse gases and hence global warming.

Mr. GRAMS. Mr. President, I rise today to join my colleagues in introducing the Nuclear Waste Policy Act amendments of 1999.

First, I would like to thank Senators MURKOWSKI and CRAIG for once again authoring this legislation and for their combined efforts in the Energy and Natural Resources Committee on matters related to nuclear waste storage.

As we all know, Washington's involvement in nuclear power isn't new. Since the 1950's ''Atoms for Peace'' program, the federal government has promoted nuclear energy, in part, by promising to remove radioactive waste from power plants. Congress decisively committed the federal government to take and dispose of civilian radioactive waste beginning in 1998 through the Nuclear Waste Policy Act of 1982, and its amendments in 1987. These acts established the DOE Office of Civilian Radioactive Waste Management to conduct the program, selected Yucca

Mountain, Nevada as the site to assess for the permanent disposal facility, and established fees of a tenth of a cent per kilowatt hour on nuclear-generated electricity, and provided that these fees would be deposited in the Nuclear Waste Fund. Furthermore, it authorized appropriations from this fund for a number of activities, including development of a nuclear waste repository.

Eventually, publication of the standard contract addressed how radioactive waste would be taken, stored, and disposed of. The DOE then signed individual contracts with all civilian nuclear utilities promising to take and dispose of civilian high-level waste beginning January 31, 1998. Other administrative proceedings, such as the Nuclear Regulatory Commission's Waste Confidence Rule, told the American public that they should literally bank on the federal government's promise.

Because of these promises and measures taken by the federal government, ratepayers have paid over $15 billion, including interest, into the Nuclear Waste Fund. Today, these payments continue, exceeding $1 billion annually, or $70,000 for every hour of every day of the year.

Up until recently, however, the administration has acted as if there is no problem. They have maintained a hands-off approach to the issue and when they have engaged Congress on nuclear waste storage, it has only been to issue a veto threat against this legislation.

As a member of the Senate Energy and Natural Resources committee last year, I had the opportunity to question Secretary Richardson on nuclear waste issues during his Senate confirmation hearings. Unfortunately, his answers to my questions were generally incomplete and contained little substantive discussion on the very real problems facing our nation's utilities, states, and ratepayers.

Mr. Richardson did, however, write some interesting things about nuclear power in his responses. Let me share with you a few of those responses. They read:

> Nuclear power is a proven means of generating electricity. When managed well, it is also a safe means of generating electricity.
>
> * * * * *
>
> It is my understanding that spent nuclear fuel has been safely transported in the United States in compliance with the regulatory requirements set forth by the Nuclear Regulatory Commission and the Department of Transportation.
>
> * * * * *
>
> The widely publicized shipment last week of spent fuel from California to Idaho is proof that transportation can be done safely. The safety record of nuclear shipments would be among the issues I would focus on as Secretary of Energy.

I asked Mr. Richardson to tell me who would pay the billions of dollars in damages some say the DOE will owe utilities as a result of DOE failure to remove spent nuclear fuel by January 31, 1998. After writing about the DOE's beliefs on their level of liability, he wrote: ''I will give this issue priority attention once I am confirmed as Secretary of Energy.''

I asked Mr. Richardson if he felt the taxpayers had been treated fairly. Again, after telling me about the history of the Department's actions to avoid its responsibilities, he wrote: ''I share your interest in resolving these issues and I will continue to pursue this once I am confirmed.''

Now, Mr. President, let's look at how then-nominee Federico Peña responded to my question regarding the responsibility of the DOE to begin removing spent nuclear fuel from my state. He said in testimony before the Energy and Natural Resources Committee:

> . . . we will work with the Committee to address these issues within the context of the President's statement last year. So we've got a very difficult issue. I am prepared to address it. I will do that as best as I can, understanding the complexities involved. But they are all very legitimate questions and I look forward to working with you and others to try to find a solution.

Does that sound familiar? I suspect Secretary O'Leary had something equally vague to say about nuclear waste storage as well. Secretary Peña, I believe, said it best when he stated, ''I will do that as best as I can, understanding the complexities involved.'' Those complexities, Mr. President, are not that complex at all. Quite simply, the President of the United States, despite the will of 307 Members of the House of Representatives and 65 Senators, last year refused to keep the DOE's promise.

Now, Secretary Richardson has come before the Senate and offered a ''new'' approach to the nuclear waste storage crisis. He believes we should leave the waste at sites across the country and merely transfer title, or ownership, to the federal government. The federal government would then be responsible for the costs associated with maintaining each of the 73 interim storage sites in 34 states, including the Prairie Island facility in Minnesota. To pay for this, Secretary Richardson is suggesting we raid the Nuclear Waste Fund, which was created to pay for the removal of that same spent nuclear fuel.

While I am glad to see the Administration is finally engaged in the nuclear waste debate and that Secretary Richardson has finally been allowed to address the issue before the U.S. Senate, his proposal is a ''year late and several billion dollars short.'' It does nothing to actually move the waste out of our states and into an interim storage facility. It is unclear whether his proposal would do anything to prevent the premature shutdown of nuclear facilities in states like Minnesota. And the one thing we know it will do, is take money from the Nuclear Waste Fund that was supposed to pay for the removal of spent nuclear fuel, not the indefinite continuance of a failed approach to nuclear waste management.

Mr. President, I want to be very clear that I am sincere in these complaints. My concern is for the ratepayers of my state and ratepayers across the country. They have poured billions of dollars into the Nuclear Waste Fund expecting the DOE to take this waste. They have paid countless more millions paying for on-site nuclear waste storage. Effective January 31, 1998, they began paying for both of these costs simultaneously, even though no waste has been moved.

When the DOE is forced to pay damages to utilities across the nation, the ratepayers and taxpayers will again pay for the follies created by the DOE. Some estimate the costs of damages to be $80 to $100 billion or more. The ratepayers will also have to pay the price of building new gas or coal-fired plants when nuclear plants must shut down. And, if the Administration gets its way, my constituents will pay again when the Kyoto Protocol takes effect in 2008—exactly the same time Minnesota will be losing 20 percent of its electricity from clean nuclear power and replacing it with fossil fuels.

That is why we must move forward, pass the legislation introduced today, and send it to the President for his signature. If he refuses to sign the bill, then I believe we will be able to find those last two votes we need to override his veto and remove the cloud hanging over our nation's ratepayers. There is no scientific or technical reason why we should not move this bill forward and pass it into law.

The administration has admitted nuclear waste can be transported safely. They have admitted they neglected their responsibility. They have admitted nuclear power is a proven, safe means of generating electricity. And they have admitted there is a general consensus that centralized interim storage is scientifically and technically possible and can be done safely. If you add all of these points together and hold them up against this Administration's lack of action, you can only come to one conclusion: politics has indeed won out over policy and science.

Mr. President, I am proud to once again support these amendments to the Nuclear Waste Policy Act and urge my colleagues to move this bill quickly through committee and onto the Senate floor where it will once again be approved by an overwhelming majority.

By Mr. MURKOWSKI:

S. 609. A bill to amend the Safe and Drug-Free Schools and Communities Act of 1994 to prevent the abuse of inhalants through programs under the Act, and for other purposes; read the first time.

THE SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES ACT AMENDMENT

Mr. MURKOWSKI. Mr. President, I rise today to introduce a bill that will help fight a silent epidemic among America's youth. This epidemic can leave young people permanently brain damaged, and in some cases even dead. It is called inhalant abuse. An awful lot of attention goes to substance abuse—alcohol, drugs—but very little attention is being given to inhalant abuse. It seems to be the silent killer.

I ask that the bill be introduced pursuant to Senate rule 14 and be placed immediately on the Calendar.

My bill amends the Safe and Drug-Free Schools and Communities Act of 1994 to include inhalant abuse among the act's definition of ''abused substances,'' thereby allowing schools the option to educate students about the horrors of inhalant abuse.

What exactly are inhalants? What are we talking about? Inhalants are the intentional breathing of gas or vapors for the purpose of getting a high. Over 1,400 common products can be abused—lighter fluid, pressurized whipped cream, hair spray; gasoline is often used in my rural State of Alaska. These products are inexpensive, they are easily obtained, and, most of all, they are legal. One inhalant abuse counselor told me, ''If it smells like a chemical, it can be abused.''

It is a silent epidemic because few adults appreciate the severity of the problem or how often it occurs. It is estimated one in five students have tried inhalants by the time they reach the eighth grade. The use of inhalants by children has nearly doubled in the last 10 years. Inhalants are the third most abused substance among teenagers, behind alcohol and tobacco.

Inhalants are deadly. Inhalant vapors react with fatty tissues of the brain and literally dissolve those tissues. A one-time use of inhalants can cause instant and permanent brain damage, heart failure, kidney failure, liver failure, or death. The user can also suffer instant heart failure. This is known as sudden sniffing death syndrome. This means an abuser can die on the very first time he or she tries it or the 10th time or the 100th time that an individual sees fit to use an inhalant. In fact, according to a recent study by the National Native Health Consortium, ''inhaling has a higher risk of 'instant death' than any other abused substance.'' Think of that: Inhalants have a higher risk of instant death, the first time, than any other abused substance.

That is what happened last year to Theresa, an 18-year-old who lived in a rural western Alaska village. Last year Theresa was inhaling gasoline; shortly thereafter, her heart stopped. She was found outside in the near-zero temperature. Theresa was the youngest of five children and just a month shy of graduation. She was flown to the Fairbanks Memorial Hospital where she was pronounced dead on arrival.

Earlier this year in Pennsylvania, a teenaged driver with four teenaged passengers lost control of her car in broad daylight. The car hit a tree with such impact that all the passengers were killed. High levels of a chemical found in computer keyboard cleaners—think about this, computer keyboard cleaners—were found in the young driver's body. The medical examiner report cited impairment due to inhalant abuse as the cause of that crash.

Mr. Haviland, the principal of the school that the five girls attended, said the teacher never suspected that the students were involved with inhalants. That is why this bill is so important. The most effective prevention against inhalant abuse is education. It is preventable. But educators must first know about inhalants before they can teach our kids of their dangers.

My bill will amend section 4131 of the Safe and Drug-Free Schools and Communities Act to allow States and communities the option to develop programs on inhalant abuse. Under my amendment, the principals, teachers, and counselors will be able to learn about inhalants and will have the option to develop educational programs to teach about inhalant abuse.

There is no cost associated with this legislation. This bill makes fiscal sense. A 1993 study by the Alaska Indian Health Service revealed that a 19-year-old chronic inhalant abuser could have an average lifetime cost of up to $1.4 million. These are the costs of chronic medical care, substance abuse treatment, rehabilitation treatment, and social services. The costs go on and on. We can save those costs if we just prevent this type of abuse.

The goal of the Safe and Drug-Free Schools and Communities Act is to save the lives of young people, but currently only illegal drugs, alcohol, and tobacco are covered under the definitions of this act. This bill will help us solve the problem and save the lives of our youth. We support this legislation.

I ask unanimous consent the text of the bill be printed in the RECORD.

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

S. 609

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

SECTION 1. DEFINITIONS.

Section 4131 of the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7141) is amended by adding at the end the following:

''(7) ABUSE.—The term 'abuse', used with respect to an inhalant, means the intentional breathing of gas or vapors from the inhalant for the purpose of achieving an altered state of consciousness.

''(8) DRUG.—The term 'drug' includes a substance that is an inhalant, whether or not possession or consumption of the substance is legal.

''(9) INHALANT.—The term 'inhalant' means a product that—

''(A) may be a legal, commonly available product; and

''(B) has a useful purpose but can be abused, such as spray paint, glue, gasoline, correction fluid, furniture polish, a felt tip marker, pressurized whipped cream, an air freshener, butane, or cooking spray.

''(10) USE.—The term 'use', used with respect to an inhalant, means abuse of the inhalant.''.

SEC. 2. FINDINGS.

Section 4002 of the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7102) is amended—

(1) in paragraph (2), by inserting '', and the abuse of inhalants,'' after ''other drugs'';

(2) in paragraph (5), by striking ''and the illegal use of alcohol and drugs'' and inserting '', the illegal use of alcohol and drugs, and the abuse of inhalants'';

(3) in paragraph (7), by striking ''and tobacco'' each place it appears and inserting '', tobacco, and inhalants'';

(4) in paragraph (9), by striking ''and illegal drug use'' and inserting '', illegal drug use, and inhalant abuse''; and

(5) by adding at the end the following:

''(11)(A) The number of children using inhalants has doubled during the 10-year period preceding 1999. Inhalants are the third most abused class of substances by children age 12 through 14 in the United States, behind alcohol and tobacco. One of 5 students in the United States has tried inhalants by the time the student has reached the 8th grade.

''(B) Inhalant vapors react with fatty tissues in the brain, literally dissolving the tissues. A single use of inhalants can cause instant and permanent brain, heart, kidney, liver, and other organ damage. The user of an inhalant can suffer from Sudden Sniffing Death Syndrome, which can cause a user to die the first, tenth, or hundredth time the user uses an inhalant.

''(C) Because inhalants are legal, education on the dangers of inhalant abuse is the most effective method of preventing the abuse of inhalants.''.

SEC. 3. PURPOSE.

Section 4003 of the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7103) is amended, in the matter preceding paragraph (1), by inserting ''and abuse of inhalants'' after ''and drugs''.

SEC. 4. GOVERNOR'S PROGRAMS.

Section 4114(c)(2) of the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7114(c)(2)) is amended by inserting ''(including inhalant abuse education)'' after ''drug and violence prevention''.

SEC. 5. DRUG AND VIOLENCE PREVENTION PROGRAMS.

Section 4116 of the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7116) is amended—

(1) in subsection (a)(1)(A), by inserting '', and the abuse of inhalants,'' after ''illegal drugs''; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting ''and the abuse of inhalants'' after ''use of illegal drugs''; and

(ii) by inserting ''and abuse inhalants'' after ''use illegal drugs''; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by inserting ''(including age appropriate inhalant abuse prevention programs for all students, from the preschool level through grade 12)'' after ''drug prevention''; and

(ii) in subparagraph (C), by inserting ''and inhalant abuse'' after ''drug use''.

SEC. 6. FEDERAL ACTIVITIES.

Section 4121(a) of the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7131(a)) is amended, in the first sentence, by striking ''illegal use of drugs'' and inserting ''illegal use of drugs, the abuse of inhalants,''.

SEC. 7. MATERIALS.

Section 4132(a) of the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7142(a)) is amended by striking ''illegal use of alcohol and other drugs'' and inserting ''illegal use of alcohol and other drugs and the abuse of inhalants''.

SEC. 8. QUALITY RATING.

Section 4134(b)(1) of the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7144(b)(1)) is amended by inserting '', and the abuse of inhalants,'' after ''tobacco''.

By Mr. ENZI (for himself and Mr. THOMAS):

S. 610. A bill to direct the Secretary of the Interior to convey certain land under the jurisdiction of the Bureau of Land Management in Washakie County and Big Horn County, Wyoming, to the Westside Irrigation District, Wyoming, and for other purposes; to the Committee on Energy and Natural Resources.

WESTSIDE IRRIGATION DISTRICT LEGISLATION

● Mr. ENZI. Mr. President, today I am introducing legislation with my colleague from Wyoming, Senator THOMAS, that would authorize a land exchange project called the Westside Irrigation District in Washakie and Big Horn Counties, Wyoming. This project has been many years in the making and is very important to many people in our state. It will provide a strong foundation for economic development in the area and it will provide a great opportunity for the public to obtain parcels of land that are now in private hands.

The Westside District is a win-win project for everyone. It takes public land that is of low value for wildlife or aesthetic enjoyment and sells it to a non-profit district for conveyance into agricultural use. The District will pay fair market value for the surface land—not the mineral rights, which would remain federal property—and the Bureau of Land Management can then take the money and purchase other property that has a much higher value for public recreation, public access, fish and wildlife habitat, or cultural resources. The Bureau presently has very limited funds for this purpose and they could make good use of the money in the Worland District, which has a very complex land ownership mix.

The description of the project is nearly 37,000 acres of shelf land near the Big Horn River. The proposal would make use of unallocated water rights to irrigate approximately 20,000 acres, leaving the remainder in conservation buffer zones, rights of way and wildlife habitat. The local economy, which has been hit very hard in recent years, would benefit from additional production of barley, corn, beans, hay and sugar beets. The anticipated benefit of a fully implemented project could be as many as 216 new jobs in the community. And this is in a county that only has about 4,500 working people—so there is a real positive impact expected.

The district has been working diligently to address public questions that had been expressed early in the process. Some of these related to water quality, wildlife habitat, access, and land values. The Wyoming Game and Fish, the Bureau of Land Management, and the Westside District have been working out plans to mitigate each of the project's impacts. For example, the District will make use of overhead sprinkler systems to prevent runoff and will maintain vegetative buffer zones to capture any possible runoff due to natural events, such as snow melt. The District only plans to irrigate 20,000 acres of the total area, so the remaining 46 percent of the land will remain in native cover to provide habitat for wildlife and antelope winter range. The District will also help support additional staff with the Wyoming Game and Fish for mitigation assistance. And all existing rights of way and public access to surrounding public lands will be preserved.

Mr. President, this bill is necessary because the BLM does not have the statutory authority to complete a sale of lands. Although they could conduct an exchange, the sheer size of this project prevented creating a reasonable exchange portfolio of other lands. This could have been accomplished with existing authority, but was prohibitively difficult to achieve in a single process. This legislation enables the BLM to take the money now, and then purchase various private lands as they become available—lands that are more suitable to our public objectives, such as wildlife and resource conservation and public enjoyment.

This bill should be referred to the Senate Energy Committee and it is my hope that a hearing could be held and a report generated with enough time to complete action on the legislation this year. The people in Worland, Wyoming, have worked very hard to make this project happen. I would urge my colleagues to review the bill and support it.●

● Mr. THOMAS. Mr. President, it gives me great pleasure to join my colleague from Wyoming, Senator ENZI, in introducing legislation to convey certain BLM lands to the Westside Irrigation District. This measure is a culmination of years of hard work, by folks affected, to reach a solution through perseverance and much negotiation. It is a compromise—interested parties working together for a common goal, and it has been 30 years in the making. I am pleased today to be part of setting forth what is needed to turn a goal for many Wyoming residents into a reality.

This legislation directs the Secretary of the Interior to convey roughly 37,000 acres of land under the jurisdiction of the Bureau of Land Management in Washakie County and Big Horn County, Wyoming, to the Westside Irrigation District. In turn, Westside Irrigation District will irrigate these lands and sell them as farmland parcels. Proceeds raised from the land sales will be given to the Secretary of the Interior for the acquisition of land in the Worland District of the Bureau of Land Management, for the purpose of benefiting public recreation, increasing public access, enhancing fish and wildlife habitat and improving cultural resources.

In recent years, expanded residential development in Washakie and Big Horn Counties has resulted in key loss to the economy—farmland. What this legislation proposes to do is afford communities an opportunity to retain their economic vitality while protecting cultural and natural resources. It promises to benefit both the business community and preserve the environment.

Benefits attained from this legislation will be fruitful for all parties. Agricultural producers have the rare chance to increase private land holdings in a largely public lands State. Wildlife interests are given the resources necessary to enhance critical habitat areas. In addition, the creation of 200 new jobs and an estimated financial impact of $16.8 million annually will spur tremendous economic development in these Wyoming counties.

Mr. President, let me once again congratulate all of the folks who have worked so hard on this measure—it is a job well done. I hope the Senate will give this bill every consideration and I look forward to taking action on it in the near future.●

By Mr. CAMPBELL:

S. 611. A bill to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes; to the Committee on Indian Affairs.

INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT

Mr. CAMPBELL. Mr. President, just as it recognizes foreign governments, the United States is called upon to consider extending its recognition to Indian tribal governments here at home.

From the first days of the republic, the Congress has acted to recognize the unique legal and political relationship the United States has with the Indian tribes. Reforming the process of recognition is the goal of the legislation I am introducing today.

Just as the United States at times refuses to recognize foreign governments, there are and always have been tribal governments which have not been recognized by the Federal government. This lack of recognition does not alter the ''Indian-ness'' of a tribe's members; rather it merely means that there is no formal political relationship between that tribal group and the United States.

Federal recognition is critical to tribal groups because it triggers eligibility for services and benefits provided by the United States because of their status as members of federally recognized Indian tribes.

I want to be clear—I am not advocating for the approval of every petition for recognition, and I am not proposing that the petitions receive a limited or cursory review. I am concerned with the viability of the current recognition process and am interested in seeing fairness, promptness, and finality brought into that process while providing basic assurances to already-recognized tribes regarding their inherent rights.

Federal recognition can be accomplished in two ways: through the enactment of federal legislation; or through the administrative process that occurs, or more accurately does not occur, within the Bureau of Indian Affairs (BIA).

Over the years, uncertainty has developed over just how or when the Bureau would process tribal group applications for recognition. In short, the current process is not getting the job done.

The process in the Department of the Interior is time consuming and costly, although it has improved from its original state. Some tribal groups allege that the Department's process leads to unfair and unfounded results. It has frequently been hindered by a lack of staff and resources needed to fairly and promptly review all petitions. At the same time, the Congress extends recognition to tribes with little or no reference to the legal standards and criteria employed by the Department.

The amount of time some tribal groups have had to wait before their petitions are acted on in some cases is outrageous. Sometimes these applications for recognition are pending literally for decades. The concerns expressed go beyond the delays I mentioned and involve the viability of the current recognition process itself.

As with any decision-making body, fairness and timeliness are the keys to maintaining a credible system which holds the confidence of affected parties. I believe that it is in the interests of all parties to have a clear deadline for the completion of the recognition process.

In 1978, the Department of the Interior promulgated regulations to establish criteria and procedures for the recognition of Indian tribes by the Secretary.

Since that time to date, tribal groups have filed hundreds of petitions for review. Of those, 42 have been resolved, and 179 are new petitioners; During this same time, 89 expressed letters of intent to petition, and 5 required legislative authority to proceed which are now deemed inactive.

The remainder are in various stages of consideration by the Department either ready for active status or are already placed on active status. During this same time to date, the Congress has recognized 7 other tribal groups through legislation.

In the last twenty years, the Committee on Indian Affairs held oversight hearings on the Federal recognition process. At each of those hearings the record clearly showed that the process is not working properly. At a Committee on Indian Affairs hearing in 1995, the Bureau testified that at the current rate of review and consideration, it would take several decades to eliminate the entire backlog of tribal petitions. The record from numerous previous hearings reveals a clear need for the Congress to address the problems affecting the recognition process.

The bill I am introducing today will go a long way toward resolving the problems which have plagued both the Department of the Interior and tribal petitioners over the years.

This bill, the Indian Federal Recognition Administrative Procedures Act of 1999, provides the required clarification and changes that will help tribal petitioners and the United States in providing fair and orderly administrative procedures to extend Federal recognition to eligible Indian groups. The key element of this bill is that it removes the recognition process from the BIA and places it in a temporary and independent ''Commission on Indian Recognition.''

This bill provides that the Commission will be an independent agency, composed of three members appointed by the President, and authorized to hold hearings, take testimony and reach final determinations on petitions for recognition.

The bill provides strict but realistic time-lines to guide the Commission in the review and decision making process. Under the existing process in the Bureau of Indian Affairs, some petitioners have waited ten years or more for even a cursory review of their petition.

The bill I am introducing today requires the Commission to set a date for a preliminary hearing on a petition not later than 60 days after the filing of a documented petition. Not later than 30 days after the conclusion of a preliminary hearing, the Commission would be required to either decide to extend federal acknowledgment to the petitioner or to require the petitioner to proceed to an adjudicatory hearing.

The current recognition process becomes so expensive that the consideration of petitions are stretched out over a number of years because there have been no real deadlines for these decisions.

This bill will allow for a cost-effective process for the BIA and the petitioners, will provide definite time-lines for the administrative recognition process, and ''sunsets'' the Commission in 12 years.

To ensure fairness, the bill provides for appeals of adverse decisions to the federal district court here in the District of Columbia.

To ensure promptness, the bill authorizes adequate funding for the costs of processing petitions through the Commission.

The bill also provides finality for both the petitioners and the Department by requiring all interested tribal groups to file their petitions within 6 years after the date of enactment and requiring the Commission to complete its work within 12 years from enactment.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD, and urge my colleagues to join me in enacting this much-needed reform legislation.

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

S. 611

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Federal Recognition Administrative Procedures Act of 1999''.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) To establish an administrative procedure to extend Federal recognition to certain Indian groups.

(2) To extend to Indian groups that are determined to be Indian tribes the protection, services, and benefits available from the Federal Government pursuant to the Federal trust responsibility with respect to Indian tribes.

(3) To extend to Indian groups that are determined to be Indian tribes the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States.

(4) To ensure that when the Federal Government extends acknowledgment to an Indian tribe, the Federal Government does so with a consistent legal, factual, and historical basis.

(5) To establish a Commission on Indian Recognition to review and act upon petitions submitted by Indian groups that apply for Federal recognition.

(6) To provide clear and consistent standards of administrative review of documented petitions for Federal acknowledgment.

(7) To clarify evidentiary standards and expedite the administrative review process by providing adequate resources to process petitions.

(8) To remove the Federal acknowledgment process from the Bureau of Indian Affairs and transfer the responsibility for the process to an independent Commission on Indian Recognition.

SEC. 3. DEFINITIONS.

In this Act:

(1) ACKNOWLEDGED.—The term ''acknowledged'' means, with respect to an Indian group, that the Commission on Indian Recognition has made an acknowledgment, as defined in paragraph (2), for that group.

(2) ACKNOWLEDGMENT.—The term ''acknowledgment'' means a determination by the Commission on Indian Recognition that an Indian group—

(A) constitutes an Indian tribe with a government-to-government relationship with the United States; and

(B) with respect to which the members are recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) ALASKA NATIVE.—The term ''Alaska Native'' means an individual who is an Alaskan Indian, Eskimo, or Aleut, or any combination thereof.

(4) AUTONOMOUS.—

(A) IN GENERAL.—The term ''autonomous'' means the exercise of political influence or authority independent of the control of any other Indian governing entity.

(B) CONTEXT OF TERM.—With respect to a petitioner, that term shall be understood in the context of the history, geography, culture, and social organization of the petitioner.

(5) BUREAU.—The term ''Bureau'' means the Bureau of Indian Affairs of the Department.

(6) COMMISSION.—The term ''Commission'' means the Commission on Indian Recognition established under section 4.

(7) COMMUNITY.—

(A) IN GENERAL.—The term ''community'' means any group of people, living within a reasonable territorial that is able to demonstrate that—

(i) consistent interactions and significant social relationships exist within the membership; and

(ii) the members of that group are differentiated from and identified as distinct from nonmembers.

(B) CONTEXT OF TERM.—The term shall be understood in the context of the history, culture, and social organization of the group, taking into account the geography of the region in which the group resides.

(8) CONTINUOUS OR CONTINUOUSLY.—With respect to a period of history of a group, the term ''continuous'' or ''continuously'' means extending from the first sustained contact with Euro-Americans throughout the history of the group to the present substantially without interruption.

(9) DEPARTMENT.—The term ''Department'' means the Department of the Interior.

(10) DOCUMENTED PETITION.—The term ''documented petition'' means the detailed, factual exposition and arguments, including all documentary evidence, necessary to demonstrate that those arguments specifically address the mandatory criteria established in section 5.

(11) GROUP.—The term ''group'' means an Indian group, as defined in paragraph (13).

(12) HISTORICALLY, HISTORICAL, HISTORY.—The terms ''historically'', ''historical'', and ''history'' refer to the period dating from the first sustained contact with Euro-Americans.

(13) INDIAN GROUP.—The term ''Indian group'' means any Indian or Alaska Native band, pueblo, village or community within the United States that the Secretary does not acknowledge to be an Indian tribe.

(14) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian or Alaska Native tribe, band, pueblo, village, or community within the United States that—

(A) the Secretary has acknowledged as an Indian tribe as of the date of enactment of this Act, or acknowledges to be an Indian tribe pursuant to the procedures applicable to certain petitions under active consideration at the time of the transfer of petitions to the Commission under section 5(a)(3); or

(B) the Commission acknowledges as an Indian tribe under this Act.

(15) INDIGENOUS.—With respect to a petitioner, the term ''indigenous'' means native to the United States, in that at least part of the traditional territory of the petitioner at the time of first sustained contact with Euro-Americans extended into the United States.

(16) LETTER OF INTENT.—The term ''letter of intent'' means an undocumented letter or resolution that—

(A) is dated and signed by the governing body of an Indian group;

(B) is submitted to the Commission; and

(C) indicates the intent of the Indian group to submit a petition for Federal acknowledgment.

(17) MEMBER OF AN INDIAN GROUP.—The term ''member of an Indian group'' means an individual who—

(A) is recognized by an Indian group as meeting the membership criteria of the Indian group; and

(B) consents in writing to being listed as a member of that group.

(18) MEMBER OF AN INDIAN TRIBE.—The term ''member of an Indian tribe'' means an individual who—

(A)(i) meets the membership requirements of the tribe as set forth in its governing document; or

(ii) in the absence of a governing document which sets out those requirements, has been recognized as a member collectively by those persons comprising the tribal governing body; and

(B)(i) has consistently maintained tribal relations with the tribe; or

(ii) is listed on the tribal membership rolls as a member, if those rolls are kept.

(19) PETITION.—The term ''petition'' means a petition for acknowledgment submitted or transferred to the Commission pursuant to section 5.

(20) PETITIONER.—The term ''petitioner'' means any group that submits a letter of intent to the Commission requesting acknowledgment.

(21) POLITICAL INFLUENCE OR AUTHORITY.—

(A) IN GENERAL.—The term ''political influence or authority'' means a tribal council, leadership, internal process, or other mechanism that a group has used as a means of—

(i) influencing or controlling the behavior of its members in a significant manner;

(ii) making decisions for the group which substantially affect its members; or

(iii) representing the group in dealing with nonmembers in matters of consequence to the group.

(B) CONTEXT OF TERM.—The term shall be understood in the context of the history, culture, and social organization of the group.

(22) PREVIOUS FEDERAL ACKNOWLEDGMENT.—The term ''previous Federal acknowledgment'' means any action by the Federal Government, the character of which—

(A) is clearly premised on identification of a tribal political entity; and

(B) clearly indicates the recognition of a government-to-government relationship between that entity and the Federal Government.

(23) RESTORATION.—The term ''restoration'' means the reextension of acknowledgment to any previously acknowledged tribe with respect to which the acknowledged status may have been abrogated or diminished by reason of legislation enacted by Congress expressly terminating that status.

(24) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(25) SUSTAINED CONTACT.—The term ''sustained contact'' means the period of earliest sustained Euro-American settlement or governmental presence in the local area in which the tribe or tribes from which the petitioner claims descent was located historically.

(26) TREATY.—The term ''treaty'' means any treaty—

(A) negotiated and ratified by the United States on or before March 3, 1871, with, or on behalf of, any Indian group or tribe;

(B) made by any government with, or on behalf of, any Indian group or tribe, from which the Federal Government subsequently acquired territory by purchase, conquest, annexation, or cession; or

(C) negotiated by the United States with, or on behalf of, any Indian group in California, whether or not the treaty was subsequently ratified.

(27) TRIBE.—The term ''tribe'' means an Indian tribe.

(28) TRIBAL RELATIONS.—The term ''tribal relations'' means participation by an individual in a political and social relationship with an Indian tribe.

(29) TRIBAL ROLL.—The term ''tribal roll'' means a list exclusively of those individuals who—

(A)(i) have been determined by the tribe to meet the membership requirements of the tribe, as set forth in the governing document of the tribe; or

(ii) in the absence of a governing document that sets forth those requirements, have been recognized as members by the governing body of the tribe; and

(B) have affirmatively demonstrated consent to being listed as members of the tribe.

(30) UNITED STATES.—The term ''United States'' means the 48 contiguous States, and the States of Alaska and Hawaii. The term does not include territories or possessions of the United States.

SEC. 4. COMMISSION ON INDIAN RECOGNITION.

(a) ESTABLISHMENT.—There is established, as an independent commission, the Commission on Indian Recognition. The Commission shall be an independent establishment, as defined in section 104 of title 5, United States Code.

(b) MEMBERSHIP.—

(1) IN GENERAL.—

(A) MEMBERS.—The Commission shall consist of 3 members appointed by the President, by and with the advice and consent of the Senate.

(B) INDIVIDUALS TO BE CONSIDERED FOR MEMBERSHIP.—In making appointments to the Commission, the President shall give careful consideration to—

(i) recommendations received from Indian tribes; and

(ii) individuals who have a background in Indian law or policy, anthropology, genealogy, or history.

(2) POLITICAL AFFILIATION.—Not more than 2 members of the Commission may be members of the same political party.

(3) TERMS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each member of the Commission shall be appointed for a term of 4 years.

(B) INITIAL APPOINTMENTS.—As designated by the President at the time of appointment, of the members initially appointed under this subsection—

(i) 1 member shall be appointed for a term of 2 years;

(ii) 1 member shall be appointed for a term of 3 years; and

(iii) 1 member shall be appointed for a term of 4 years.

(4) VACANCIES.—Any vacancy in the Commission shall not affect the powers of the Commission, but shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of the term of that member until a successor has taken office.

(5) COMPENSATION.—

(A) IN GENERAL.—Each member of the Commission shall receive compensation at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day, including traveltime, that member is engaged in the actual performance of duties authorized by the Commission.

(B) TRAVEL.—All members of the Commission shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Commission while away from their homes or regular places of business, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) FULL-TIME EMPLOYMENT.—Each member of the Commission shall serve on the Commission as a full-time employee of the Federal Government. No member of the Commission may, while serving on the Commission, be otherwise employed as an officer or employee of the Federal Government. Service by a member who is an employee of the Federal Government at the time of nomination as a member shall be without interruption or loss of civil service status or privilege.

(7) CHAIRPERSON.—At the time appointments are made under paragraph (1), the President shall designate a Chairperson of

the Commission (referred to in this section as the ''Chairperson'') from among the appointees.

(c) MEETINGS AND PROCEDURES.—

(1) IN GENERAL.—The Commission shall hold its first meeting not later than 30 days after the date on which all members of the Commission have been appointed and confirmed by the Senate.

(2) QUORUM.—Two members of the Commission shall constitute a quorum for the transaction of business.

(3) RULES.—The Commission may adopt such rules (consistent with the provisions of this Act) as may be necessary to establish the procedures of the Commission and to govern the manner of operations, organization, and personnel of the Commission.

(4) PRINCIPAL OFFICE.—The principal office of the Commission shall be in the District of Columbia.

(d) DUTIES.—The Commission shall carry out the duties assigned to the Commission by this Act, and shall meet the requirements imposed on the Commission by this Act.

(e) POWERS AND AUTHORITIES.—

(1) POWERS AND AUTHORITIES OF CHAIRPERSON.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson may—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director of the Commission and of such other personnel as the Chairperson considers advisable to assist in the performance of the duties of the Commission, at a rate not to exceed a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(B) procure, as authorized by section 3109(b) of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch, but at rates not to exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(2) GENERAL POWERS AND AUTHORITIES OF COMMISSION.—

(A) IN GENERAL.—The Commission may hold such hearings and sit and act at such times as the Commission considers to be appropriate.

(B) OTHER AUTHORITIES.—As the Commission may consider advisable, the Commission may—

(i) take testimony;

(ii) have printing and binding done;

(iii) enter into contracts and other arrangements, subject to the availability of funds;

(iv) make expenditures; and

(v) take other actions.

(C) OATHS AND AFFIRMATIONS.—Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(3) INFORMATION.—

(A) IN GENERAL.—The Commission may secure directly from any officer, department, agency, establishment, or instrumentality of the Federal Government such information as the Commission may require to carry out this Act. Each such officer, department, agency, establishment, or instrumentality shall furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon the request of the Chairperson.

(B) FACILITIES, SERVICES, AND DETAILS.—Upon the request of the Chairperson, to assist the Commission in carrying out the duties of the Commission under this section, the head of any Federal department, agency, or instrumentality may—

(i) make any of the facilities and services of that department, agency, or instrumentality available to the Commission; and

(ii) detail any of the personnel of that department, agency, or instrumentality to the Commission, on a nonreimbursable basis.

(C) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(g) TERMINATION OF COMMISSION.—The Commission shall terminate on the date that is 12 years after the date of enactment of this Act.

SEC. 5. PETITIONS FOR RECOGNITION.

(a) IN GENERAL.—

(1) PETITIONS.—Subject to subsection (d) and except as provided in paragraph (2), any Indian group may submit to the Commission a petition requesting that the Commission recognize an Indian group as an Indian tribe.

(2) EXCLUSION.—The following groups and entities shall not be eligible to submit a petition for recognition by the Commission under this Act:

(A) CERTAIN ENTITIES THAT ARE ELIGIBLE TO RECEIVE SERVICES FROM THE BUREAU.—Indian tribes, organized bands, pueblos, communities, and Alaska Native entities that are recognized by the Secretary as of the date of enactment of this Act as eligible to receive services from the Bureau.

(B) CERTAIN SPLINTER GROUPS, POLITICAL FACTIONS, AND COMMUNITIES.—Splinter groups, political factions, communities, or groups of any character that separate from the main body of an Indian tribe that, at the time of that separation, is recognized as an Indian tribe by the Secretary, unless the group, faction, or community is able to establish clearly that the group, faction, or community has functioned throughout history until the date of that petition as an autonomous Indian tribal entity.

(C) CERTAIN GROUPS THAT HAVE PREVIOUSLY SUBMITTED PETITIONS.—Groups, or successors in interest of groups, that before the date of enactment of this Act, have petitioned for and been denied or refused recognition as an Indian tribe under regulations prescribed by the Secretary.

(D) INDIAN GROUPS SUBJECT TO TERMINATION.—Any Indian group whose relationship with the Federal Government was expressly terminated by an Act of Congress.

(E) PARTIES TO CERTAIN ACTIONS.—Any Indian group that—

(i) in any action in a United States court of competent jurisdiction to which the group was a party, attempted to establish its status as an Indian tribe or a successor in interest to an Indian tribe that was a party to a treaty with the United States;

(ii) was determined by that court—

(I) not to be an Indian tribe; or

(II) not to be a successor in interest to an Indian tribe that was a party to a treaty with the United States; or

(iii) was the subject of findings of fact by that court which, if made by the Commission, would show that the group was incapable of establishing 1 or more of the criteria set forth in this section.

(3) TRANSFER OF PETITION.—

(A) IN GENERAL.—Notwithstanding any other provision of law, not later than 30 days after the date on which all of the members of the Commission have been appointed and confirmed by the Senate under section 4(b), the Secretary shall transfer to the Commission all petitions pending before the Department that—

(i) are not under active consideration by the Secretary at the time of the transfer; and

(ii) request the Secretary, or the Federal Government, to recognize or acknowledge an Indian group as an Indian tribe.

(B) CESSATION OF CERTAIN AUTHORITIES OF SECRETARY.—Notwithstanding any other provision of law, on the date of the transfer under subparagraph (A), the Secretary and the Department shall cease to have any authority to recognize or acknowledge, on behalf of the Federal Government, any Indian group as an Indian tribe, except for those groups under active consideration at the time of the transfer whose petitions have been retained by the Secretary pursuant to subparagraph (A).

(C) DETERMINATION OF ORDER OF SUBMISSION OF TRANSFERRED PETITIONS.—Petitions transferred to the Commission under subparagraph (A) shall, for purposes of this Act, be considered as having been submitted to the Commission in the same order as those petitions were submitted to the Department.

(b) PETITION FORM AND CONTENT.—Except as provided in subsection (c), any petition submitted under subsection (a) by an Indian group shall be in any readable form that clearly indicates that the petition is a petition requesting the Commission to recognize the Indian group as an Indian tribe and that contains detailed, specific evidence concerning each of the following items:

(1) STATEMENT OF FACTS.—A statement of facts establishing that the petitioner has been identified as an American Indian entity on a substantially continuous basis since 1871. Evidence that the character of the group as an Indian entity has from time to time been denied shall not be considered to be conclusive evidence that this criterion has not been met. Evidence that the Commission may rely on in determining the Indian identity of a group may include any 1 or more of the following items:

(A) IDENTIFICATION OF PETITIONER.—An identification of the petitioner as an Indian entity by any department, agency, or instrumentality of the Federal Government.

(B) RELATIONSHIP OF PETITIONER WITH STATE GOVERNMENT.—A relationship between the petitioner and any State government, based on an identification of the petitioner as an Indian entity.

(C) RELATIONSHIP OF PETITIONER WITH A POLITICAL SUBDIVISION OF A STATE.—Dealings of the petitioner with a county or political subdivision of a State in a relationship based on the Indian identity of the petitioner.

(D) IDENTIFICATION OF PETITIONER ON THE BASIS OF CERTAIN RECORDS.—An identification of the petitioner as an Indian entity by records in a private or public archive, courthouse, church, or school.

(E) IDENTIFICATION OF PETITIONER BY CERTAIN EXPERTS.—An identification of the petitioner as an Indian entity by an anthropologist, historian, or other scholar.

(F) IDENTIFICATION OF PETITIONER BY CERTAIN MEDIA.—An identification of the petitioner as an Indian entity in a newspaper, book, or similar medium.

(G) IDENTIFICATION OF PETITIONER BY ANOTHER INDIAN TRIBE OR ORGANIZATION.—An identification of the petitioner as an Indian entity by another Indian tribe or by a national, regional, or State Indian organization.

(H) IDENTIFICATION OF PETITIONER BY A FOREIGN GOVERNMENT OR INTERNATIONAL ORGANIZATION.—An identification of the petitioner

as an Indian entity by a foreign government or an international organization.

(I) OTHER EVIDENCE OF IDENTIFICATION.—Such other evidence of identification as may be provided by a person or entity other than the petitioner or a member of the membership of the petitioner.

(2) EVIDENCE OF COMMUNITY.—

(A) IN GENERAL.—A statement of facts establishing that a predominant portion of the membership of the petitioner—

(i) comprises a community distinct from those communities surrounding that community; and

(ii) has existed as a community from historical times to the present.

(B) EVIDENCE.—Evidence that the Commission may rely on in determining that the petitioner meets the criterion described in clauses (i) and (ii) of subparagraph (A) may include 1 or more of the following items:

(i) MARRIAGES.—Significant rates of marriage within the group, or, as may be culturally required, patterned out-marriages with other Indian populations.

(ii) SOCIAL RELATIONSHIPS.—Significant social relationships connecting individual members.

(iii) SOCIAL INTERACTION.—Significant rates of informal social interaction which exist broadly among the members of a group.

(iv) SHARED ECONOMIC ACTIVITY.—A significant degree of shared or cooperative labor or other economic activity among the membership.

(v) DISCRIMINATION OR OTHER SOCIAL DISTINCTIONS.—Evidence of strong patterns of discrimination or other social distinctions by nonmembers.

(vi) SHARED RITUAL ACTIVITY.—Shared sacred or secular ritual activity encompassing most of the group.

(vii) CULTURAL PATTERNS.—Cultural patterns that—

(I) are shared among a significant portion of the group that are different from the cultural patterns of the non-Indian populations with whom the group interacts;

(II) function as more than a symbolic identification of the group as Indian; and

(III) may include language, kinship or religious organizations, or religious beliefs and practices.

(viii) COLLECTIVE INDIAN IDENTITY.—The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.

(ix) HISTORICAL POLITICAL INFLUENCE.—A demonstration of historical political influence pursuant to the criterion set forth in paragraph (3).

(C) CRITERIA FOR SUFFICIENT EVIDENCE.—The Commission shall consider the petitioner to have provided sufficient evidence of community at a given point in time if the petitioner has provided evidence that demonstrates any one of the following:

(i) RESIDENCE OF MEMBERS.—More than 50 percent of the members of the group of the petitioner reside in a particular geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent social interaction with some members of the community.

(ii) MARRIAGES.—Not less than 50 percent of the marriages of the group are between members of the group.

(iii) DISTINCT CULTURAL PATTERNS.—Not less than 50 percent of the members of the group maintain distinct cultural patterns including language, kinship or religious organizations, or religious beliefs or practices.

(iv) COMMUNITY SOCIAL INSTITUTIONS.—Distinct community social institutions encompassing a substantial portion of the members of the group, such as kinship organizations, formal or informal economic cooperation, or religious organizations.

(v) APPLICABILITY OF CRITERIA.—The group has met the criterion in paragraph (3) using evidence described in paragraph (3)(B).

(3) AUTONOMOUS ENTITY.—

(A) IN GENERAL.—A statement of facts establishing that the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the time of the petition. The Commission may rely on 1 or more of the following items in determining whether a petitioner meets the criterion described in the preceding sentence:

(i) MOBILIZATION OF MEMBERS.—The group is capable of mobilizing significant numbers of members and significant resources from its members for group purposes.

(ii) ISSUES OF PERSONAL IMPORTANCE.—Most of the membership of the group consider issues acted upon or taken by group leaders or governing bodies to be of personal importance.

(iii) POLITICAL PROCESS.—There is a widespread knowledge, communication, and involvement in political processes by most of the members of the group.

(iv) LEVEL OF APPLICATION OF CRITERIA.—The group meets the criterion described in paragraph (2) at more than a minimal level.

(v) INTRAGROUP CONFLICTS.—There are intragroup conflicts which show controversy over valued group goals, properties, policies, processes, or decisions.

(B) EVIDENCE OF EXERCISE OF POLITICAL INFLUENCE OR AUTHORITY.—The Commission shall consider that a petitioner has provided sufficient evidence to demonstrate the exercise of political influence or authority at a given point in time by demonstrating that group leaders or other mechanisms exist or have existed that accomplish the following:

(i) ALLOCATION OF GROUP RESOURCES.—Allocate group resources such as land, residence rights, or similar resources on a consistent basis.

(ii) SETTLEMENT OF DISPUTES.—Settle disputes between members or subgroups such as clans or moieties by mediation or other means on a regular basis.

(iii) INFLUENCE ON BEHAVIOR OF INDIVIDUAL MEMBERS.—Exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to direct or control behavior.

(iv) ECONOMIC SUBSISTENCE ACTIVITIES.—Organize or influence economic subsistence activities among the members, including shared or cooperative labor.

(C) TEMPORALITY OF SUFFICIENCY OF EVIDENCE.—A group that has met the requirements of paragraph (2)(C) at any point in time shall be considered to have provided sufficient evidence to meet the criterion described in subparagraph (A) at that point in time.

(4) GOVERNING DOCUMENT.—A copy of the then present governing document of the petitioner that includes the membership criteria of the petitioner. In the absence of a written document, the petitioner shall be required to provide a statement describing in full the membership criteria of the petitioner and the then current governing procedures of the petitioner.

(5) LIST OF MEMBERS.—

(A) IN GENERAL.—A list of all then current members of the petitioner, including the full name (and maiden name, if any), date, and place of birth, and then current residential address of each member, a copy of each available former list of members based on the criteria defined by the petitioner, and a statement describing the methods used in preparing those lists.

(B) REQUIREMENTS FOR MEMBERSHIP.—In order for the Commission to consider the members of the group to be members of an Indian tribe for the purposes of the petition, that membership shall be required to consist of established descendancy from an Indian group that existed historically, or from historical Indian groups that combined and functioned as a single autonomous entity.

(C) EVIDENCE OF TRIBAL MEMBERSHIP.—Evidence of tribal membership required by the Commission for a determination of tribal membership shall include the following items:

(i) DESCENDANCY ROLLS.—Descendancy rolls prepared by the Secretary for the petitioner for purposes of distributing claims money, providing allotments, or other purposes.

(ii) CERTAIN OFFICIAL RECORDS.—Federal, State, or other official records or evidence identifying then present members of the petitioner, or ancestors of then present members of the petitioner, as being descendants of a historic tribe or historic tribes that combined and functioned as a single autonomous political entity.

(iii) ENROLLMENT RECORDS.—Church, school, and other similar enrollment records identifying then present members or ancestors of then present members as being descendants of a historic tribe or historic tribes that combined and functioned as a single autonomous political entity.

(iv) AFFIDAVITS OF RECOGNITION.—Affidavits of recognition by tribal elders, leaders, or the tribal governing body identifying then present members or ancestors of then present members as being descendants of 1 or more historic tribes that combined and functioned as a single autonomous political entity.

(v) OTHER RECORDS OR EVIDENCE.—Other records or evidence identifying then present members or ancestors of then present members as being descendants of 1 or more historic tribes that combined and functioned as a single autonomous political entity.

(c) EXCEPTIONS.—A petition from an Indian group that is able to demonstrate by a preponderance of the evidence that the group was, or is the successor in interest to, a—

(1) party to a treaty or treaties;

(2) group acknowledged by any agency of the Federal Government as eligible to participate under the Act of June 18, 1934 (commonly referred to as the ''Indian Reorganization Act'') (48 Stat. 984 et seq., chapter 576; 25 U.S.C. 461 et seq.);

(3) group for the benefit of which the United States took into trust lands, or which the Federal Government has treated as having collective rights in tribal lands or funds; or

(4) group that has been denominated a tribe by an Act of Congress or Executive order,

shall be required to establish the criteria set forth in this section only with respect to the period beginning on the date of the applicable action described in paragraph (1), (2), (3), or (4) and ending on the date of submission of the petition.

(d) DEADLINE FOR SUBMISSION OF PETITIONS.—No Indian group may submit a petition to the Commission requesting that the Commission recognize an Indian group as an Indian tribe after the date that is 8 years after the date of enactment of this Act. After the Commission makes a determination on each petition submitted before that date, the Commission may not make any further determination under this Act to recognize any Indian group as an Indian tribe.

SEC. 6. NOTICE OF RECEIPT OF PETITION.

(a) PETITIONER.—

(1) IN GENERAL.—Not later than 30 days after a petition is submitted or transferred

to the Commission under section 5(a), the Commission shall—

(A) send an acknowledgement of receipt in writing to the petitioner; and

(B) publish in the Federal Register a notice of that receipt, including the name, location, and mailing address of the petitioner and such other information that—

(i) identifies the entity that submitted the petition and the date the petition was received by the Commission;

(ii) indicates where a copy of the petition may be examined; and

(iii) indicates whether the petition is a transferred petition that is subject to the special provisions under paragraph (2).

(2) SPECIAL PROVISIONS FOR TRANSFERRED PETITIONS.—

(A) IN GENERAL.—With respect to a petition that is transferred to the Commission under section 5(a)(3), the notice provided to the petitioner, shall, in addition to providing the information specified in paragraph (1), inform the petitioner whether the petition constitutes a documented petition that meets the requirements of section 5.

(B) AMENDED PETITIONS.—If the petition described in subparagraph (A) is not a documented petition, the Commission shall notify the petitioner that the petitioner may, not later than 90 days after the date of the notice, submit to the Commission an amended petition that is a documented petition for review under section 7.

(C) EFFECT OF AMENDED PETITION.—To the extent practicable, the submission of an amended petition by a petitioner by the date specified in this paragraph shall not affect the order of consideration of the petition by the Commission.

(b) OTHERS.—In addition to providing the notification required under subsection (a), the Commission shall notify, in writing, the Governor and attorney general of, and each federally recognized Indian tribe within, any State in which a petitioner resides.

(c) PUBLICATION; OPPORTUNITY FOR SUPPORTING OR OPPOSING SUBMISSIONS.—

(1) PUBLICATION.—The Commission shall publish the notice of receipt of each petition (including any amended petition submitted pursuant to subsection (a)(2)) in a major newspaper of general circulation in the town or city located nearest the location of the petitioner.

(2) OPPORTUNITY FOR SUPPORTING OR OPPOSING SUBMISSIONS.—

(A) IN GENERAL.—Each notice published under paragraph (1) shall include, in addition to the information described in subsection (a), notice of opportunity for other parties to submit factual or legal arguments in support of or in opposition to, the petition.

(B) COPY TO PETITIONER.—A copy of any submission made under subparagraph (A) shall be provided to the petitioner upon receipt by the Commission.

(C) RESPONSE.—The petitioner shall be provided an opportunity to respond to any submission made under subparagraph (A) before a determination on the petition by the Commission.

SEC. 7. PROCESSING THE PETITION.

(a) REVIEW.—

(1) IN GENERAL.—Upon receipt of a documented petition submitted or transferred under section 5(a) or submitted under section 6(a)(2)(B), the Commission shall conduct a review to determine whether the petitioner is entitled to be recognized as an Indian tribe.

(2) CONTENT OF REVIEW.—The review conducted under paragraph (1) shall include consideration of the petition, supporting evidence, and the factual statements contained in the petition.

(3) OTHER RESEARCH.—In conducting a review under this subsection, the Commission may—

(A) initiate other research for any purpose relative to analyzing the petition and obtaining additional information about the status of the petitioner; and

(B) consider such evidence as may be submitted by other parties.

(4) ACCESS TO LIBRARY OF CONGRESS AND NATIONAL ARCHIVES.—Upon request by the petitioner, the appropriate officials of the Library of Congress and the National Archives shall allow access by the petitioner to the resources, records, and documents of those entities, for the purpose of conducting research and preparing evidence concerning the status of the petitioner.

(b) CONSIDERATION.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, petitions submitted or transferred to the Commission shall be considered on a first come, first served basis, determined by the date of the original filing of each such petition with the Commission (or the Department if the petition is transferred to the Commission pursuant to section 5(a) or is an amended petition submitted pursuant to section 6(a)(2)(B)). The Commission shall establish a priority register that includes petitions that are pending before the Department on the date of enactment of this Act.

(2) PRIORITY CONSIDERATION.—Each petition (that is submitted or transferred to the Commission pursuant to section 5(a) or that is submitted to the Commission pursuant to section 6(a)(2)(B)) of an Indian group that meets 1 or more of the requirements set forth in section 5(c) shall receive priority consideration over a petition submitted by any other Indian group.

SEC. 8. PRELIMINARY HEARING.

(a) IN GENERAL.—Not later than 60 days after the receipt of a documented petition by the Commission submitted or transferred under section 5(a) or submitted to the Commission pursuant to section 6(a)(2)(B), the Commission shall set a date for a preliminary hearing. At the preliminary hearing, the petitioner and any other concerned party may provide evidence concerning the status of the petitioner.

(b) DETERMINATION.—

(1) IN GENERAL.—Not later than 30 days after the conclusion of a preliminary hearing under subsection (a), the Commission shall make a determination—

(A) to extend Federal acknowledgment of the petitioner as an Indian tribe to the petitioner; or

(B) that provides that the petitioner should proceed to an adjudicatory hearing.

(2) NOTICE OF DETERMINATION.—The Commission shall publish in the Federal Register a notice of each determination made under paragraph (1).

(c) INFORMATION TO BE PROVIDED PREPARATORY TO AN ADJUDICATORY HEARING.—

(1) IN GENERAL.—If the Commission makes a determination under subsection (b)(1)(B) that the petitioner should proceed to an adjudicatory hearing, the Commission shall—

(A)(i) make available appropriate evidentiary records of the Commission to the petitioner to assist the petitioner in preparing for the adjudicatory hearing; and

(ii) include such guidance as the Commission considers necessary or appropriate to assist the petitioner in preparing for the hearing; and

(B) not later than 30 days after the conclusion of the preliminary hearing under subsection (a), provide a written notification to the petitioner that includes a list of any deficiencies or omissions that the Commission relied on in making a determination under subsection (b)(1)(B).

(2) SUBJECT OF ADJUDICATORY HEARING.—The list of deficiencies and omissions provided by the Commission to a petitioner under paragraph (1)(B) shall be the subject of the adjudicatory hearing. The Commission may not make any additions to the list after the Commission issues the list.

SEC. 9. ADJUDICATORY HEARING.

(a) IN GENERAL.—Not later than 180 days after the conclusion of a preliminary hearing under section 8(a), the Commission shall afford a petitioner who is subject to section 8(b)(1)(B) an adjudicatory hearing. The subject of the adjudicatory hearing shall be the list of deficiencies and omissions provided under section 8(c)(1)(B) and shall be conducted pursuant to section 554 of title 5, United States Code.

(b) TESTIMONY FROM STAFF OF COMMISSION.—In any hearing held under subsection (a), the Commission may require testimony from the acknowledgement and research staff of the Commission or other witnesses. Any such testimony shall be subject to cross-examination by the petitioner.

(c) EVIDENCE BY PETITIONER.—In any hearing held under subsection (a), the petitioner may provide such evidence as the petitioner considers appropriate.

(d) DETERMINATION BY COMMISSION.—Not later than 60 days after the conclusion of any hearing held under subsection (a), the Commission shall—

(1) make a determination concerning the extension or denial of Federal acknowledgment of the petitioner as an Indian tribe to the petitioner;

(2) publish the determination of the Commission under paragraph (1) in the Federal Register; and

(3) deliver a copy of the determination to the petitioner, and to every other interested party.

SEC. 10. APPEALS.

(a) IN GENERAL.—Not later than 60 days after the date that the Commission publishes a determination under section 9(d), the petitioner may appeal the determination to the United States District Court for the District of Columbia.

(b) ATTORNEY FEES.—If the petitioner prevails in an appeal made under subsection (a), the petitioner shall be eligible for an award of reasonable attorney fees and costs under section 504 of title 5, United States Code, or section 2412 of title 28, United States Code, whichever is applicable.

SEC. 11. EFFECT OF DETERMINATIONS.

A determination by the Commission under section 9(d) that an Indian group is recognized by the Federal Government as an Indian tribe shall not have the effect of depriving or diminishing—

(1) the right of any other Indian tribe to govern the reservation of such other tribe as that reservation existed before the recognition of that Indian group, or as that reservation may exist thereafter;

(2) any property right held in trust or recognized by the United States for that other Indian tribe as that property existed before the recognition of that Indian group; or

(3) any previously or independently existing claim by a petitioner to any such property right held in trust by the United States for that other Indian tribe before the recognition by the Federal Government of that Indian group as an Indian tribe.

SEC. 12. IMPLEMENTATION OF DECISIONS.

(a) ELIGIBILITY FOR SERVICES AND BENEFITS.—

(1) IN GENERAL.—Subject to paragraph (2), upon recognition by the Commission of a petitioner as an Indian tribe under this Act, the Indian tribe shall—

(A) be eligible for the services and benefits from the Federal Government that are available to other federally recognized Indian

tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States; and

(B) have the responsibilities, obligations, privileges, and immunities of those Indian tribes.

(2) PROGRAMS OF THE BUREAU.—

(A) IN GENERAL.—The recognition of an Indian group as an Indian tribe by the Commission under this Act shall not create an immediate entitlement to programs of the Bureau in existence on the date of the recognition.

(B) AVAILABILITY OF PROGRAMS.—

(i) IN GENERAL.—The programs described in subparagraph (A) shall become available to the Indian tribe upon the appropriation of funds.

(ii) REQUESTS FOR APPROPRIATIONS.—The Secretary and the Secretary of Health and Human Services shall forward budget requests for funding the programs for the Indian tribe pursuant to the needs determination procedures established under subsection (b).

(b) NEEDS DETERMINATION AND BUDGET REQUEST.—

(1) IN GENERAL.—Not later than 180 days after an Indian group is recognized by the Commission as an Indian tribe under this Act, the appropriate officials of the Bureau and the Indian Health Service of the Department of Health and Human Services shall consult and develop in cooperation with the Indian tribe, and forward to the Secretary or the Secretary of Health and Human Services, as appropriate, a determination of the needs of the Indian tribe and a recommended budget required to serve the newly recognized Indian tribe.

(2) SUBMISSION OF BUDGET REQUEST.—Upon receipt of the information described in paragraph (1), the appropriate Secretary shall submit to the President a recommended budget along with recommendations, concerning the information received under paragraph (1), for inclusion in the annual budget submitted by the President to the Congress pursuant to section 1108 of title 31, United States Code.

SEC. 13. ANNUAL REPORT CONCERNING COMMISSION'S ACTIVITIES.

(a) LIST OF RECOGNIZED TRIBES.—Not later than 90 days after the first meeting of the Commission, and annually on or before each January 30 thereafter, the Commission shall publish in the Federal Register a list of all Indian tribes that—

(1) are recognized by the Federal Government; and

(2) receive services from the Bureau.

(b) ANNUAL REPORT.—

(1) IN GENERAL.—Beginning on the date that is 1 year after the date of enactment of this Act, and annually thereafter, the Commission shall prepare and submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives that describes the activities of the Commission.

(2) CONTENT OF REPORTS.—Each report submitted under this subsection shall include, at a minimum, for the year that is the subject of the report—

(A) the number of petitions pending at the beginning of the year and the names of the petitioners;

(B) the number of petitions received during the year and the names of the petitioners;

(C) the number of petitions the Commission approved for acknowledgment during the year and the names of the acknowledged petitioners;

(D) the number of petitions the Commission denied for acknowledgment during the year and the names of the petitioners; and

(E) the status of all pending petitions on the date of the report and the names of the petitioners.

SEC. 14. ACTIONS BY PETITIONERS FOR ENFORCEMENT.

Any petitioner may bring an action in the district court of the United States for the district in which the petitioner resides, or the United States District Court for the District of Columbia, to enforce the provisions of this Act, including any time limitations within which actions are required to be taken, or decisions made, under this Act. The district court shall issue such orders (including writs of mandamus) as may be necessary to enforce the provisions of this Act.

SEC. 15. REGULATIONS.

The Commission may, in accordance with applicable requirements of title 5, United States Code, promulgate and publish such regulations as may be necessary to carry out this Act.

SEC. 16. GUIDELINES AND ADVICE.

(a) GUIDELINES.—Not later than 90 days after the date of enactment of this Act, the Commission shall make available to Indian groups suggested guidelines for the format of petitions, including general suggestions and guidelines concerning where and how to research information that is required to be included in a petition. The examples included in the guidelines shall not preclude the use of any other appropriate format.

(b) RESEARCH ADVICE.—The Commission may, upon request, provide suggestions and advice to any petitioner with respect to the research of the petitioner concerning the historical background and Indian identity of that petitioner. The Commission shall not be responsible for conducting research on behalf of the petitioner.

SEC. 17. ASSISTANCE TO PETITIONERS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services may award grants to Indian groups seeking Federal recognition as Indian tribes to enable the Indian groups to—

(A) conduct the research necessary to substantiate petitions under this Act; and

(B) prepare documentation necessary for the submission of a petition under this Act.

(2) TREATMENT OF GRANTS.—The grants made under this subsection shall be in addition to any other grants the Secretary of Health and Human Services is authorized to provide under any other provision of law.

(b) COMPETITIVE AWARD.—The grants made under subsection (a) shall be awarded competitively on the basis of objective criteria prescribed in regulations promulgated by the Secretary of Health and Human Services.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—There are authorized to be appropriated to the Commission to carry out this Act (other than section 17) such sums as are necessary for each of fiscal years 2001 through 2009.

(b) SECRETARY OF HHS.—To carry out section 17, there are authorized to be appropriated to the Department of Health and Human Services for the Administration for Native Americans such sums as are necessary for each of fiscal years 2001 through 2009.

By Mr. CAMPBELL:

S. 612. A bill to provide for periodic Indian needs assessments, to require Federal Indian program evaluations; and for other purposes; to the Committee on Indian Affairs.

INDIAN NEEDS ASSESSMENT, PROGRAM EVALUATION AND POLICY COORDINATION ACT OF 1999

Mr. CAMPBELL. Mr. President, today I am pleased to be joined by Senator INOUYE in introducing the Indian Needs Assessment, Program Evaluation and Policy Coordination Act of 1999 to bring about needed reforms in the way Indian programs are designed and funded.

As the annual funding debates over Indian programs show us year after year, rational and equitable funding decisions are made more difficult because of the lack of accurate and up to date information about the needs of tribal governments and tribal members.

The ability of the Congress to target unmet needs and make available adequate funds for tribes and tribal members is directly related to the quantity and quality of information available about the type and degree of demand for federal programs and services.

Within one year of the enactment of this Act, and every 5 years thereafter, each Federal agency or department is required to conduct an ''Indian Needs Assessment'' (''INA'') aimed at determining the needs of tribes and Indians eligible for programs and services administered by such agency or department.

To facilitate information collection and analysis, the bill requires the development of a uniform method, criteria and procedures for determining, analyzing, and compiling the program and service needs of tribes and Indians.

The resulting ''Indian Needs Assessments'' are to be filed with the Committees on Appropriations and Indian Affairs of the Senate, and the Committees on Appropriations and Resources of the House of Representatives.

In addition to a Needs Assessment, the bill also requires that each Federal agency or department responsible for providing services to Indians file an ''Annual Indian Program Evaluation'' (''AIPE'') with these same committees. The AIPE will measure the performance and effectiveness of the programs under the jurisdiction of that agency or department, and include recommendations as to how such programs can be improved.

I ask unanimous consent that a copy of the bill be printed in the RECORD and urge my colleagues to join me in supporting this measure.

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

S. 612

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Needs Assessment and Program Evaluation Act of 1999''.

SEC. 2. FINDINGS, PURPOSES.

(a) FINDINGS.—the Congress finds that—

(1) the United States and the Indian tribes have a unique legal and political government-to-government relationship;

(2) pursuant to Constitution, treaties, statutes, executive order, court decisions, and course of conduct, the United States has a trust obligation to provide certain services to Indian tribes and to Indians;

(3) Federal agencies charged with administering programs and providing services to or for the benefit of Indians have not furnished Congress with adequate information necessary to assess such programs or the needs of Indians and Indian tribes;

(4) such lack of information has hampered the ability of the Congress to determine the nature, type, and magnitude of such needs as well as its ability to respond to them.

(5) Congress cannot properly fulfill its obligation to Indian tribes and Indian people unless and until it has an adequate store of information related to the needs of Indians nationwide.

(b) PURPOSES.—the purposes of this Act are to—

(1) ensure that Indian needs for federal programs and services are known in a more certain and predictable fashion;

(2) to require that Federal agencies and departments carefully review and monitor the effectiveness of the programs and services provided to Indians;

(3) to provide for more efficient and effective cooperation and coordination of, and accountability from, the agencies and departments providing programs and services, including technical and business development assistance, to Indians; and

(4) to provide Congress with reliable information regarding both Indian needs and the evaluation of federal programs and services provided to Indians nationwide.

SEC. 3. INDIAN TRIBAL NEEDS ASSESSMENT.

(a) INDIAN TRIBAL NEEDS ASSESSMENTS.—In General.—

(1) within 180 days after the enactment of this Act, the Secretary, in consultation and coordination with the Departments of Agriculture, Commerce, Defense, Energy, Labor, Justice, Treasury, Transportation, and Veterans Affairs, the Environmental Protection Agency, other relevant agencies, offices, and departments, shall develop a uniform method, criteria and procedures for determining, analyzing, and compiling the program and service assistance needs of Indian tribes and Indians nationwide. The needs assessment shall address, but not be limited to, the following:

(A) The total population of the tribe(s), and the population of tribal members located in the service area, where applicable;

(B) The size of the service area;

(C) The location of the service area;

(D) The availability of similar programs within the geographical area to tribes or tribal members; and

(E) socio-economic conditions that exist within the service area.

(2) the Secretary shall consult with tribal governments in establishing and conducting the needs assessment mandated by this Act.

(3) within 1 year of the enactment of this Act, and every five (5) years thereafter, each Federal agency or department, in coordination with the Secretary, shall conduct an Indian Needs Assessment (''INA'') aimed at determining the actual needs of Indian tribes and Indians eligible for programs and services administered by such agency or department.

(4) the Indian Needs Assessment developed pursuant to subsection (c)(3) above shall be filed with the Committees on Appropriations and Indian Affairs of the Senate, and the Committees on Appropriations and Resources of the House of Representatives on February 1 of each year in which it is to be submitted.

(b) FEDERAL AGENCY INDIAN TRIBAL PROGRAM EVALUATION.—

(1) within 180 days of enactment of this Act, the Secretary shall develop a uniform method, criteria and procedures for compiling, maintaining, keeping current and reporting to Congress all information concerning

(A) the agency or department annual expenditure for programs and services for which Indians are eligible, with specific information regarding the names of tribes who are currently participating in or receiving each service, the names of tribes who have applied for and not received programs or services, and the names of tribes whose services or programs have been terminated within the last fiscal year;

(B) services or programs specifically for the benefit of Indians, with specific information regarding the names of tribes who are currently participating in or receiving each service, the names of tribes who have applied for and not received programs or services, and the names of tribes whose services or programs have been terminated within the last fiscal year;

(C) the agency or department method of delivery of such services and funding, including a detailed explanation of the outreach efforts of each agency or department to Indian tribes.

(2) within 1 year of the enactment of this Act, and annually thereafter, each Federal agency or department responsible for providing services or programs to or for the benefit of Indian tribes or Indians shall file an Annual Indian Program Evaluation (''AIPE'') with the Committees on Appropriations and Indian Affairs of the Senate, and the Committees on Appropriations and Resources of the House of Representatives.

(c) ANNUAL LISTING OF TRIBAL ELIGIBLE PROGRAMS.—On or before February 1 of each calendar year, those Federal agencies or departments mentioned in (b)(2) above, shall develop and publish in the Federal Register a list of all programs and services offered by such agency or department for which Indian tribes or their members are or may be eligible, and shall provide a brief explanation of the program or service.

SEC. 4. REPORT TO CONGRESS

(a) IN GENERAL.—the Secretary shall, within 1 years of the enactment of this Act, develop and submit to the Committees on Appropriations and Indian Affairs of the Senate, and the Committees on Appropriations and Resources of the House of Representatives a report detailing the coordination of federal program and service assistance for which Indian tribes and their members are eligible.

(b) STRATEGIC PLAN.—the Secretary shall, within 18 months after the enactment of this Act, and after consultation and coordination with the Indian tribes, file a Strategic Plan for the Coordination of Federal Assistance for Indians.

(c) CONTENTS OF STRATEGIC PLAN.—the Plan required under this Act shall contain (1) identification of reforms necessary to the laws, regulations, policies, procedures, practices, and systems of the agencies involved; (2) proposals for remedying the reforms identified in the Plan; and (3) other recommendations consistent with the purposes of the Act.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) Beginning in fiscal year 2001 and for each fiscal year thereafter, there are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. CAMPBELL:

S. 613. A bill to encourage Indian economic development, to provide for the disclosure of Indian tribal sovereign immunity in contracts involving Indian tribes, and for other purposes; to the Committee on Indian Affairs.

INDIAN TRIBAL ECONOMIC DEVELOPMENT AND CONTRACT ENCOURAGEMENT ACT OF 1999

Mr. CAMPBELL. Mr. President, today I am pleased to introduce the Indian Tribal Economic Development and Contract Encouragement Act of 1999 to encourage tribal economic development, provide for disclosures regarding tribal sovereign immunity, and eliminate excessive and unproductive bureaucratic oversight of tribal decisions.

As many of my colleagues are aware, most Indian tribes are not in the position to fund all, or even most of their governmental operations through taxes imposed on reservation-based activities or assets. Often a tribe's own land and other natural resources are the only means a tribe has to fund its activities or to promote economic development within its reservation boundaries.

Since land is the basic trust resource, the United States has the authority and the responsibility to oversee the lease of tribal lands. Where tribes propose to enter leases of their lands, a federal statute provides that the lease is only valid if it is approved by the Interior Department. My proposed bill does not affect the federal government's authority to approve leases. My bill addresses non-lease agreements between Indian tribes and those that provide services that relate to the tribe's lands.

Not that long ago, tribes had to rely on federal bureaucrats to devise ways to develop their lands, to negotiate leases, and to then approve those leases. In many instances, tribes are now developing their own proposals. To assist in the development of a private sector, I want to encourage this entrepreneurial spirit.

There are strong indications, however, that an ancient federal statute is impeding every Indian tribe's ability to enter into agreements with those who might be hired by the tribe to assist it in developing its lands. Like most laws, this statute was enacted with the best intentions. I speak of a law enacted over 125 years ago; a law enacted when many Indians had to rely on translators to read the treaties between the United States and their tribal government. The statute I propose to amend was enacted in 1871, and it survives in much the same form today as it did then—64 Congresses ago.

Section 81, as it is known, provides that a contract ''relating to Indian lands'' is not valid unless it is approved by the Secretary. Section 81 imposes no limits on how long the BIA may take to review the agreement or even what standards apply to decide whether the contract should be approved or denied.

The bill I introduce today addresses these issues and others.

First, the bill gives the Secretary 90 days to review a proposed contract. This is the same amount of time the Secretary has to review contracts relating to the management of gaming facilities. My bill provides that if the government takes no action for 90

days, then the tribe can proceed with the project unhindered by the lack of approval.

All other federal laws will still apply to the agreement.

Second, the Secretary must identify the types of contracts that are not covered by this statute. A tribe can submit such contracts and the BIA has 45 days to determine whether they are covered by the law. The Secretary is still authorized to reject any contract that violates federal law.

Finally, the bill incorporates a suggestion made in 1988 by then-Assistant Secretary Ross Swimmer to ''eliminate the current statutory requirements that the Secretary approve the tribal selection of attorneys and attorney fees.'' To allow the selection of counsel, without the Secretary's oversight, is fundamental to Indian self-determination.

My bill addresses one other key matter. Like other sovereign governments, Indian tribes are free to negotiate with potential business partners whether, in what form, and to what extent the parties can sue and be sued under a contract they enter. My bill recognizes a tribe's discretion in this area and it leaves it in place.

After numerous hearings conducted in the 105th Congress and in previous congresses, I believe the record is clear: Indian tribes have been increasingly responsible in their consideration of immunity decisions.

I am concerned, however, about those who may enter into agreements with Indian tribes knowing that the tribe retains immunity but at a later time insist that they have been treated unfairly by the tribe raising the immunity defense.

Under my bill, the Secretary must deny approval of contracts if the agreement in question fails to state that the parties recognize that the tribe is immune from suit unless immunity is expressly waived.

Excessive federal regulation, especially if it impedes business and economic development in Indian Country, needs to be eliminated. Whether we put this belief in terms of the Contract with America, or the initiative to reinvent government, our objective is the same.

There is no group of people who have experienced more federal regulation of every aspect of their lives than Indians. This bill represents a commitment to reduce unnecessary and anachronistic federal bureaucratic requirements.

I ask unanimous consent that a copy of the bill be printed in the RECORD, and I urge my colleagues to join me in supporting this critical measure.

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

S. 613

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Tribal Economic Development and Contract Encouragement Act of 1999''.

SEC. 2. CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.

Section 2103 of the Revised Statutes (25 U.S.C. 81) is amended—

(1) by inserting ''(a)'' before ''No agreement'';

(2) in subsection (a), as designated by paragraph (1) of this section—

(A) by striking '', or individual Indians not citizens of the United States,'';

(B) by striking ''First. Such agreement'' and inserting the following:

''(1) Such contract or agreement'';

(C) by striking ''Second. It shall bear the approval of the Secretary of the Interior and the Commissioner of Indian Affairs endorsed up on it.'' and inserting the following:

''(2) Except as provided in subsection (b), it shall bear the approval of the Secretary of the Interior (referred to in this section as the 'Secretary') or a designee of the Secretary of the Interior endorsed upon it.'';

(D) by striking ''Third. It'' and inserting the following:

''(3) It'';

(E) by striking ''Fourth. It'' and inserting the following:

''(4) It''; and

(F) by striking ''Fifth. It'' and inserting the following:

''(5) It'';

(3) by inserting ''(d)'' before ''All contracts'';

(4) by inserting after subsection (a) the following:

''(b) Subsection (a)(2) shall not apply to a contract or agreement in any case in which—

''(1) the Secretary (or a designee of the Secretary) fails to approve or disapprove the contract or agreement by the date that is 90 days after the date on which the contract or agreement is filed with the Secretary under this section; or

''(2)(A) the tribe notifies the Secretary in a manner prescribed by the Secretary under subsection (c)(3) that a contract or agreement is not covered under subsection (a); and

''(B) the Secretary (or a designee of the Secretary) fails to inform the tribe in writing, by the date that is 45 days after receipt of the notification under subparagraph (A), that the Secretary (or designee) intends to review the contract agreement by the date specified in paragraph (1).

''(c)(1) The Secretary (or a designee of the Secretary) shall refuse to approve a contract or agreement that is filed with the Secretary under this section if the Secretary (or designee) determines that the contract or agreement—

''(A) violates Federal law; or

''(B)(i) is covered under subsection (a); and

''(ii) does not include a provision that—

''(I) provides for remedies in the case of a breach of the contract or agreement;

''(II) references a tribal code, ordinance, or ruling of a court of competent jurisdiction that discloses the right of the tribe to assert sovereign immunity as a defense in an action brought against the tribe; or

''(III) includes an express waiver of the right of the tribe to assert sovereign immunity as a defense in an action brought against the tribe (including a waiver that limits the nature of relief that may be provided or the jurisdiction of a court with respect to such an action).

''(2)(A) The Secretary (or a designee of the Secretary) shall not approve any contract or agreement that is submitted to the Secretary for approval under this section if the Secretary (or designee) determines that the contract or agreement is not covered under subsection (a).

''(B) If the Secretary determines that a contract or agreement is not covered under subsection (a), the Secretary shall notify the tribe of that determination.

''(3) To assist tribes in providing notice under subsection (b)(2), the Secretary shall—

''(A) issue guidelines for identifying types of contracts or agreements that are not covered under subsection (a); and

''(B) establish procedures for providing that notice.

''(4) The failure of the Secretary to approve a contract or agreement under this subsection or to provide notice under paragraph (2)(B) shall not affect the applicability of a requirement under any other provision of Federal law.'';

(5) in subsection (d), as redesignated by paragraph (3) of this section, by striking ''paid to any person by any Indian tribe'' and all that follows through the end of the subsection and inserting ''paid to any person by any tribe or any other person on behalf of the tribe on account of such services in excess of the amount approved by the Secretary of the Interior, may be recovered in an action brought by the tribe or the United States. Such an action may be brought in any district court of the United States, without regard to the amount in controversy. Any amount recovered under this subsection shall be paid to the Treasury of the United States for use by the tribe for whom it was recovered.''; and

(6) by adding at the end the following:

''(e) Nothing in this section shall be construed to require the Secretary of the Interior to approve a contract for legal services by an attorney.''.

SEC. 3. CHOICE OF COUNSEL.

Section 16(e) of the Act of June 18, 1934 (commonly referred to as the ''Indian Reorganization Act'') (48 Stat. 987, chapter 576; 25 U.S.C. 476(e)) is amended by striking '', the choice of counsel and fixing of fees to be subject to the approval of the Secretary''.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 614. A bill to provide for regulatory reform in order to encourage investment, business, and economic development with respect to activities conducted on Indian lands; to the Committee on Indian Affairs.

INDIAN TRIBAL REGULATORY REFORM AND BUSINESS DEVELOPMENT ACT OF 1999

Mr. CAMPBELL. Mr. President, today I am pleased to introduce another key piece of legislation to encourage private sector development on Indian lands. This bill is aimed at removing the obstacles that stand in the way of responsive government and greater levels of business activity in Indian country—the Indian Tribal Regulatory Reform and Business Development Act of 1999.

Over the years, laws, regulations and policies have been built up—often with good intentions—but have outlived their usefulness or relevance to the contemporary needs of Indian tribal governments and economies.

More importantly, the multi-layered bureaucracies, federal as well as tribal, have been repeatedly identified as a barrier to Indian entrepreneurship and business development on and around Indian lands.

Efforts to reduce bureaucracy are not new or unique to Indian country. Governments around the world have begun

embarking on efforts to downsize and streamline government operations to an appropriate level—one that complements human endeavors rather than hindering them.

The bill I am introducing today is part of the much-needed effort to accomplish the same goal to benefit the business environments on Indian lands nationwide.

The legislation requires a comprehensive review of the laws and regulations affecting investment and business decisions on Indian lands, and requires the Regulatory Reform and Business Development on Indian lands Authority to determine the extent to which such laws and regulations unnecessarily or inappropriately impair investment and business development on Indian lands.

The Authority is also required to determine how such laws and regulations impact the financial stability and management efficiency of tribal governments.

Under the provisions of this bill, the Authority is required to conduct the review and within one year report the findings and recommendations to the Congress and the President for further actions.

Mr. President, this is not the first time an effort of this sort has been proposed, but I believe that if conducted properly, it can serve as a lasting and constructive initiative to further the long-term health and prosperity of tribal governments and economies.

I ask unanimous consent that a copy of the bill be printed in the RECORD, and urge my colleagues to join me in supporting this key measure.

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

S. 614

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Tribal Regulatory Reform and Business Development Act of 1999''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) despite the availability of abundant natural resources on Indian lands and a rich cultural legacy that accords great value to self-determination, self-reliance, and independence, American Indians and Alaska Natives suffer rates of unemployment, poverty, poor health, substandard housing, and associated social ills to a greater degree than any other group in the United States;

(2) the capacity of Indian tribes to build strong tribal governments and vigorous economies is hindered by the inability of Indian tribes to engage communities that surround Indian lands and outside investors in economic activities conducted on Indian lands;

(3) beginning in 1970, with the issuance by the Nixon Administration of a special message to Congress on Indian Affairs, each President has confirmed the special government-to-government relationship between Indian tribes and the United States; and

(4) the United States has an obligation to assist Indian tribes with the creation of appropriate economic and political conditions with respect to Indian lands to—

(A) encourage investment from outside sources that do not originate with the Indian tribes; and

(B) facilitate economic development on Indian lands.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide for a comprehensive review of the laws (including regulations) that affect investment and business decisions concerning activities conducted on Indian lands.

(2) To determine the extent to which those laws unnecessarily or inappropriately impair—

(A) investment and business development on Indian lands; or

(B) the financial stability and management efficiency of tribal governments.

(3) To establish an authority to conduct the review under paragraph (1) and report findings and recommendations that result from the review to Congress and the President.

SEC. 3. DEFINITIONS.

In this Act:

(1) AUTHORITY.—The term ''Authority'' means the Regulatory Reform and Business Development on Indian Lands Authority.

(2) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(3) INDIAN.—The term ''Indian'' has the meaning given that term in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

(4) INDIAN LANDS.—The term ''Indian lands'' has the meaning given that term in section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).

(5) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(7) TRIBAL ORGANIZATION.—The term ''tribal organization'' has the meaning given that term in section 4(*l*) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(*l*)).

SEC. 4. ESTABLISHMENT OF AUTHORITY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Interior and other officials whom the Secretary determines to be appropriate, shall establish an authority to be known as the Regulatory Reform and Business Development on Indian Lands Authority.

(2) PURPOSE.—The Secretary shall establish the Authority under this subsection in order to facilitate identifying and subsequently removing obstacles to investment, business development, and the creation of wealth with respect to the economies of Indian reservations.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Authority established under this section shall be composed of 21 members.

(2) REPRESENTATIVES OF INDIAN TRIBES.—12 members of the Authority shall be representatives of the Indian tribes from the areas of the Bureau of Indian Affairs. Each such area shall be represented by such a representative.

(c) INITIAL MEETING.—Not later than 90 days after the date of enactment of this Act, the Authority shall hold its initial meeting.

(d) REVIEW.—Beginning on the date of the initial meeting under subsection (c), the Authority shall conduct a review of laws (including regulations) relating to investment, business, and economic development that affect investment and business decisions concerning activities conducted on Indian lands.

(e) MEETINGS.—The Authority shall meet at the call of the chairperson.

(f) QUORUM.—A majority of the members of the Authority shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON.—The Authority shall select a chairperson from among its members.

SEC. 5. REPORT.

Not later than 1 year after the date of enactment of this Act, the Authority shall prepare and submit to the Committee on Indian Affairs of the Senate, the Committee on Resources of the House of Representatives, and to the governing body of each Indian tribe a report that includes—

(1) the findings of the Authority concerning the review conducted under section 4(d); and

(2) such recommendations concerning the proposed revisions to the laws that were subject to review as the Authority determines to be appropriate.

SEC. 6. POWERS OF THE AUTHORITY.

(a) HEARINGS.—The Authority may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Authority considers advisable to carry out the duties of the Authority.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Authority may secure directly from any Federal department or agency such information as the Authority considers necessary to carry out the duties of the Authority.

(c) POSTAL SERVICES.—The Authority may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Authority may accept, use, and dispose of gifts or donations of services or property.

SEC. 7. AUTHORITY PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL MEMBERS.—Members of the Authority who are not officers or employees of the Federal Government shall serve without compensation, except for travel expenses, as provided under subsection (b).

(2) OFFICERS AND EMPLOYEES OF THE FEDERAL GOVERNMENT.—Members of the Authority who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Authority shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Authority.

(c) STAFF.—

(1) IN GENERAL.—The chairperson of the Authority may, without regard to the civil service laws, appoint and terminate such personnel as may be necessary to enable the Authority to perform its duties.

(2) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairperson of the Authority may procure temporary and intermittent service under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed under GS–13 of the General Schedule established under section 5332 of title 5, United States Code.

SEC. 8. TERMINATION OF THE AUTHORITY.

The Authority shall terminate 90 days after the date on which the Authority has

submitted, to the committees of Congress specified in section 5, and to the governing body of each Indian tribe, a copy of the report prepared under section 5.

SEC. 9. EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.

The activities of the authority conducted under this title shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act, to remain available until expended.

By Mr. CAMPBELL:

S. 615. A bill to encourage Indian economic development, to provide for a framework to encourage and facilitate intergovernmental tax agreements, and for other purposes.

INTER-GOVERNMENTAL TAX AGREEMENT ACT OF 1999

Mr. CAMPBELL. Mr. President, to encourage states and tribes to negotiate and enter fair and binding tax compacts, I introduce today the Inter-Governmental Tax Agreement Act of 1999.

In 1998, I introduced similar legislation to provide a mechanism, short of litigation, for the collection of state retail sales taxes. The Committee on Indian Affairs held several hearings on the issue of taxation involving tribes and sales made on Indian lands and heard from tribal leaders, state tax officials, private retailers, and other affected parties. Though no resolution was reached, the voluminous record developed by the Committee has helped flesh out the issue of taxation and has led to a fuller picture being developed.

Because there is much confusion about Indians and tax matters, I should be clear and explain exactly what we are talking about when we address these matters. Indian tribal governments, like state governments, pay no federal taxes on income earned by the tribe. Individual members of Indian tribes pay the same taxes other citizens of the United States pay: federal income taxes, Social Security taxes, and a host of other taxes.

What we are focusing on with this bill are state taxes on retail sales made to non-Indians on goods such as tobacco and fuel when the transaction occurs on Indian lands. As late as 1991, the Supreme Court ruled that such taxes are legitimately levied taxes and set out several possible remedies available to states including lawsuits against tribal officials and negotiating a tax compact. The court was equally clear, however, that because of tribal common law immunity from lawsuits, tribes cannot be sued to collect the tax revenues.

Consistent with that opinion, at least 18 states and dozens of Indian tribes have chosen to negotiate and enter into tax agreements. At the Committee hearing in March 1998, it was estimated that more than 200 ''intergovernmental tax agreements'' are now in place covering a variety of retail goods.

These agreements detail the collection and remittance of tax revenues by the tribe to the state on sales to non-members of the tribe, and often allow for an ''administrative fee'' paid to the tribe for their efforts to collect and remit the tax revenues.

Two factors were presented to the Committee which are legitimate issues for debate in the 106th Congress. First, the question of services provided by the state and/or the tribe to Indians and non-Indians living on tribal lands; and second, the devastating impact on Indian economies as a result of ''dual'' state and tribal taxes levied on the same transaction.

This legislation encourages state-tribal agreements by requiring that states and tribes attempt to resolve their differences in good faith through negotiations aimed at entering into a tax compact.

If efforts to reach agreement through negotiations and mediation fail, under this bill the Interior Secretary may refer the matter to the ''Intergovernmental Dispute Resolution Panel'' consisting of representatives of the departments of Interior, Justice, and Treasury, Indian tribal governments, and State governments.

Rather than create an entirely new mechanism, the framework provided by this bill relies on existing mediation services provided by the Federal Mediation and Conciliation Service to assist the Panel in carrying out its duties in arriving at fair agreements.

The history of state-tribal relations is one full of acrimony with brief periods of cooperation. The tax issue is an emotional one with a long history, Mr. President, but I am hopeful that fair and equitable solutions to matters involving states, tribes and taxation can be developed with the input of all affected parties.

I ask unanimous consent that a copy of the bill be printed in the RECORD and urge my colleagues to support this important measure.

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

S. 615

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Intergovernmental Tax Agreement Act of 1999''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Indian tribal governments exercise governmental authority and powers over persons and activities that occur on Indian lands;

(2) a dual State-tribal tax burden on transactions by Indian tribes and members of Indian tribes with non-Indian persons and entities undermines the ability of Indian tribes to finance governmental functions and programs of those Indian tribes;

(3) the apportionment of taxes from commercial activities occurring on Indian lands should take into account the government services provided by the State and the Indian tribe involved to members of that Indian tribe and other individuals residing on those lands;

(4) the governments of Indian tribes and States have negotiated and entered into more than 200 tax compacts, and those compacts cover a variety of commodities and retail taxes;

(5) in cases in which a tax compact between an Indian tribe and a State is not in effect, conflicts between the State and Indian tribe may require the active involvement of the United States in the role of the United States as a trustee for the Indian tribe;

(6) alternative dispute resolution—

(A) has been used to resolve successfully disputes in the public and private sectors;

(B) results in expedited decisionmaking; and

(C) is less costly and less contentious than litigation; and

(7) it is necessary to facilitate intergovernmental agreements between Indian tribes and States and political subdivisions thereof.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To strengthen the economies of Indian tribes.

(2) To encourage and facilitate tax agreements between the governments of Indian tribes and State governments.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMPACT.—The term ''compact'' means a written agreement between a State and an Indian tribe concerning the collection and remittance of—

(A) applicable State taxes on retail commercial transactions involving non-Indians on Indian lands of that Indian tribe; or

(B) covered tribal equivalency taxes.

(2) COVERED TRIBAL EQUIVALENCY TAX.—The term ''covered tribal equivalency tax'' means a tribal equivalency tax—

(A) with a rate that is equal to or greater than the rate of an applicable State sales or excise tax for transactions for which the tax is imposed; and

(B)(i) that is used to—

(I) fund tribal government operations or programs;

(II) provide for the general welfare of the Indian tribe and the members of that Indian tribe;

(III) promote the economic development of that Indian tribe; or

(IV) assist in funding operations of local governmental agencies; or

(ii) that is a fuel or highway tax, with respect to which the revenues derived from the tax are used only for highway and transportation purposes.

(3) INDIAN LANDS.—The term ''Indian lands'' means, with respect to an Indian tribe—

(A) lands within the reservation of that Indian tribe; and

(B) other lands over which the Indian tribe exercises governmental jurisdiction.

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(5) NON-INDIAN.—The term ''non-Indian'' means a person who is not—

(A) an Indian tribe;

(B) comprised of members of an Indian tribe; or

(C) a member of an Indian tribe.

(6) PANEL.—The term ''Panel'' means the Intergovernmental Dispute Resolution Panel established under section 5.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(8) STATE.—The term ''State'' means each of the 50 States.

(9) TRIBAL EQUIVALENCY TAX.—The term ''tribal equivalency tax'' means a tax that—

(A) is imposed by the tribal government of an Indian tribe on retail commercial transactions that involve non-Indians on Indian

lands within the jurisdiction of that Indian tribe; and

(B) is in addition to any State tax that may be imposed.

SEC. 4. INTERGOVERNMENTAL TAX AGREEMENTS.

(a) IN GENERAL.—The consent of the United States is granted to States and Indian tribes to enter into compacts and agreements in accordance with this Act.

(b) COMPACT NEGOTIATIONS.—An Indian tribe may request the Secretary to initiate negotiations on the part of that Indian tribe with a State for the purpose of entering into a tax compact under this section. A State may request the Secretary to initiate negotiations between an Indian tribe and the State to enter into such a tax compact.

(c) NOTIFICATION.—The Secretary shall notify each affected Indian tribe or State of any request made under subsection (b).

(d) REQUIREMENTS FOR REQUEST FOR INITIATION OF NEGOTIATIONS.—

(1) WRITTEN REQUEST.—A request by an Indian tribe or State under subsection (a) shall be in writing.

(2) RESPONSE.—Not later than 30 days after receiving a request referred to in paragraph (1), the Secretary shall issue a written response to the Indian tribe or State that submitted the request.

(e) COMMENCEMENT OF NEGOTIATIONS; COMPLETION OF NEGOTIATIONS.—

(1) COMMENCEMENT OF NEGOTIATIONS.—Not later than 30 days after the date specified in subsection (d), the Secretary shall commence negotiations with respect to the tax compact that is the subject of the request submitted by the Indian tribe or State.

(2) COMPLETION OF NEGOTIATIONS.—Not later than 120 days after the commencement of the negotiations under paragraph (1), the parties shall complete the negotiations, unless the parties agree to an extension of the period of time for completion of the negotiations.

(f) MEDIATION.—The Secretary shall initiate a mediation process, with the goal of achieving a tax compact, if—

(1) by the date specified in subsection (e)(1), the party that was requested to enter into negotiations, failed to respond to that request; or

(2) upon the completion of an applicable period for negotiations, as determined under subsection (e)(2), the parties have failed to execute a compact.

SEC. 5. INTERGOVERNMENTAL DISPUTE RESOLUTION PANEL.

(a) ESTABLISHMENT.—There is established the Intergovernmental Dispute Resolution Panel.

(b) MEMBERSHIP OF THE PANEL.—

(1) IN GENERAL.—The Panel shall consist of—

(A) 1 representative from the Department of the Interior;

(B) 1 representative from the Department of Justice;

(C) 1 representative from the Department of the Treasury;

(D) 1 representative of State governments; and

(E) 1 representative of tribal governments of Indian tribes.

(2) CHAIRPERSON.—The members of the Panel shall select a Chairperson from among the members of the Panel.

(c) DUTIES OF PANEL.—To the extent allowable by law, the Panel may consider and render a decision on the following:

(1) If negotiations and mediation conducted under section 4 do not result in the execution of a compact, a dispute between the State and Indian tribe that is referred to the Panel at the discretion of the Secretary.

(2) Any claim involving the legitimacy of a claim for the collection or payment of retail taxes claimed by a State with respect to transactions conducted on Indian lands (including counterclaims, setoffs, or related claims submitted or filed by an Indian tribe in question regarding an original claim involving that Indian tribe).

(d) FEDERAL MEDIATION CONCILIATION SERVICE.—

(1) IN GENERAL.—In a manner consistent with this Act, the Panel shall consult with the Federal Mediation Conciliation Service (referred to in this subsection as the ''Service'') established under section 202 of the National Labor Relations Act (29 U.S.C. 172).

(2) DUTIES OF SERVICE.—The Service shall, upon request of the Panel and in a manner consistent with applicable law, provide services to the Panel to aid in resolving disputes brought before the Panel.

SEC. 6. JUDICIAL ENFORCEMENT.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the district courts of the United States shall have original jurisdiction with respect to—

(1) the enforcement of any compact entered into under this Act; and

(2) any civil action, claim, counterclaim, or setoff, brought by any party with respect to a compact entered into under this Act to secure equitable relief, including injunctive and declaratory relief.

(b) DAMAGES.—No action to recover damages arising out of or in connection with an agreement or compact entered into under this Act may be brought, except as specifically provided for in that agreement or compact.

(c) CONSENT TO SUIT.—Each compact entered into under this Act shall specify that each party to the compact—

(1) consents to litigation to enforce the compact; and

(2) to the extent necessary to enforce that compact, waives any defense of sovereign immunity.

By Ms. COLLINS:

S. 617. A bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of insulin pumps as items of durable medical equipment; to the Committee on Finance.

MEDICARE INSULIN PUMP COVERAGE ACT OF 1999

Ms. COLLINS. Mr. President, diabetes is a serious and potentially life-threatening disease affecting more than 16 million Americans at a cost of more than $105 billion annually. Moreover, since 3 million elderly Medicare beneficiaries have been diagnosed with diabetes, and another 3 million are likely to have the disease but not know it, nowhere is the economic impact of diabetes felt more strongly than in the Medicare Program.

Treating these seniors for the often devastating complications associated with diabetes accounts for more than one-quarter of all Medicare expenditures. Therefore, helping diabetic seniors avoid the complications of their disease will not only improve the quality of their lives but also help reduce the economic burden that diabetes places on Medicare. While there is no known cure, diabetes is largely a treatable disease. Many people who have diabetes can often lead relatively normal, active lives as long as they stick to a proper diet, carefully monitor the amount of sugar or glucose in their blood and take their medication, which may or may not include insulin.

However, if these people with diabetes are unable to follow or do not follow this regimen, they put themselves at risk of blindness, loss of limbs and have an increased chance of heart disease, kidney failure and stroke. Therefore, preventive services for people with diabetes has the potential to save a great deal of money that would otherwise go for hospitalizations or acute care costs—not to mention a great deal of unnecessary pain and suffering.

Congress recently took a number of important steps to improve Medicare coverage of preventive care for diabetics. Prior to the enactment of the balanced budget amendment in 1997, Medicare covered diabetics' self-maintenance education services in inpatient or hospital-based settings and in limited outpatient settings, specifically hospital outpatient departments or rural health clinics. Medicare did not, however, cover education services if they were given in any other outpatient setting, such as a doctor's office. Moreover, while Medicare did cover the cost of blood-testing strips used to monitor the sugar in the blood, the program did so for only Type I diabetics who require insulin to control their disease.

The balanced budget amendment of 1997 rightly expanded Medicare to cover all outpatient self-management training services as well as providing uniform coverage of blood-testing strips for all persons with diabetes. With the enactment of the balanced budget amendment, we made significant progress toward improving care for our senior citizens with diabetes. However, there is more that we can do.

External insulin infusion pumps have proven to be much more effective in controlling blood glucose levels than conventional therapy injection therapy for insulin-dependent diabetics whose blood sugar levels are difficult to control. Such pumps help them to avoid the expensive complications and suffering resulting from uncontrolled diabetes. However, Medicare currently does not cover these pumps, even when they have been prescribed as medically necessary by a patient's physician.

I am, therefore, pleased to introduce today legislation, the Medicare Insulin Pump Coverage Act of 1999, that would expand Medicare coverage to include insulin infusion pumps for certain Type I diabetics.

External insulin pumps are neither investigational nor experimental. They are widely accepted by health care professionals involved in treating parties with diabetes. Moreover, studies such as the Diabetes Control and Complications Trial sponsored by the National Institutes of Health have established that maintaining blood glucose levels as close to normal as possible is the key to preventing devastating complications from this disease. For many patients, the use of an infusion pump is the only way that optimal blood glucose control can be safely achieved. That is why virtually all other third

party payers—including many State Medicaid Programs and CHAMPUS—cover the device. Moreover, there is precedent in Medicare since it currently does cover infusion pumps for numerous cancer drugs, as well as for pain control medications.

The need for this legislation became apparent to me based on my attempts to help one of my constituents, Nona Frederich of Raymond, ME. She is an example of the Medicare patient who would benefit from the pump but who is currently being denied what is for her the most effective form of glucose control. Nona has been an insulin-dependent diabetic since 1962. Because of her extremely volatile insulin sensitivity, her diabetic specialists placed her on an insulin infusion pump in January 1982. Until she reached the age of 65, the cost of the pump and operating supplies were underwritten in large part by her insurer.

In March of 1995 it became necessary for Nona to purchase a new infusion pump. However, by this time, she was now on Medicare and Medicare refused to cover it, even though her doctor had prescribed it as clearly being medically necessary. With the help of my Portland office, the Frederichs worked their way through the Health Care Financing Administration system of appeals. Unfortunately, in January of last year, they received final notification of a negative decision. Their only remaining option is to file a civil suit which they are simply not in a position to pursue.

The Frederichs literally have notebooks filled with documentation of the procedures they followed and the evidence they submitted. Moreover, they personally paid close to $5,000 in original pump costs and supplies for which they received no reimbursement. For a Medicare beneficiary with a limited income, these kinds of costs would be devastating and would place the pump—the medically necessary pump—completely out of reach. In such a case, they would be forced to return to or to continue with conventional insulin therapy which simply just may not be as effective in controlling blood sugar. As a consequence, these patients are admitted to the hospital over and over again, and Medicare now picks up the bill—a far greater bill than if Medicare had simply paid for the pump in the first place.

While potentially devastating for an individual, the financial costs to Medicare of expanding coverage to include the insulin infusion pump will not be great. Under my bill, the pump would have to be prescribed by a physician and the beneficiary would have to be a Type I diabetic experiencing severe swings of high and low blood glucose levels. Of the estimated 3 million Medicare beneficiaries with diabetes, only about 5 percent are Type I, or insulin dependent; of these, it is estimated that the pump would be appropriate for only about 4 percent. Mr. President, what a difference it would make for those individuals.

The American Diabetes Association, the Juvenile Diabetes Foundation, the American Association of Clinical Endocrinologists and the American Association of Diabetes Educators, as well as officials at the Centers for Disease Control, all have advocated expanding Medicare to cover insulin infusion pumps for Type I diabetics who otherwise would have great difficulty in controlling their blood sugars.

I am pleased to introduce legislation today to do just that. I urge all of my colleagues to join me in support of this important legislation, legislation that would not cost much money but would enrich the lives of those diabetics who need these pumps immeasurably.

I ask unanimous consent that the text of the legislation as well as the letters of support from the American Diabetes Association and the Juvenile Diabetes Foundation be printed in the RECORD.

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

S. 617

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Insulin Pump Coverage Act of 1999''.

SEC. 2. COVERAGE OF INSULIN PUMPS UNDER MEDICARE.

(a) INCLUSION AS ITEM OF DURABLE MEDICAL EQUIPMENT.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by inserting before the semicolon the following: '', and includes insulin infusion pumps (as defined in subsection (uu)) prescribed by the physician of an individual with Type I diabetes who is experiencing severe swings of high and low blood glucose levels and has successfully completed a training program that meets standards established by the Secretary or who has used such a pump without interruption for at least 18 months immediately before enrollment under part B''.

(b) DEFINITION OF INSULIN INFUSION PUMP.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following:

''Insulin Infusion Pump

''(uu) The term 'insulin infusion pump' means an infusion pump, approved by the Federal Food and Drug Administration, that provides for the computerized delivery of insulin for individuals with diabetes in lieu of multiple daily manual insulin injections.''.

(c) PAYMENT FOR SUPPLIES RELATING TO INFUSION PUMPS.—Section 1834(a)(2)(A) of the Social Security Act (42 U.S.C. 1395m(a)(2)(A)) is amended—

(1) in clause (ii), by striking ''or'' at the end;

(2) in clause (iii), by inserting ''or'' at the end; and

(3) by inserting after clause (iii) the following:

''(iv) which is an accessory used in conjunction with an insulin infusion pump (as defined in section 1861(uu)),''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to items of durable medical equipment furnished under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) on or after the date of enactment of this Act.

STATEMENT BY THE AMERICAN DIABETES ASSOCIATION IN SUPPORT OF THE MEDICARE INSULIN PUMP COVERAGE ACT

The American Diabetes Association lends its full support to passage of the Medicare Insulin Pump Coverage Act in Congress. Effective maintenance of blood glucose levels is imperative if people with diabetes are to forestall the onset of the complications of diabetes, such as cardiovascular disease, end-stage renal disease, blindness or amputations. External insulin infusion pumps have proven to be more effective in controlling blood glucose levels than conventional injection therapy for insulin-dependent people whose blood sugar levels are difficult to control. Many, including those who have had access to the insulin pump prior to becoming a Medicare beneficiary, need access to the pump for better control. Medicare access to the insulin pump will help Medicare enhance the quality of life for people with diabetes and contain the costly complications of diabetes.

Diabetes is a disease that requires a lifetime of medical care and self-treatment. People with diabetes must have full access to supplies, equipment and education. The Diabetes Control and Complications Trial (DCCT), a 10-year clinical study conducted by the National Institutes of Health, proved that maintaining blood glucose levels as close to normal as possible is the key to preventing the devastating complications associated with diabetes.

''Unfortunately, many health insurance plans, including Medicare, do not provide comprehensive coverage for the supplies and education people with diabetes need to control their disease,'' said Gerald Bernstein, MD, President of the American Diabetes Association. ''For example, Medicare does not provide coverage for the insulin pump,'' Bernstein added.

According to the Health Care Financing Administration (HCFA), the federal agency responsible for administering the Medicare program, the insulin pump is not covered because ''there [is no] medical advantage to using controlled continuous insulin infusion (via infusion pump) rather than conventional multiple daily injections to treat diabetes.''

Bernstein added, ''The use of the insulin pump has proven to be effective for individuals who, despite multiple insulin injections and frequent monitoring, have unstable diabetes. For many of these individuals, use of the insulin pump is a life-enhancing decision.'' The Medicare Insulin Pump Coverage Act will require Medicare to cover insulin pumps for beneficiaries with Type 1 diabetes who are experiencing severe swings of high and low blood glucose levels or who have used an insulin pump without interruption for at least 18 months immediately before enrollment under Medicare Part B.

According to Bernstein, ''This legislation is especially important for those individuals who face the prospect of losing their coverage of the pump upon entering Medicare. Now is the right time for HCFA to move forward with coverage of the insulin pump in these limited circumstances.''

For these reasons the American Diabetes Association strongly supports The Medicare Insulin Pump Coverage Act and applauds Senator Susan M. Collins (R–ME) for introducing this important legislation. Passage of the Collins Bill will dramatically improve the lives of those striving to maintain a healthy life, while at the same time, reducing costly hospital stays.

JUVENILE DIABETES FOUNDATION INTERNATIONAL, THE DIABETES RESEARCH FOUNDATION,
Washington, DC, March 8, 1999.

Hon. SUSAN M. COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the Juvenile Diabetes Foundation International (JDF), I want to express our strong support for your insulin pump legislation which would ensure that pumps are covered by the Medicare program.

Diabetes is a devastating disease that affects 16 million Americans and 120 million people worldwide. A new case of diabetes is diagnosed every forty seconds, and diabetes kills one American every three minutes. Diabetes is the leading cause of kidney failure, adult blindness, and nontraumatic amputations, and it substantially increases the risk of having a heart attack or stroke. In all, the life expectancy of people with diabetes averages 15 years less than that of people without diabetes.

As you know, people with diabetes who use insulin take up to five injections daily to treat their diabetes. However, injection therapy does not work will for many diabetes sufferers. In these and other cases, insulin pumps are an effective and critical tool in assisting persons with diabetes in more closely controlling blood glucose levels. Better control of blood glucose levels is likely to lead to fewer health complications from diabetes, and will result in enormous cost savings to the Medicare system where one in four Medicare dollars presently goes to pay for health care of people with diabetes.

Senator Collins, the JDF applauds you for introducing this important legislation to help our nation's seniors and other Medicare-covered Americans have access to cost-effective and life-improving medical supplies such as the insulin pump.

Sincerely,

LEAH J. MULLIN,
Chairman, JDF Government Relations.

By Mr. MOYNIHAN:

S. 618. A bill to provide for the declassification of the journal kept by Glenn T. Seaborg while serving as chairman of the Atomic Energy Commission; to the Committee on Energy and Natural Resources.

PRIVATE RELIEF BILL

● Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation I introduced in the 105th Congress to require the Department of Energy to return the journal Dr. Glenn T. Seaborg kept as Chairman of the Atomic Energy Commission. Dr. Glenn T. Seaborg, who died on February 25 at the age of 86, was the co-discoverer of plutonium, and led a research team which created a total of nine elements, all of which are heavier than uranium. For this he was awarded the Nobel Prize in Chemistry in 1951 which he shared with Dr. Edwin M. McMillan.

Dr. Seaborg kept a journal while chairman of the AEC. The journal consisted of a diary written at home each evening, correspondence, announcements, minutes, and the like. He was careful about classified matters; nothing was included that could not be made public, and the journal was reviewed by the AEC before his departure in 1971. Nevertheless, more than a decade after his departure from the AEC, the Department of Energy subjected two copies of Dr. Seaborg's journals—one of which it had borrowed—to a number of classification reviews. He came unannounced to my Senate office in September of 1997 to tell me of the problems he was having getting his journal released, saying it was something he wished to have resolved prior to his death. Although he has left us, it is fitting that his journal should finally be returned to his estate. This bill would do just that. I introduced a bill to return to Dr. Seaborg his journal in its original, unredacted form but to no avail, so bureaucracy triumphed. It was never returned. Now he has left us without having the satisfaction of resolving the fate of his journal. It is devastating that a man who gave so much of his life to his country was so outrageously treated by his own government.●

By Mr. WELLSTONE:

S. 619. A bill to provide for a community development venture capital program; to the Committee on Small Business.

THE COMMUNITY DEVELOPMENT VENTURE CAPITAL ASSISTANCE ACT OF 1999

● Mr. WELLSTONE. Mr. President, I rise today to introduce the Community Development Venture Capital Assistance Act of 1999. This bill would create a demonstration program to promote small business development and entrepreneurship in economically distressed communities through support of Community Development Venture Capital funds.

While our nation has enjoyed a historic period of economic growth over the past several years, there are concentrated pockets of poverty, in rural and urban areas, which have not experienced development of jobs and opportunities for its residents. Small businesses, which have led America's economic expansion, have not been able to gain a toehold in these areas. A major reason for this lackluster performance is inability for entrepreneurs in economically distressed areas to access capital.

No business can grow without infusions of capital for equipment purchases, to conduct research, to expand capacity, or to build infrastructure. At some point all successful ventures outgrow incubation in the entrepreneur's garage or living room; additional staff must be hired and the complexity of managing supply and demand increases. Yet it is clear that throughout the country there are small business owners who are being starved of the capital necessary to take this step. They have viable businesses or ideas for businesses but cannot fully transform their aspirations into reality because of this financial roadblock.

Traditional venture capital firms are not meeting the need for equity capital in disadvantaged communities. Such investments are risky in the best of circumstances, but they can and do succeed with adequate time and attention. These communities need patient investors who are willing to work closely with small business owners to realize a financial return over the long term. Often, the investments needed are smaller than those made by traditional sources. Throughout America, organizations known as Community Development Venture Capital funds are making these kinds of equity investments in communities and are producing excellent results.

CDVC funds make equity investments in small businesses for two purposes: to reap a financial return to the fund, and to generate a social benefit for the community through creation of well paying jobs. This ''double bottom line'' is what makes CDVC funds unique. There are around 30 CDVC funds currently operating throughout the country, in both rural and urban areas. These funds are demonstrating the success of socially conscious investment and entrepreneurial solutions to social and economic problems.

My own state of Minnesota is home to a good example of a seasoned, and successful CDVC fund: Northeast Ventures Corporation of Duluth. NEV serves a seven county rural area and focuses on creating good jobs in high value-added industries. NEV targets 50% of the jobs created through investments to women, and to low income and structurally unemployed persons. They also require portfolio companies to offer employees an opportunity to participate in a health care plan to which the employer contributes. The following story illustrates an NEV achievement:

In 1990 a group of entrepreneurs approached Northeast Ventures about setting up a car wash equipment manufacturing facility in Tower, a town of 508 people, in one of the poorest parts of Northeastern Minnesota. While NEV thought that the market opportunity was attractive, the company, called Powerain, had an incomplete business plan and lacked a Chief Operating Officer. NEV also felt that the business provided a good opportunity to create jobs and bring some economic vitality to an area that needed it badly.

Other assistance was needed before NEV could provide financing for the effort. Northeast worked closely with Powerain's founders to revise the business plan and identify a strong CEO candidate for the company. Northeast also invested $200,000 in equity into the business.

Northeast's involvement did not stop after making its first investment. NEV staff conducted the strategic planning sessions of Powerain and continue to be essential in developing the company's strategic plan. They assist in identifying the need for key personnel; recruit the necessary staff; and are integral in qualifying the short list of candidates. Over a multi year period, NEV has talked daily with the Powerain CEO regarding subjects as diverse as sales, distributor relationships and the financial structure of loans. Over an

eight year period, NEV has assisted Powerain in all subsequent rounds of financing totaling $826,932.

Powerain had a record sales year in 1998 and is expecting another record year in 1999. The company currently employs 20 full-time people, and expects to increase that number significantly in the future. The company provides ongoing training to its staff and entry level positions begin at $8 an hour—with full benefits. Most employees earn well in excess of $10 per hour. Success stories such as these are typical for CDVC funds.

The purpose of the Community Development Venture Capital Assistance Act is to grow the capacity of the CDVC fund ''industry'' by authorizing a $20 million four year demonstration program through the Small Business Administration. First, the bill would authorize $15 million for SBA grants to private, nonprofit organizations with expertise in making venture capital investments in poor communities. This will provide hands-on technical assistance to the new and emerging CDVC funds. These grants could also be used to fund the start up and operating costs of new CDVC organizations. Grants to these intermediary organizations would be matched dollar for dollar with funds raised by the intermediary from non-Federal sources. Second, the bill would provide $5 million in SBA grants to colleges, universities, and other firms or organizations—public or private—to create and operate training programs, intern programs, a national conference, and academic research and study dealing with community development venture capital.

This legislation would provide support for entrepreneurial solutions to economic development issues in rural and urban America. It will allow the Federal government to promote what's working in distressed communities. Last year, the Senate approved a nearly identical provision as part of an SBA technical amendments bill. I was pleased that the demonstration program enjoyed bipartisan support last year and I hope it will again.●

By Mr. SARBANES (for himself, Mr. WARNER, Mrs. MURRAY, and Mr. CAMPBELL):

S. 620. A bill to grant a Federal charter to Korean War Veterans Association, Incorporated, and for other purposes; to the Committee on the Judiciary.

LEGISLATION TO GRANT A FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION

● Mr. SARBANES. Mr. President, today I am introducing legislation together with Senators WARNER, CAMPBELL, and MURRAY, which would grant a Federal Charter to the Korean War Veterans Association, Incorporated. This legislation recognizes and honors the 5.7 million Americans who fought and served during the Korean War for their struggles and sacrifices on behalf of freedom and the principles and ideals of our Nation.

Mr. President, the year 2000 will mark the 50th Anniversary of the Korean War. In June 1950 when the North Korea People's Army swept across the 38th Parallel to occupy Seoul, South Korea, members of our Armed Forces—including many from the State of Maryland—immediately answered the call of the U.N. to repel this forceful invasion. Without hesitation, these soldiers travelled to an unfamiliar corner of the world, and joining an unprecedented multinational force comprised of 22 countries, they risked their lives to protect freedom. The Americans who led this international effort were true patriots who fought with remarkable courage.

In battles such as Pork Chop Hill, the Inchon Landing and the frozen Chosin Reservoir, which was fought in temperatures as low as 57 degrees below 0, they faced some of the most brutal combat in history. By the time the fighting had ended, 8,177 Americans were listed as missing or prisoners of war—some of whom are still missing—and 54,246 Americans had died, the most of any American war in the 20th Century. One hundred and thirty-one Korean War Veterans were awarded the Nation's highest commendation for combat bravery, the Medal of Honor. Ninety-four of these soldiers gave their lives in the process. There is an engraving on the Korean War Veterans Memorial which reflects these losses and how brutal a war this was. It reads, ''Freedom is not Free.'' Yet, as a nation, we have done little more than establish this memorial to publicly acknowledge the bravery of those who fought the Korean War. The Korean War has been termed by many as the ''Forgotten War.'' Mr. President, freedom is not free. We owe our Korean War Veterans a debt of gratitude. Granting this federal charter—at no cost to the government—is a small expression of appreciation that we as a nation can offer to these men and women, one which will enable them to work as a unified front to ensure that the ''Forgotten War'' is forgotten no more.

The Korean War Veterans Association was originally incorporated on June 25, 1985. Since its first annual reunion and memorial service in Arlington, Virginia, where its members decided to develop a national focus and strong commitment to service, the association has grown substantially to a membership of over 25,000. At present, the KWVA is the only veterans organization comprised exclusively of Korean War Veterans and one of the few such organizations of its size without a federal charter. Over the years, it has established a strong record of service and commitment to fellow Korean War veterans, ranging from its efforts on behalf of Project Freedom to its successful effort to construct a national Korean War Veterans Memorial on the Mall. A federal charter would allow the Association to continue and grow its mission and further its charitable and benevolent causes. Specifically, it will afford the Korean War Veterans' Association the same status as other major veterans organizations and allow it to participate as part of select committees with other congressionally chartered veterans and military groups. A federal charter will also accelerate the Association's ''accreditation'' with the Department of Veterans Affairs which will enable its members to assist in processing veterans' claims.

Mr. President, the Korean War Veterans have asked for very little in return for their service and sacrifice. I urge my colleagues to join me in supporting this legislation and ask that the text of the measure be printed in the RECORD.

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

S. 620

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

SECTION 1. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

''CHAPTER 1201—[RESERVED]''; and

(2) by inserting the following:

''CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

''Sec.
''120101. Organization.
''120102. Purposes.
''120103. Membership.
''120104. Governing body.
''120105. Powers.
''120106. Restrictions.
''120107. Duty to maintain corporate and tax-exempt status.
''120108. Records and inspection.
''120109. Service of process.
''120110. Liability for acts of officers and agents.
''120111. Annual report.

''§ 120101. Organization

''(a) FEDERAL CHARTER.—Korean War Veterans Association, Incorporated (in this chapter, the 'corporation'), incorporated in the State of New York, is a federally chartered corporation.

''(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) expires.

''§ 120102. Purposes

''The purposes of the corporation are as provided in its articles of incorporation and include—

''(1) organizing, promoting, and maintaining for benevolent and charitable purposes an association of persons who have seen honorable service in the Armed Forces during the Korean War, and of certain other persons;

''(2) providing a means of contact and communication among members of the corporation;

''(3) promoting the establishment of, and establishing, war and other memorials commemorative of persons who served in the Armed Forces during the Korean War; and

''(4) aiding needy members of the corporation, their wives and children, and the widows and children of persons who were members of the corporation at the time of their death.

''§ 120103. Membership

''Eligibility for membership in the corporation, and the rights and privileges of

members of the corporation, are as provided in the bylaws of the corporation.

''§ 120104. Governing body

''(a) BOARD OF DIRECTORS.—The board of directors of the corporation, and the responsibilities of the board of directors, are as provided in the articles of incorporation of the corporation.

''(b) OFFICERS.—The officers of the corporation, and the election of the officers of the corporation, are as provided in the articles of incorporation.

''§ 120105. Powers

''The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

''§ 120106. Restrictions

''(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

''(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

''(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

''(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval, or the authority of the United States, for any of its activities.

''§ 120107. Duty to maintain corporate and tax-exempt status

''(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

''(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

''§ 120108. Records and inspection

''(a) RECORDS.—The corporation shall keep—

''(1) correct and complete records of account;

''(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

''(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

''(b) INSPECTION.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

''§ 120109. Service of process

''The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

''§ 120110. Liability for acts of officers and agents

''The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

''§ 120111. Annual report

''The corporation shall submit an annual report to Congress on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 36, United States Code, is amended by striking the item relating to chapter 1201 and inserting the following new item:

''1201. Korean War Veterans Association, Incorporated .....120101''.

By Mr. ROCKEFELLER (for himself, Mr. DORGAN, Mr. BURNS, Mr. ROBERTS, and Mr. CONRAD):

S. 621. A bill to enhance competition among and between rail carriers in order to ensure efficient rail service and reasonable rail rates in any case in which there is an absence of effective competition; to the Committee on Commerce, Science, and Transportation.

RAILROAD COMPETITION AND SERVICE IMPROVEMENT ACT OF 1999

● Mr. ROCKEFELLER. Mr. President, I rise today to introduce a bill that will, twenty years after the Staggers Rail Act, finally deliver the benefits of market competition to the railroad industry and its customers—the Railroad Competition and Service Improvement Act of 1999. I am joined in this effort by Senators DORGAN, BURNS, ROBERTS and CONRAD, and I thank them for their leadership on this bill for the benefit not only of rail customers but also the future health of the railroads themselves.

As many of my colleagues know, there are certain issues that I feel especially strongly about, and all of them are issues that have far-reaching consequences for the State of West Virginia and for our nation. Competition—or the lack thereof—in the railroad industry is one of those issues.

In the United States we have a railroad industry that has gone from 63 class I railroads in 1976 to 9 class I railroads today, of which only 5 control the vast majority of rail freight across the country: 2 in the East, 2 in the West, and one down the Mississippi River in the middle of the country. We also have a railroad industry with service problems so expansive and so disruptive that grain and chemical and other manufacturers have lost tens of millions of dollars in recent years, must operate with the vulnerability of future service crises, and have no choice but to constantly be on the lookout for better and more reliable transportation options. And we have a railroad industry that seems continually to assert undue and anti-competitive power over its customers in increasing local monopoly situations.

I believe the railroad industry is at a crossroads. It's been nearly twenty years since the Staggers Rail Act of 1980, which limited the regulation of the railroad industry by allowing government intervention only where a railroad customer has no effective means of competition. By many measures, the railroads are in far better financial health today, and rail freight transportation is far more safe, stable and efficient than in the dire days of the 1970s.

Yet despite these apparent gains, shippers across the nation are broadly discontent. As a significant new report from the General Accounting Office confirms, rail shippers believe that in the aftermath of Staggers—and in direct conflict with the intent of Staggers—we have in fact created a system that very heavily, and with tremendous financial consequences, favors monopoly railroads and shuts shippers out of the regulatory process that is supposed to protect them.

We have put in place a system that leaves 70 percent of shippers with poorer rate and service options than they need to run their businesses cost-efficiently, and a system in which nearly 60 percent of shippers fear retaliation from the railroads should they access the rate relief process—a process which costs between $500,000 and $3 million per complaint and can take up to 16 years to get a resolution. The GAO makes crystal clear that the rate relief process for shippers with no competitive rail options is too costly and too time-consuming to be effective.

Now some would say that customers always want more and better service, always want lower prices, and always are unhappy—so we should discount their railroad customer concerns and leave the system alone. They would say that the railroads are happy with the status quo, so Staggers must be working well.

To my mind, that's a cop-out. The ''shipping community'' is the backbone of our nation—they are our farmers, our auto and chemical manufacturers, our utilities, our coal miners, our forest products workers—and they're not just crying wolf. They have legitimate problems with a skewed system, and they deserve the Congress' full attention and a commitment to deal with increased concentration and a developing pattern of service problems by infusing some degree of real and effective competition into the railroad industry as a whole.

The legislation we introduce today is designed to do just that: it will jumpstart competition and uphold the common carrier obligation by requiring railroads to quote a rate on any given segment; it will reduce monopoly routing by facilitating terminal access; it will streamline the rate relief process by simplifying the market dominance test; it will restore the integrity of the Surface Transportation Board by eliminating its annual revenue adequacy pronouncements; it will bolster rail access for small farmers by creating a targeted rate relief process; and it will require the railroads to file monthly service performance reports with the Department of Transportation, similar to what we require of the airline industry, so that rail customers have access to the information they need to make good railroad and transportation choices.

We intend to offer this legislation as an amendment to the Surface Transportation Board reauthorization legislation later this year, and we especially look forward to working with our colleagues on the Commerce and Agriculture Committees to that end.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 621

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Railroad Competition and Service Improvement Act of 1999''.

SEC. 2 PURPOSES.

The purposes of this Act are—

(1) to clarify the rail transportation policy of the United States by requiring the Surface Transportation Board to accord greater weight to the need for increased competition between and among rail carriers and consistent and efficient rail service in its decision making;

(2) to eliminate unreasonable barriers to competition among rail carriers serving the same geographic areas and ensure that smaller carload or intermodal shippers are not precluded from accessing rail systems due to volume requirements;

(3) to ensure reasonable rail rates for captive rail shippers;

(4) to provide relief for certain agricultural facilities lacking effective competitive alternatives; and

(5) to remove unnecessary regulatory burdens from the rate reasonableness procedures of the Surface Transportation Board.

SEC. 3. FINDINGS.

The Congress finds that:

(1) Prior to 1976, the Interstate Commerce Commission regulated most of the rates that railroads charged shippers. The Railroad Revitalization and Regulatory Act (1976) and the Staggers Rail Act (1980) limited the regulation of the rail industry by allowing the Interstate Commerce Commission to regulate rates only where railroads have no effective competition and established the Interstate Commerce Commission's process for resolving rate disputes.

(2) In 1976, when the Congress began the process of railroad deregulation, there were 63 class I railroads in the United States. By 1997, through mergers and other factors, the number of class I railroads shrunk to nine.

(3) The nine class I carriers accounted for more than 90 percent of the industry's freight revenue and 71 percent of the industry's mileage operated in 1997.

(4) Rail industry consolidation has diminished competition, creating an even greater dependence upon a rate relief process through a regulatory body such as the Surface Transportation Board.

(5) Agricultural, chemical, and utility industries in particular rely heavily upon rail transportation, and unreasonable rail rates and inadequate service have a dramatic impact on these important industries.

(6) According to a report issued by the General Accounting Office, ''. . . [t]he Surface Transportation Board's standard procedures for obtaining rate relief are highly complex and time-consuming'' and the General Accounting Office estimates that over ''70 percent [of shippers] believe that the time, complexity, and costs of filing complaints are barriers that often preclude them from seeking relief.''

(7) The General Accounting Office analyzed all 41 rate complaints filed with the Interstate Commerce Commission and its successor, the Surface Transportation Board, since 1990 and found that each complaint cost shippers between $500,000 to $3 million apiece and took between a few months and 16 years to resolve.

(8) The General Accounting Office surveyed over 700 shippers and found that—

(A) 75 percent of the shippers believed that they are overcharged with unreasonable rates and

(B) over 70 percent of the shippers believed that the time, complexity, and costs of filing complaints create unsurmountable barriers and therefore preclude them form pursuing the rate relief they are entitled to under the law.

(9) The General Accounting Office survey of shippers identified the following barriers to obtaining rate relief under the current process:

(A) The costs associated with filing complaints outweighs the benefits of winning relief.

(B) The rate complaint process is too complex and too lengthy.

(C) Developing the stand-alone revenue-to-variable cost model is too costly.

(D) Most shippers believe that the STB is most likely to decide in favor of the railroad.

(E) The discovery process is too difficult because the shipper is dependent upon the railroad for all the necessary data.

(F) Responding to the railroads requests for discovery is too difficult and time consuming.

(G) Shippers fear reprisal from the railroad.

(H) The Surface Transportation Board filing fee is too high.

(10) According to the General Accounting Office report, the vast majority of shippers believe that the following changes in the rate relief process are necessary to provide them with the ability to seek the rate relief:

(A) The Surface Transportation Board's time limit for deciding a rate relief case should be shortened.

(B) The complaint fee required upon filing should be eliminated or reduced.

(C) The market dominance requirement should be simplified.

(D) Mandatory binding arbitration should be used to resolve rate disputes.

(E) The Surface Transportation Board's jurisdictional threshold of 180% revenue-to-variable cost should be lowered.

(11) According to the General Accounting Office report, shippers believe that increasing competition in the railroad industry would lower rates and diminish the need for a rate complaint process. Proposals to increase railroad competition identified in the report include the following:

(A) Require the STB to grant trackage rights; require reciprocal switching at the nearest junction or interchange upon request of a shipper or competing railroad; and increase rail access for shortline and regional railroads.

(B) Overturn the STB's ''bottle neck'' decision by requiring railroads to quote a rate for all route segments.

(12) Consolidation in the railroad industry has diminished competition, thwarting the intended objectives of deregulation to allow competition to lower rates and improve service.

(13) The rate protection intended for shippers without effective competition has been de-railed by a complex, costly, and time-consuming maze of discovery, findings, and appeals that take years and cost millions of dollars.

(14) Because of diminished rail competition, a rate relief process plagued with unsurmountable barriers and blanket antitrust immunity unique to the railroad industry, captive shippers have no effective recourse under the current system.

SEC. 4. CLARIFICATION OF RAIL TRANSPORTATION POLICY.

Section 10101 of title 49, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''In regulating''; and

(2) by adding at the end the following:

''(b) PRIMARY OBJECTIVES.—The primary objectives of the rail transportation policy of the United States shall be—

''(1) to ensure effective competition among rail carriers at origin and destination;

''(2) to maintain reasonable rates in the absence of effective competition; and

''(3) to maintain consistent and efficient rail transportation service to shippers, including the timely provision of railcars requested by shippers; and

''(4) to ensure that smaller carload and intermodal shippers are not precluded from accessing rail systems due to volume requirements.''.

SEC. 5. FOSTERING RAIL TO RAIL COMPETITION.

(a) ESTABLISHMENT OF RATE.—Section 11101(a) of title 49, United States Code, is amended by inserting after the first sentence the following: ''Upon the request of a shipper, a rail carrier shall establish a rate for transportation and provide service requested by the shipper between any two points on the system of that carrier where traffic originates, terminates, or may reasonably be interchanged. A carrier shall establish a rate and provide service upon such request without regard to—

''(1) whether the rate established is for only part of a movement between an origin and a destination;

''(2) whether the shipper has made arrangements for transportation for any other part of that movement; or

''(3) whether the shipper currently has a contract with any rail carrier for part or all of its transportation needs over the route of movement.

''If such a contract exists, the rate established by the carrier shall not apply to transportation covered by the contract.''.

(b) REVIEW OF REASONABLENESS OF RATES.—Section 10701(d) of title 49, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

''(3) A shipper may challenge the reasonableness of any rate established by a rail carrier in accordance with sections 11101(a) and 10701(c) of this title. The Board shall determine the reasonableness of the rate so challenged without regard to—

''(A) whether the rate established is for only part of a movement between an origin and a destination;

''(B) whether the shipper has made arrangements for transportation for any other part of that movement; or

''(C) whether the shipper currently has a contract with a rail carrier for any part of the rail traffic at issue, provided that the rate prescribed by the Board shall not apply to transportation covered by such a contract.''.

SEC. 6. SIMPLIFIED RELIEF PROCESS FOR CERTAIN AGRICULTURAL SHIPPERS.

(a) LIMITATION OF FEES.—Nothwithstanding any other provision of law, the Surface Transportation Board shall not impose fees in excess of $1,000 for services collected from an eligible facility in connection with rail maximum rate complaints under part 1002 of title 49, Code of Federal Regulations.

(b) SIMPLIFIED RATE AND SERVICE RELIEF.—Section 10701 of title 49, United States Code, is amended by adding at the end thereof the following:

''(e) SIMPLIFIED RATES AND SERVICES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, a rail carrier may not charge a rate for shipments from or to an eligible facility which results in a revenue-to-

variable cost percentage, using system average costs, for the transportation service to which the rate applies that is greater than 180 percent.

''(2) ACCEPTANCE OF REQUESTS.—Nothwithstanding any other provision of law, a rail carrier shall accept all requests, for grain service from an eligible facility up to a maximum of 110 percent of the grain carloads shipped from or to the facility in the immediately preceding calendar year. If, in a majority of instances, a rail carrier does not in any 45-days period, supply the number of grain cars so ordered by an eligible facility or does not initiate service within 30 days of the reasonably specified loading date, the eligible facility may request that an alternative rail carrier provide the service using the tracks of the original carrier. If the alternative rail carrier agrees to provide such service, and such service can be provided without substantially impairing the ability of the carrier whose tracks reach the facility to use such tracks to handle its own business, the Board shall order the alternative carrier to commence service and to compensate the other carrier for the use of its tracks. The alternative carrier shall provide reasonable compensation to the original carrier for the use of the original carrier's tracks.

''(3) CANCELLATION PENALTIES.—A carrier may accept car orders under paragraph (2) subject to reasonable penalties for service requests that are canceled by the requester. If the carrier fills such orders more than 15 days after the reasonably specified loading date, the carrier may not assess a penalty for canceled car orders.

''(4) DAMAGES.—A rail carrier that fails to provide service under the requirements of paragraph (2) is liable for damages to an eligible facility that does not have access to an alternative carrier, including lost profits, attorney's fees, and any other consequences attributable to the carrier's failure to provide the ordered service. A claim for such damage may be brought in an appropriate United States District Court or before the Board.

''(5) TIMETABLE FOR BOARD PROCEEDING.—The Board shall conclude any proceeding brought under this subsection no later than 180 days from the date a complaint is filed.

''(6) DEFINITIONS.—In this subsection:

''(A) ELIGIBILITY FACILITY.—The term 'eligible facility' means a shipper facility that—

''(i) is the origin or destination for not more than 4,000 carloads annually of grain as defined in section 3(g) of the United States Grain Standards Act (7 U.S.C. 75(g));

''(ii) is served by a single rail carrier at its origin;

''(iii) has more than 60 percent of the facility's inbound or outbound grain and grain product shipments (excluding the delivery of grain to the facility by producers), measured by weight or bushels moved via a rail carrier in the immediately preceding calendar year; and

''(iv) the rate charged by the rail carrier for the majority of shipments of grain and grain products from or to the facility, excluding premium for special service programs, results in a revenue-to-variable cost percentage, using system average costs, for the transportation to which the rate applies that is equal to or greater than 180 percent.

''(B) REASONABLE COMPENSATION.—The term 'reasonable compensation' shall mean an amount no greater than the total shared costs of the original carrier and the alternative carrier incurred, on a usage basis, for the provision of service to an eligible facility. If the carriers are unable to agree on compensation terms within 15 days after the facility requests service from the alternative carrier, the alternative carrier or the eligible facility may request the Board to establish the compensation and the Board shall establish the compensation within 45 days after such request is made.

''(C) ORIGINAL CARRIER.—The term 'original carrier' means a rail carrier which provides the only rail service to an eligible facility using its own tracks or provides such service over an exclusive lease of the tracks serving the eligible facility.

''(D) ALTERNATIVE CARRIER.—The term 'alternative carrier' means a rail carrier that is not an original carrier to an eligible facility.''.

SEC. 7. COMPETITIVE RAIL SERVICE IN TERMINAL AREAS.

(a) TRACKAGE RIGHTS.—Section 11102(a) of title 49, United States Code, is amended—

(1) by striking ''may'' in the first sentence and inserting ''shall'';

(2) by inserting [as a new second sentence] after ''business.'' the following: ''In making this determination, the Board shall not require evidence of anticompetitive conduct by the rail carrier from which access is sought.''; and

(3) by striking ''may establish'' in the next-to-last sentence and inserting ''shall.''

(b) RECIPROCAL SWITCHING.—Section 11102(c)(1) of title 49, United States Code, is amended—

(1) by striking ''may'' in the first sentence and inserting ''shall'';

(2) by inserting after ''service.'' the following: ''In making this determination, the Board shall not require evidence of anticompetitive conduct by the rail carrier from which access is sought.''; and

(3) by striking ''may establish'' in the last sentence and inserting ''shall''.

SEC. 8. SIMPLIFIED STANDARDS FOR MARKET DOMINANCE.

Section 10707(d)(1)(A) of title 49, United States Code, is amended by adding at the end thereof the following: ''The Board shall not consider evidence of product or geographic competition in making a market dominance determination under this section.''.

SEC. 9. REVENUE ADEQUACY DETERMINATIONS.

(a) RAIL TRANSPORTATION POLICY.—Section 10101(3) of title 49, United States Code, is amended by striking ''revenues, as determined by the Board;'' and inserting ''revenues;''.

(b) STANDARDS FOR RATES.—Section 10701(d)(2) is amended by striking ''revenues, as established by the Board under section 10704(a)(2) of this title'' and inserting ''revenues.''.

(c) REVENUE ADEQUACY DETERMINATIONS.—Section 10704(a) of title 49, United States Code, is amended—

(1) by striking ''(a)(1)'' and inserting ''(a)''; and

(2) by striking paragraphs (2) and (3).

SEC. 10. RAIL CARRIER SERVICE QUALITY PERFORMANCE REPORTS.

(a) IN GENERAL.—Chapter 5 of subtitle I of title 49, United States Code, is amended by adding at the end thereof the following:

''SUBCHAPTER III. PERFORMANCE REPORTS

''§ 541. Rail carrier service quality performance reports

''(a) IN GENERAL.—The Secretary of Transportation shall require, by regulation, each rail carrier to submit a monthly report to the Secretary, in such a uniform format as the Secretary may be regulation prescribe, containing information about—

''(1) its on-time performance;

''(2) its car availability deadline performance;

''(3) its average train speed;

''(4) its average terminal dwell time;

''(5) the number of its cars loaded (by major commodity group); and

''(6) such other aspects of its performance as a rail carrier as the Secretary may require.

''(b) INFORMATION FURNISHED TO STB; THE PUBLIC.—The Secretary shall furnish a copy of each report required under subsection (a) to the Surface Transportation Board no later than the next business day following its receipt by the Secretary, and shall make each such report available to the public.

''(c) ANNUAL REPORT TO THE CONGRESS.—The Secretary shall transmit to the Congress an annual report based upon information received by the Secretary under this section.

''(d) DEFINITIONS.—In this section, the definitions in section 10102 apply.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 5 of subtitle I of title 49, United States Code, is amended by adding at the end thereof the following:

''Subchapter III. Performance Reports

''541. Rail carrier service quality performance reports''.●

● Mr. DORGAN. Mr. President, I am very pleased to join Senators ROCKEFELLER, BURNS, and ROBERTS today in introducing the ''Railroad Competition and Service improvement Act of 1999.'' This legislation is designed to stimulate railroad competition and level the field for shippers who need relief from unreasonable rates. Earlier this month, the General Accounting Office (GAO) issued a report on the barriers to rate relief that prevent small captive shippers from unreasonable rates. That report, outlined below, identified a number of remedies that would give captive shippers a fighting chance at rate relief. This legislation closely mirrors the GAO's findings and if enacted, would go a long way to improve rail service and promote competition.

In my home state of North Dakota over fifty percent of the state economy is dependent upon agriculture. Our ability to move its agricultural production to distant markets affects large sectors of North Dakota's economy. Over eighty percent of all the grain shipped out-of-state moves by rail and 97 percent of North Dakota's grain elevators have access to only one railroad. Those who survive on farming and those who live in states like North Dakota whose main business is agriculture have a great deal at stake when it comes to rail transportation. Overcharges cost us millions of dollars a year, adding a substantial cost to a product that already operates at very low margins.

Since virtually all of the shippers in North Dakota are subject to monopoly service, our farmers and county grain elevators are paying a premium for a service they cannot afford to live without. Rail service in this country is supposed to be competitive where the forces of competition determine shipping rates and in the absence of competition, the STB is suppose to have a process that will protect captive shippers from overcharges. Unfortunately, rail competition is more of an exception than the rule and the process that is designed to protect captive shippers is so costly and time-consuming that shippers are without recourse; left to the mercy of monopoly railroads who not only determine whether or not their product will get to market but

also how much they will charge to deliver that product. This is a circumstance that must be addressed as the Congress considers the reauthorization of the STB this year.

Prior to 1976, the ICC regulated almost all the rates that railroads charged shippers. The Railroad Revitalization and Regulatory Act (1976) and the Staggers Rail Act (1980) limited the regulation of the rail industry by allowing the ICC to regulate rates only where railroads have no effective competition and established the ICC's process for resolving rate disputes.

At the time when the Congress began the process of railroad deregulation (1976) there were 63 class I railroads in the United States. By 1997, through mergers and other factors, the number of class I railroads shrunk to nine. These nine carriers accounted for more than 90 percent of the industry's freight revenue and 71 percent of the industry's mileage operated in 1997. In July, 1998, the STB approved another Class I merger by splitting the assets of Conrail between CSX and Norfolk Southern (reducing the Class I count to 8 once implemented). Another merger between Canadian National Railway and Illinois Central is pending before the STB.

This consolidation has diminished competition, creating an even greater dependence upon a rate relief process through a regulatory body such as the STB. Agricultural, utility, and chemical industries in particular rely heavily upon rail transportation and the cost of unreasonable rail rates has a dramatic impact on these important industries.

According to GAO/RCED–99–46, ''Railroad Regulation: Current Issues Associated With the Rate Relief Process,'' February 1999, ''[t]he Surface Transportation Board's standard procedures for obtaining rate relief are highly complex and time-consuming'' and the GAO estimates that over ''70 percent [of shippers] believe that the time, complexity, and costs of filing complaints are barriers that often preclude them from seeking relief.'' The report documents that the process for a small captive shipper to obtain rate relief under the current regulatory and legal framework is broken and unworkable. The reasons for these barriers are multiple:

(A) Historical regulatory precedence has created a complex web of hurdles an barriers building an insurmountable maze for a small shipper to seek rate relief;

(B) contradictory statutorily directives based on a statute that was designed to protect the financial health of railroads while at the same time attempt to protect the needs of shippers to challenge unreasonable rates; and

(C) the time and cost entailed in filing a rate complaint has reached absurd levels, far outweighing the potential savings that could be achieved through a successful challenge to an unreasonable rate.

The STB rate complaint process involves an up front filing fee cost of $54,500 ($5,400 for the simplified guidelines)—plus the costs of pursuing the case through years of negotiation through a complex maze of discovery; evidentiary hearings; rebuttals; and administrative appeals.

Seeking rate relief under the current process is very costly to shippers. The rate relief cases analyzed by the GAO cost shippers between $500,000 to $3 million each to file and wade through the process and took between a few months and 16 years to resolve. For example, the McCarty Farms case took over 16 years to resolve and ended up in Federal District Court.

The GAO surveyed over 700 shippers and found that (a) 75 percent of the shippers believed that they are overcharged with unreasonable rates; and (b) over 70 percent of the shippers believed that the time, complexity, and costs of filing complaints create unsurmountable barriers and therefore preclude them from pursuing the rate relief they are entitled to under the law. (It is not surprising that the GAO found that the railroad monopolies unanimously support the current process and see no need for change.)

The report reviewed all the rate relief filings pending before the STB (and its predecessor, the ICC) since 1990. The GAO found that only 41 rate relief filings were either pending or have been filed since 1990. About half of these complaints were settled outside of the STB's process and therefore dismissed. Of the remaining complaints, 7 were decided in favor of the railroad and only 2 have been decided in favor of the shipper; 9 are still pending; and 5 were dismissed without settlement.

The GAO also found that, in 1997, only 18 percent of the total tonnage shipped via rail in this country is subject to rate regulation by the STB. About 70 percent of all shipments is exempt because it is shipped under contract and the STB has exempted another 12 percent. Thus, the GAO's analysis of barriers to shippers only relates to a portion of the total tonnage of rail shipments in the United States.

The ICC Terminations Act required the STB to develop simplified procedures for rate complaint filings. While the STB has developed those simplified procedures, the railroad industry has already challenged them in court and not a single shipper has filed a complaint under these new procedures since the STB issued the simplified guidelines in December 1996.

The GAO survey of shippers found that the vast majority of shippers (over 70%) believe that the STB rate relief process is too costly, complex, and time consuming. Shippers identified the following barriers to obtaining rate relief under the current process:

The legal costs associated with filing complaints outweighs the benefits of winning relief.

The rate complaint process is too complex and takes too long.

Developing the stand alone revenue to variable cost model (shippers are required to calculate that the rate they are charged exceeds 180% of the revenue to variable cost of a hypothetical railroad to provide them service) is too costly.

Most shippers believe that the STB is most likely to decide in favor of the railroad so the effort is not worth its costs.

The discovery process is too difficult because the shipper is dependent upon the railroad for all the necessary data to calculate the revenue to variable cost ratio.

Responding to the railroad requests for discovery is too difficult and time consuming (note: the GAO identified instances in its analysis of the 41 cases filed since 1990 that railroads often extended the complaint process through lengthy discovery requests).

Fear of reprisal from the railroads.

The STB filing fee in itself is too high to consider filing a rate complaint.

The GAO report found that shippers desire to see (1) a more simplified rate complaint process and (2) increased competition in the railroad industry that would lower rates and diminish the need for a rate complaint process.

According to the GAO report, the vast majority of shippers believe that the following changes in the rate relief process are necessary to provide them with the ability to seek the rate relief—

The STB's time limit for deciding a rate relief case should be shortened (the current limit is 16 months).

The complaint fee required upon fining should be eliminated or reduced.

The market dominance requirement should be simplified.

Use mandatory binding arbitration between shippers and railroads to resolve rate disputes.

Lower the STB's jurisdictional threshold from the current level of 180% of revenue to variable cost.

While shippers contend that the rate complaint process needs serious repair, shippers believe that increasing competition in the railroad industry would do more to lower rates and diminish the need for a rate complaint process. Proposals to increase railroad competition identified in this report include the following:

Require the STB to grant trackage rights; require reciprocal switching at the nearest junction or interchange upon request of a shipper or competing railroad; and increase rail access for shortline and regional railroads.

Overturn the STB's ''bottle neck'' decision by requiring railroads to quote a rate for all route segments.

Consolidation in the railroad industry has diminished competition, thwarting the intended objectives of deregulation to allow competition to lower rates and improve service. The rate protection intended for shippers without effective competition has been de-railed by a complex; costly; and

time consuming web of discoveries, findings, and appeals that take years and cost millions of dollars. The result is that we have more captive shippers whose only recourse for rate protection is an impossible process that is simply not worth the expense. This cannot continue.

Small shippers are forced to take on well financed railroad corporations populated with hundreds of lawyers who can use the complex system to make rate relief an impossible maze of endless filings, appeals, and delays. In the GAO's survey, shippers emphasized the time, cost, and complexity involved in filing a rate complaint as significant enough barriers as to prevent them from attempting to seek rate relief through the STB process. Since the railroad industry has blanket antitrust immunity—which is a status not enjoyed by another industry—captive shippers have no recourse and will remain overcharged unless Congress takes some action to level the field.

I urge my colleagues to support this legislation. Attached is a summary of the bill's provisions. I ask unanimous consent that the summary be printed in the RECORD.

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

RAILROAD COMPETITION AND SERVICE IMPROVEMENT ACT—SUMMARY

SECTION 1. SHORT TITLE

The ''Railroad Competition and Service Improvement Act of 1999''

SECTION 2. PURPOSES

The purpose of the legislation is to require the STB to accord greater weight to increase rail competition; to eliminate unreasonable barriers to competition; ensure reasonable rates in the absence of competition; and remove unnecessary regulatory barriers that impede the ability of rail shippers to obtain rate relief.

SECTION 3. FINDINGS

The Congress finds that the railroad industry has become concentrated and that rail industry consolidation has diminished competition, creating a greater dependence upon the Surface Transportation Board's rate relief process, whose procedures for obtaining rate relief, according to a report issued by the General Accounting Office, ''are highly complex and time-consuming.''

The GAO also found that—

75 percent of the shippers believed that they are overcharged with unreasonable rates and over 70 percent of the shippers believed that the time, complexity, and costs of filing complaints create unsurmountable barriers and therefore precluded them from pursuing the rate relief they are entitled to under the law;

The STB rate relief process cost shippers between $500,000 to $3 million per complaint and took between a few months and 16 years to resolve;

Over ''70 percent [of shippers] believe that the time, complexity, and costs of filing complaints are barriers that often preclude them from seeking relief''; and

While shippers contend that the rate complaint process needs serious repair, shippers believe that increasing competition in the railroad industry would do more to lower rates and diminish the need for a rate complaint process.

Consolidation in the railroad industry has diminished competition, thwarting the intended objectives of deregulation to allow completion to lower rates and improve service. The rate protection intended for shippers without effective competition has been derailed by a complex; costly; and time consuming web of discoveries, findings, and appeals that take years and cost millions of dollars.

SECTION 4. CLARIFICATION OF TRANSPORTATION POLICY

The legislation requires the STB to give priority to the following policy objectives:

(1) ensuring effective competition among rail carriers;

(2) maintaining reasonable rates where there is an absence of effective competition;

(3) maintaining consistent and efficient service to shippers, including the timely provision of railcars requested by shippers.

SECTION 5. FOSTERING RAIL COMPETITION

The bill overturns the STB's ''bottle neck'' decision that has been disappointing for shippers. Under the legislation, rail carriers would have to quote a rate for transportation over a segment of line upon the request of a shipper. If the rail carrier refuses, the STB shall establish the rate.

SECTION 6. RELIEF FOR CERTAIN AGRICULTURAL SHIPPERS

Places a $1,000 limit on filing fees on rate complaints filed by small, captive agricultural shippers; establishes a simplified and streamlines rate complaint process for small, captive agricultural shippers; and would allow a small, captive agricultural shipper to request service from another railroad or file for damages when their carrier fails to honor railcar orders.

SECTION 7. COMPETITIVE RAIL SERVICE IN TERMINAL AREAS

Eliminates the requirement that evidence of anti-competitive conduct be produced when the STB determines the outcome of requests to allow another railroad access to rail customer facilities within an area served by the tracks of more than one railroad.

SECTION 8. SIMPLIFIED STANDARDS FOR MARKET DOMINANCE

The market dominance standard (which establishes the terms in which rail shippers may have standing to challenge the reasonableness of a rate) is simplified in a goal to minimize the regulatory burdens confronting captive rail shippers. Under this legislation, a rail carrier will be presumed to have market dominance if the shipper is served by only one rail carrier and if the rail shipper can demonstrate that the carrier's rate is above 180% revenue to variable cost. [Currently, a shipper must demonstrate—in addition to the above criteria—there is no geographic or product competition. This legislation would eliminate those hurdles for the shipper.]

SECTION 9. REVENUE ADEQUACY DETERMINATIONS

Repeals the revenue adequacy test [which is a determination by the STB on the financial fitness of the railroads and creates another obstacle for shippers seeking rate relief from the STB].

SECTION 10. SERVICE PERFORMANCE REPORTS

Requires the railroads to submit service performance reports to the Department of Transportation.●

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. DEWINE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 61, a bill to amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions.

S. 110

At the request of Mr. SMITH, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Illinois [Mr. DURBIN], the Senator from North Carolina [Mr. HELMS], the Senator from Illinois [Mr. FITZGERALD], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 110, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a federally- funded screening program.

S. 249

At the request of Mr. HATCH, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 249, a bill to provide funding for the National Center for Missing and Exploited Children, to reauthorize the Runaway and Homeless Youth Act, and for other purposes.

S. 261

At the request of Mr. SPECTER, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 261, a bill to amend the Trade Act of 1974, and for other purposes.

S. 322

At the request of Mr. CAMPBELL, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 322, a bill to amend title 4, United States Code, to add the Martin Luther King Jr. holiday to the list of days on which the flag should especially be displayed.

S. 327

At the request of Mr. HAGEL, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 327, a bill to exempt agricultural products, medicines, and medical products from U.S. economic sanctions.

S. 329

At the request of Mr. ROBB, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 329, a bill to amend title 38, United States Code, to extend eligibility for hospital care and medical services under chapter 17 of that title to veterans who have been awarded the Purple Heart, and for other purposes.

S. 335

At the request of Ms. COLLINS, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Wisconsin [Mr. KOHL], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Alabama [Mr. SESSIONS], the Senator from South Dakota [Mr. JOHNSON], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 335, a bill to amend chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to

games of chance, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes.

S. 345

At the request of Mr. ALLARD, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 348

At the request of Ms. SNOWE, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 348, a bill to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes.

S. 398

At the request of Mr. CAMPBELL, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 398, a bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture.

S. 427

At the request of Mr. ABRAHAM, the name of the Senator from Kansas [Mr. ROBERTS] was added as a cosponsor of S. 427, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 445

At the request of Mr. JEFFORDS, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 445, a bill to amend title XVIII of the Social Security Act to require the Secretary of Veterans Affairs and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Veterans Affairs with medicare reimbursement for medicare healthcare services provided to certain medicare-eligible veterans.

S. 459

At the request of Mr. BREAUX, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.

S. 494

At the request of Mr. GRAHAM, the names of the Senator from Michigan [Mr. ABRAHAM] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 494, a bill to amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the medicaid program.

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 494, supra.

S. 521

At the request of Mr. LEAHY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 521, a bill to amend part Y of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide for a waiver of or reduction in the matching funds requirement in the case of fiscal hardship.

S. 531

At the request of Mr. ABRAHAM, the names of the Senator from Ohio [Mr. DEWINE], the Senator from New York [Mr. SCHUMER], and the Senator from Georgia [Mr. CLELAND] were added as cosponsors of S. 531, a bill to authorize the President to award a gold medal on behalf of the Congress to Rosa Parks in recognition of her contributions to the Nation.

S. 537

At the request of Mr. LUGAR, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 537, a bill to amend the Internal Revenue Code of 1986 to adjust the exemption amounts used to calculate the individual alternative minimum tax for inflation since 1993.

S. 562

At the request of Mr. HARKIN, the name of the Senator from Georgia [Mr. CLELAND] was added as a cosponsor of S. 562, a bill to provide for a comprehensive, coordinated effort to combat methamphetamine abuse, and for other purposes.

S. 575

At the request of Mr. CLELAND, the names of the Senator from West Virginia [Mr. BYRD] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 575, a bill to redesignate the National School Lunch Act as the ''Richard B. Russell National School Lunch Act.''

S. 595

At the request of Mr. DOMENICI, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to establish a graduated response to shrinking domestic oil and gas production and surging foreign oil imports, and for other purposes.

SENATE JOINT RESOLUTION 3

At the request of Mr. KYL, the names of the Senator from Nebraska [Mr. HAGEL] and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of Senate Joint Resolution 3, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE RESOLUTION 19

At the request of Mr. SPECTER, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Resolution 19, a resolution to express the sense of the Senate that the Federal investment in biomedical research should be increased by $2,000,000,000 in fiscal year 2000.

SENATE RESOLUTION 53

At the request of Mr. HUTCHINSON, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Resolution 53, a resolution to designate March 24, 1999, as ''National School Violence Victims' Memorial Day.''

AMENDMENTS SUBMITTED

NATIONAL MISSILE DEFENSE ACT OF 1999

COCHRAN (AND OTHERS) AMENDMENT NO. 69

Mr. COCHRAN (for himself, Mr. INOUYE, Mr. LIEBERMAN, and Mr. WARNER) proposed an amendment to the bill (S. 257) to state the policy of the United States regarding the deployment of a missile defense capable of defending the territory of the United States against limited ballistic missile attack; as follows:

On page 2, line 11, insert before the period at the end the following: ''with funding subject to the annual authorization of appropriations and the annual appropriation of funds for National Missile Defense''.

DORGAN AMENDMENTS NOS. 70–71

(Ordered to lie on the table.)

Mr. DORGAN submitted two amendments intended to be proposed by him to the bill, S. 257, supra; as follows:

AMENDMENT NO. 70

On page 2, strike line 7 and all that follows and insert the following:

It is the policy of the United States—

(1) 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); and

(2) that deployment of the system shall be carried out in a manner that—

(A) balances such deployment with the deployment or utilization of other measures to protect the United States against attack by weapons of mass destruction; and

(B) gives appropriate consideration to the cooperative relationship between the United States and Russia regarding a reduction in the threat posed by weapons of mass destruction.

AMENDMENT NO. 71

On page 2, strike line 7 and all that follows and insert the following:

(a) POLICY FOR DEVELOPMENT OF NATIONAL MISSILE DEFENSE SYSTEM.—It is the policy of the United States to develop for potential deployment 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).

(b) POLICY FOR DEPLOYMENT OF NATIONAL MISSILE DEFENSE SYSTEM.—It is the policy of the United States to deploy a National Missile Defense system only if that system—

(1) is well managed, proven under rigorous and repeated testing, and cost-effective when assessed within the context of other requirements relating to the national security interest of the United States;

(2) is deployed in concert with a variety of additional measures to protect the United

States against attack by weapons of mass destruction, including efforts toward arms reduction and weapons nonproliferation;

(3) enhances strategic stability; and

(4) is deployed in a manner that contributes to a cooperative relationship between the United States and Russia with respect to a reduction in the dangers to both countries posed by weapons of mass destruction.

NOTICES OF HEARINGS

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Health, Education, Labor, and Pensions will be held on Tuesday, March 16, 1999, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is ''Educating the Disadvantaged.'' For further information, please call the committee, 202/224–5375.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will meet on Wednesday, March 17, 1999 in SR–328A at 8 a.m. The purpose of this meeting will be to review the current status of the federal crop insurance program and explore the various proposals to expand and/or restructure the program.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a Executive Session of the Senate Committee on Health, Education, Labor, and Pensions will be held on Wednesday, March 17, 1999, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The Committee will consider S. 326, ''Patient's Bill of Rights Act.'' For further information, please call the committee, 202/224–5375.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, March 17, 1999 at 9:30 a.m. to conduct a hearing on S. 400, the Native American Housing Assistance and Self-Determination Act Amendments of 1999. The hearing will be held in room 485 of the Russell Senate Office Building.

Those wishing additional information should contact the Committee on Indian Affairs at 202/224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Ms. COLLINS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Monday, March 15, 1999 beginning at 10 a.m. in room 215 Dirksen.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSION

Ms. COLLINS. Mr. President, I as unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on ''Medical Records Privacy'' during the session of the Senate on Monday, March 15, 1999, at 9 a.m.

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

ADDITIONAL STATEMENTS

RECOGNITION OF TUNISIA NATIONAL DAY AND UNITED STATES-TUNISIA RELATIONS

● Mr. INOUYE. Mr. President, I rise today to direct your attention to a milestone soon to be celebrated by one of America's oldest friends and allies. On March 20, 1999, Tunisia observes its National Day, the 43rd anniversary of freedom from foreign control.

Tunisians have many reasons to be proud of their progress during these last four decades. We as Americans should share that satisfaction, because we have important common values and a long history of strong, mutually beneficial relations.

In fact, when Tunisia was still governed by Pasha Bey of Tunis, as a unit of the Ottoman Empire, Tunisia became one of the first treaty partners of the newly independent United States. The two nations signed a ''Treaty of Amity, Commerce and Navigation'' in 1797. The pact provided for ''perpetual and constant peace'' between the parties. If all our treaties were as faithfully observed as this one, our foreign relations would be more serene.

Whether protecting Mediterranean shipping lanes against Barbary pirates, opposing the Nazi war machine in North Africa, or supporting Western interests during the Cold War, the U.S. could count on Tunisia. More than 30 years ago, Tunisia displayed great courage in urging other Arab nations to seek an equitable settlement with Israel. Tunisia later built on that pioneering stand by playing an important role as an honest broker at delicate points in the peace process.

You do not see many headlines or television footage about Tunisia. The reason is that news coverage of Africa and the Middle East is dominated by conflict, extremism, famine, and other calamities. Tunisia, by enviable contrast, is a quiet success. On a recent visit to Tunisia, Undersecretary of State, Stuart Eizenstat, called Tunisia a ''model for developing countries.'' He was correct. During these last 43 years, Tunisia has built a stable, middle class society. Tunisia has adopted progressive social policies that feature tolerance for minorities, equal rights for women, universal education and a first-rate public health system, and avoided the pitfall of religious extremism that has tormented so many other developing nations.

Under President Ben Ali's leadership, Tunisia has undertaken political reforms toward political pluralism and become the first nation south of the Mediterranean to formally associate itself with the European Union.

These are only some of the accomplishments of this small, resilient, forward-looking nation. We should be mindful of this enviable record. We should also take satisfaction that, 43 years ago, the United States welcomed Tunisia's independence and provided both moral and financial support. If all our investments abroad paid such dividends, the world would be a more peaceful place.●

RAIL COMPETITION AND SERVICE IMPROVEMENT ACT

● Mr. BURNS. Mr. President, since the early 1980's, Montana has been faced with a very serious transportation problem regarding the transportation of our grain and coal out of our state at reasonable prices and in a reasonable period of time.

Montana is a classic case of what happens to rail customers when you eliminate competitive transportation alternatives. Our rail rates go through the roof and our rail customers end up subsidizing rail rates in regions where competition is present. In a nutshell, our rail customers pay more for less service. The rail customers in regions with competitive alternatives pay less and receive more service.

Now, we're seeing the same thing happen in other regions around the nation. Montana has been down this road and I encourage my colleagues to look at the problems we face in Montana as a pre-cursor to what will happen in their states.

The Surface Transportation Board (STB), based on their deliberations over the McCarty Farms vs. Burlington Northern case, has indicated to the producer that BNSF's rates are not excessive. I am concerned that after 17 years of adjudication using the STB's decision making process, that process is flawed.

In the West, we have only two Class I railroads and in Montana, we have only one Class I railroad. Under today's deregulated environment, we have come full circle back to limited competition. Because of this lack of competition, Montana's producers pick up the tab for those who have competition.

Montana's shippers pay some of the highest rates in the world while our neighbors pay a significantly lower cost for transportation. In Montana, we are truly dependent on the railroads to transport bulk commodities that could not be efficiently transported by any other means.

Agricultural shippers are the most vulnerable to predatory marketing by monopolistic practices of railroads. The farm producer unlike every other industry we know of in America, cannot pass the freight costs on to anyone else, they must simply eat it.

We do not need to re-regulate the railroads; rather we need to restore the balance between rail customers and the railroads that Congress intended to achieve originally in the Staggers Rail Act of 1980. I look forward to working with my colleagues to restore the competitive balance in the rail transportation industry and level the playing field for our nation's rail customers.●

RECOGNITION OF YVONNE GELLISE, RSM

● Mr. LEVIN. Mr. President, I rise to honor Yvonne Gellise, who was awarded the Mary Maurita Sengelaub, RSM, Award for Meritorious Service for 1997. This award is presented annually to a person ''whose contributions to the healing ministry are in striking harmony with the works of Catherine McAuley, foundress and first Sister of Mercy.''

Yvonne Gellise was born in Bay City, Michigan, the fifth and last child of Levy and Regina Gellise. An early experience with polio fostered her early determination that characterized her many efforts on behalf the community. In 1995, Yvonne joined the Religious Sisters of Mercy and became Sister Yvonne Gellise. Since then, Sister Yvonne has served in several administrative positions in Mercy facilities in Michigan and Iowa. A milestone in her career came when she was named chief executive officer of St. Joseph Mercy Hospital, Ann Arbor. Sister Yvonne provided indispensable leadership during the relocation of the hospital to its current site. Sister Yvonne currently serves as senior advisor for Governance at Saint Joseph Mercy Health System, Ann Arbor.

Mr. President, Sister Yvonne Gellise is a very deserving recipient of the Mary Maurita Sengelaub, RSM, Award for Meritorious Service. I know my Senate colleagues join me in honoring her on the notable contribution she made to our community.●

HEALTH CARE PERSONAL INFORMATION NONDISCLOSURE ACT OF 1999

● Mr. JEFFORDS: Mr. President, I rise today to speak about the Health Care Personal Information Nondisclosure Act, or the Health Care PIN Act of 1999, which I introduced last Wednesday with my friend, Senator DODD. This timely piece of bipartisan legislation sets the necessary national standards that will secure the privacy and confidentiality of every American's medical records.

This legislation clarifies patients' rights to copy or amend their medical records. The legislation also encourages insurers and providers with large sets of records to implement their own safeguards and protections from misuse. It sets clear guidelines for the use and disclosure of medical information by health care providers, researchers, insurers, and employers. Most importantly, it requires that individually identifiable health care information not be released without the patient's informed consent.

In the past few decades, the delivery and administration of medicine have evolved by leaps and bounds. Technological advances have contributed to a better and more efficient health care system. They create new opportunities for the prevention and treatment of disease. Electronic pharmaceutical records make it possible for pharmacists to identify potential drug interactions before they fill a prescription. Telemedicine will make it possible for patients at Copley Hospital in Morrisville, Vermont, a small village of 2,000 people, to benefit from the expertise of physicians fifty miles away at Fletcher-Allen, Burlington, Vermont's nationally known academic medical center.

The improved access to this information does not come without a risk. We often don't know with any certainty, who has access to our private records. The establishment of large computer databases, some with millions of patient records, has not only allowed for new, life-saving medical research but has increased the potential for misuse of private medical information.

Last month, for example, at the University of Michigan Medical Center, several thousand patient records were inadvertently posted on an Internet site. Private patient records containing names, addresses, employment status, and treatment for specific medical conditions lingered on the Web for two months. Fortunately, in this case, the lapse was discovered before anyone accessed the site, or any damage done.

The Health Care PIN Act establishes clear guidelines for the use and disclosure of medical records by health care providers, researchers, insurers, and employers. With very few exceptions, individually identifiable health care information should be disclosed for health purposes only, which includes the provision and payment of care and plan operations. In order to protect patients from abuse and exploitation, this bill imposes civil and criminal penalties on individuals who use information improperly through unauthorized disclosure.

Other nations have taken steps to protect patient privacy. In 1995, the European union enacted the Data Privacy directive. This Directive requires all 15 European Union member states establish consistent national privacy laws. This initiative raises the concern that the European Union could limit the flow of data between countries that do not provide for comparable protections. If we do not act promptly, this directive may act as a deterrent to the international exchange of health information and restrict the ability of American companies to compete overseas.

Even more pressing is the Health Insurance Portability and Accountability Act of 1996, also known as the Kassebaum-Kennedy Act, which established several mandates relating to medical records privacy. One provision set August, 1999, as the deadline by which Congress must act to ensure the confidentiality of electronically transmitted data. If, for some reason, Congress fails to act by this date, HIPAA includes a default provision directing the Secretary of Health and Human Services to promulgate regulations. We are introducing this bill now and we must act as soon as possible in order to meet the HIPAA deadline.

Our bill recognizes that some states, like my home state of Vermont, have already taken the lead in the area of privacy protections. Last year's bill provided a uniform federal standard for protected health information, with the exceptions of state mental health and public health laws. In addition to these protections, this bill will also allow stronger medical records privacy laws enacted prior to the effective date of the act to remain in place.

Senator DODD and I look forward to working with members of the Committee on Health, Education, Labor, and Pensions, as well as others who have contributed time and effort to this issue, as we move forward to enact this necessary and bipartisan Health Care PIN Act of 1999.●

COMMEMORATION OF THE 108TH BIRTHDAY OF MS. NORA HILL

● Mrs. MURRAY. Mr. President, it is my pleasure to rise today to congratulate Ms. Nora Hill of Yakima, Washington, who celebrated her 108th birthday on February 1, 1999.

Nora Maddie Wilson was born on February 1, 1891 in Benton County, Arkansas and is the youngest of twelve children. Nora never had a formal education, but was educated by her older brothers and sisters. She loved to read and had beautiful penmanship. Nora was also an avid quilter, making extra money by making quilts for other people. In 1911, Nora married John Bunyon Hill and had four children. In 1940 her family moved to the Yakima Valley in Washington state. Nora could handle a team of horses and a wagon with the best of them, however, she never wanted to learn how to drive an automobile, as it made her too nervous.

Nora is a survivor of cancer at the age of 99 and a broken hip at the age of 104. Both of Nora's sons, who served in World War II, have since passed away. Her daughters are still living. Nora has over sixty grand, great grand, great-great grand and great-great-great grand children.

Please all join me in wishing Ms. Nora Hill of Yakima, Washington a very happy 108th year.●

NATIONWIDE DIFFERENTIAL GLOBAL POSITIONING SYSTEM

● Mr. JOHNSON. Mr. President, today is a great day for South Dakota and the nation as March 15, 1999, marks the

operation of a Nationwide Differential Global Positioning System (NDGPS) site in Clark, South Dakota. This morning, Secretary of Transportation Rodney Slater officially ''flipped the switch'' on the Clark site, which activated the Coast Guard's expansion of its maritime global positioning system into the NDGPS. The Clark site, along with one in Whitney, Nebraska, will provide South Dakota with complete NDGPS service at no fee.

It is not often that a Senator from South Dakota has the opportunity to work with the Coast Guard on a project that benefits the people of my state. About two years ago, Rudy Persaud with South Dakota Department of Transportation contacted me about a technology that was developed to find ships out at sea. Rudy, along with a number of community development districts in my state, convinced me that this same technology could have enormous benefits on the prairies of South Dakota. In fact, the benefit to cost ratio for the NDGPS system is an astounding 150 to 1, with future uses for the technology appearing almost limitless.

Working with the development districts, the South Dakota Department of Transportation's goal was to map every mile of every road in the state of South Dakota to give the state and local governments the ability to develop their communities and allocate important highway funds.

I was pleased to introduce legislation in 1997 to expand the Coast Guard DGPS into a nationwide system. With the help of Senator DASCHLE, the legislation was added to the Department of Transportation's annual appropriations bill.

Throughout the process of securing funding for NDGPS, I have become aware of the numerous benefits NDGPS has for rural states like South Dakota. Four nonprofit planning districts in South Dakota currently use the technology for mapping roads. In some counties, NDGPS will be integrated with E–911 systems to provide accurate addresses for rural households.

NDGPS will allow hospital helicopters to electronically locate accident sites. The need for such technology was evident two winters ago when a Webster woman became stranded in her car in the middle of a blizzard. Running low on gas, and with the temperature around −50 degrees, it took rescue crews several hours to find her and take her to safety.

The US Geological Survey will also map potential flood areas in the state, potentially saving lives and millions of dollars in property. Considering the farms and communities already inundated with flooding from the past two years, I am pleased this technology will allow South Dakotans to take a proactive approach to identifying potential flood areas.

The Mid-Dakota Rural Water System is using NDGPS to locate PVC pipeline for its system that will provide clean drinking water to over 30,000 South Dakotans who currently rely on wells or municipal water trucked to their home.

One of the most promising benefits of NDGPS technology will probably come in agriculture, South Dakota's number one industry. I look forward to working with agriculture leaders in South Dakota to promote and support this technology in a way that makes NDGPS an affordable and accessible tool. NDGPS, used in precision farming, may save $5 to 14 per acre by showing farmers exactly how best to apply fertilizer and chemical inputs on their land, so as to treat the land well for future generations while cutting costs now. NDGPS-based field mapping helps determine more accurate yields and makes it easier to more accurately utilize fertilizers, chemicals, and crop inputs. This technology can also be used by farmers to keep better crop production records. For example, this technology makes it possible for a properly equipped spray rig to switch chemicals or rates of application to address a specific weed problem in a specific section of the field.

As of today, March 15, 1999, the NDGPS technology is available in every community in South Dakota. I want to commend Rudy Persaud and the many others involved with NDGPS for their dedication and hard work and look forward to working with them on future uses of this incredible technology.●

CHILD DEVELOPMENT ACT

● Mr. WELLSTONE. Mr. President, I address you today to speak about a problem that is one of the most pressing facing our nation today. Ten million children in America are eligible for federal child care assistance, yet we provide for only 1.4 million of them. Fully 86 percent of eligible children are left unattended or are forced into inadequate facilities that are often overcrowded. These are the only viable options for parents who are struggling to make ends meet even in these times of national prosperity. The waiting list for child care assistance in many states extends to tens of thousands of eligible families. And so many parents who would give almost anything to be able to stay at home and care for their children themselves simply can't afford to do so. Something needs to be done soon. The problems that we are facing today will only compound as children who have been inadequately cared for struggle in school and society. As President Kennedy said, ''the time to fix the roof is when the sun is shining.''

Today I reintroduce the most ambitious effort to address this problem to date, The Child Development Act. With this one piece of legislation, our nation will cut our most threatening problem in half. This bill provides support for half of the ten million American children who are eligible for federal child support assistance, and provides billions of dollars in tax credits for parents who choose to stay home with their children.

The Child Development Act will help children and their parents several ways. First, it will greatly increase funding for the CCDBG program, a tried and proven method of providing for care of our children. The bulk of this money ($37.5 billion over 5 years) will be used to provide more affordability for families wanting to enroll their children in child care programs. There is also $4 billion in CCDBG funds set aside for improving the quality of child care in our country, which is definitely necessary as Children's Defense Fund studies show that 6 out of 7 child care facilities in this country provide only poor to mediocre service, and one out of eight centers actually put the safety of children at risk. Five billion dollars in CCDBG increases is set aside for improving afterschool programs for school age children. Additional $2 billion in CCDBG increases is allocated for new child care facilities construction ($500 million) providing 50,000 to 75,000 new high quality child care slots each year; increases in public/private partnerships where states and local communities' private sectors must each match twenty five percent of grants ($500 million); and $1 billion is allocated for professional development of child care workers. The remaining portions of the $62.5 billion bill are $1 billion in loan forgiveness to those who earn a degree and work in early childhood education, and $13 billion in tax credits for low- and middle-income working parents, so that they can better afford quality care for their children. Those parents who make the tough financial decision to stay at home and care for their children will be greatly assisted by this provision.

Research has shown that much of what happens in life depends upon the first three years of development. The brain is so profoundly influenced during this time because the brain of a three-year-old has twice as many synapses (connections between brain cells) as that of her adult parents. The process of brain development is actually one of ''pruning'' out the synapses that one does not need (or more accurately, does not use) from those that become the brains standard ''wiring.'' This is why the first three years of development are so important—this is the time that the brain must develop the wiring that is going to be used for the rest of one's life. According to a report on brain development published by the Families and Work Institute, ''Early care and nurture have a decisive, long lasting impact on how people develop, their ability to learn, and their capacity to control their own emotions.'' If children do not receive proper care before the age of three, they never receive the chance to develop into fully functioning adults.

We are not allowing our children a chance in life when we do not provide them with proper care in their early

years. If America is to achieve its goal of equal opportunity for our children, we need to start with proper care in their early years. It is a painful statistic then that our youngest citizens are also some of the poorest Americans. One out of every four of our country's 12 million children under the age of three live in poverty. It becomes very difficult to break out of the cycle of poverty if poor children are not allowed to develop into fully functioning adults.

Yet many parents in America do not have the option of providing adequate care for their children. For parents who can barely afford rent it is nearly impossible to take advantage of the Family Medical Leave Act, and sacrifice 12 weeks of pay in order to directly supervise a child. Many mothers need to return to work shortly after giving birth and find that the only options open to them are to place their children in care that is substandard, even potentially dangerous—but affordable. According to the Children's Defense Fund, six out of seven child care centers provide only poor to mediocre care, and one in eight centers provide care that could jeopardize children's safety and development. The same study said that one in three home-based care situations could be harmful to a child's development. How can we abide by these statistics?

This is a serious problem, and frighteningly widespread. The eligibility levels set for receiving child care aid through the federal Child Care and Development Block Grant (CCDBG) is 85 percent of a state's median income. Nationally, this came out to about $35,000 for a family of three in 1998. However, according to the Children's Defense Fund, fully half of all families with young children earn less than $35,000 per year. Half! A family that has two parents working full time at minimum wage earns only $21,400 per year. This is not nearly enough to even dream of adequate child care.

Child care costs in the United States for one child in full-day day care range from $4,000 to $10,000 a year. It is not surprising that, on average, families with incomes under $15,000 a year spend 23 percent of their annual incomes on child care. And in West Virginia, if a family of three makes more than that $15,000, they no longer qualify for child care aid! In fact, thirty-two states do not allow a family of three which earns $25,000 a year (approximately 185 percent of poverty) to qualify for help. Only four states in our nation set eligibility cut-offs for receiving child care assistance at 85 percent of median family income, the maximum allowed by federal law. There is obviously not enough funding to support the huge need for child care assistance in our nation, and that is why I am proposing the Child Care Development Act.

There is widespread support for expanded investments to improve the affordability and quality of child care. A recent survey of 550 police chiefs found that nine out of ten police chiefs surveyed agreed that ''America could sharply reduce crime if government invested more in programs to help children and youth get a good start'' such as Head Start and child care. Mayors across the country identified child care, more than any other issue, as one of the most pressing issues facing children and families in their communities in 1996 survey. A recent poll found that a bipartisan majority of those polled support increased investments in helping families pay for child care - specifically, 74% of those polled favor a bill to help low-income and middle-class families pay for child care, including 79% of Democrats, 69% of Republicans, and 76% of Independents.

It is clear that many like to talk about supporting our children, and many are in favor of supporting our children, but what action is actually taken? Yes, the addition of new child care dollars in 1996 has helped welfare recipients, but it has done nothing for working, low-income families not receiving TANF. The Children's Defense Fund recommends that Congress pass comprehensive legislation that guarantees at least $20 billion over five years in new funding for the Child Care Development Block Grant (CCDBG). My Child Care Development Act goes beyond this, yet even my bill is just a first step. This bill is designed to provide affordable, quality child care to half of the ten million American children presently in need of subsidized care. It will provide $62.5 billion over 5 years—$12.5 billion a year—nearly three times the amount proposed in the President's most ambitious, and still unprosecuted, proposal. In 1997 the President proposed extending care to 600,000 children from poor families, leaving fully 80% of eligible children without aid. The last time we heard about that proposal was 1997.

If we are serious about putting parents to work and protecting children, we need to invest more in families and in child care help for them. Enabling families to work and helping children thrive means giving states enough money so that they can set reasonable eligibility levels, let families know that help is available, and take working families off the waiting lists.

The Child Care Development Act will require $62.5 billion over five years. There will be several offsets necessary if we are serious about giving children in this country the type of care they need and deserve. Shifting spending from these offsets demonstrates that our true national priority is children, not wasteful military spending and corporate tax loopholes.

The offsets that will be necessary are as follows. If we repeal the reductions in the Corporate Minimum Tax from the 1997 Budget Bill, we create $8.2 billion. The elimination of the Special Oil and Gas Depletion Allowance will make room for and additional $4.3 billion. An offset of $575 million will come from a repeal of the Enhanced Oil Recovery Credit and an offset of $13.8 billion will come from the elimination of exclusion for Foreign-Earned Income. From these four different offsets in tax provisions a sub total amount of $26.8 billion is created to spend on child care.

Defense cuts will also be necessary in the amount of $24.4 billion. This will come from canceling the F–22, a plane plagued with troubles, which will free up $19.3 billion, and $5.1 billion will come from a reduction in Nuclear Delivery Systems Within Overall Limits of START II.

The remaining offsets can be made by reducing the Intelligence Budget by 5%, which would save $6.7 billion; by reducing Military Export Subsidies by $850 million; and by canceling the International Space Station, which costs $10 billion. All of which, when added together, allows for an additional $68.8 billion to be used to support our children.

This is, finally, a child care bill on the same scope as the problem itself. We as a nation are neglecting the most vulnerable and important portion of our society—our children. Here is an ambitious solution to this vast problem that has been plaguing our country, so that we don't have to be a country that just talks about putting our children first.●

RECOGNITION OF STEVEN BOLTON, MD

● Mr. LEVIN. Mr. President, I rise to honor Dr. Steven Bolton, who was recently awarded the Mary Maurita Sengelaub, RSM, Award for Meritorious Service for 1998. This award is presented annually to a person ''whose contributions to the healing ministry are in striking harmony with the works of Catherine McAuley, foundress and first Sister of Mercy.''

Steve Bolton was raised in the city of Detroit. While growing up in the city his parents placed a strong emphasis on helping the less fortunate in our society, and he has passed that feeling along to his three sons. This experience led Steve Bolton, following in the footsteps of his older siblings, to dedicate himself to becoming a doctor in order to ''understand what makes us human and to use this knowledge to help others.'' Steve eventually came to understand how poverty affects the health of the ''working poor'' and is now a general surgeon at St. Joseph Mercy Oakland making a difference in the lives of working families.

Steve Bolton has also served over the past seven years as volunteer medical director of Mercy Place in Pontiac, Michigan. Mercy Place is a clinic offering free health care to the community. In addition to his demanding work schedule as a general surgeon, Steve volunteers several days a week at the clinic. He also often donates his professional fees if a patient needs surgery and cannot afford to pay.

Mr. President, Dr. Steve Bolton is most deserving of the Mary Maurita

Sengelaub, RSM, Award for Meritorious Service. I know my Senate colleagues join me in honoring this extraordinary individual for the outstanding work he does on behalf of the community.●

A SALUTE TO SUNLL ''SUNNY'' AGHI

● Mr. KERRY. Mr. President, I want to take just a few moments today to salute one of the young leaders of the Indo-American community, someone who is providing for all of us an exemplary model of what it means to serve our neighborhoods, our communities, and our fellow Americans.

Mr. Sunll ''Sunny'' Aghi is the founder and President of the Indo-American Political Foundation, an organization based in California, dedicated to engaging Indo-Americans in the political process and ensuring that Indo-Americans gain a foothold in our government as elected officials. Sunll Aghi has brought an impressive energy to this mission—actively recruiting Indo-Americans to meet the challenges of participatory democracy as voters, supporters, and candidates, whether the be new citizens or established leaders in California's diverse communities.

Sunll has also found substantial ways to contribute to life in California beyond politics. Mr. Aghi is the founder of Thank You America—an organization dedicated to providing food and clothing to the homeless of Orange County each year on Thanksgiving Day, an effort which has benefits over 500 needy individuals each holiday. Sunll hopes to expand Thank You America's operations to eventually include providing college scholarships for talented, young Californians struggling to afford a college education. These efforts demonstrate to all of us the truth that DeTocqueville spoke of 150 years age when he said ''America is great because Americans are good.'' Sunll Aghi is keeping that tradition of civic responsibility alive and well for a new generation of our citizens.

Mr. President, I am pleased to have the chance to acknowledge Mr. Aghi for his contributions to our country and to the democratic process. I applaud his efforts and share his hopes that someday soon we will bring all Indo-Americans into the mainstream of American politics as full participants, and that in the coming years we will build an America where Indo-Americans serve in and are fully represented in the House, the Senate, and the Administration. His work is an inspiration to all of us, and I hope more Americans will follow his tremendous example of activism and citizenship raised to a higher level.●

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Stephanie Mercier:									
USA	Dollar		2,300.00		1,217.50				3,517.50
Total			2,300.00		1,217.50				3,517.50

RICHARD G. LUGAR,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Jan. 7, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Tom Harkin:									
United States	Dollar				5,214.49				5,214.49
Yugoslavia	Dinar	218.96	238.00					218.96	238.00
Israel	Shekel	3,349.70	779.00					3,349.70	779.00
Jordan	Dinar	256	183.00					256	183.00
Senator Daniel Inouye:									
South Korea	Won	938,160	712.35					938.60	712.35
Japan	Yen	97,474	825.00					97,474	825.00
Charles J. Houy:									
South Korea	Won	928,160	704.65					928,160	704.65
Japan	Yen	147,684	1,250.00					147,684	1,250.00
Total			4,692.00		5,214.49				9,906.49

TED STEVENS,
Chairman, Committee on Appropriations, Jan. 31, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Scott W. Stucky:									
United States	Dollar				4,588.77				4,588.77
Germany	Mark	103	63.19					103	63.19
Italy	Lire	680,000	410.63					680,000	410.63
Cord A. Sterling:									
Italy	Dollar		536.00						536.00
Germany	Dollar		545.00						545.00
United Kingdom	Dollar		2,068.00						2,068.00
Yugoslavia	Dollar		199.00						199.00
United States	Dollar				5,962.70				5,962.70

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Honduras	Dollar		400.00						400.00
Nicaragua	Dollar		260.00						260.00
United States	Dollar				1,121.28				1,121.28
Ann M. Mittermeyer									
United States	Dollar				4,065.77				4,065.77
Italy	Lire	1,415,880	855.00	11,000	6.64	661,000	399.15	672,000	1,260.79
Michael McCord:									
United States	Dollar				4,722.58				4,722.58
Germany	Mark	719	427.00					719	427.00
David Lyles:									
Bosnia	Dollar		206.14						206.14
Yugoslavia	Dollar		85.49						85.49
Armenia	Dollar		196.00						196.00
Turkey	Dollar		125.00						125.00
Ukraine	Dollar		250.00						250.00
Russia	Dollar		952.64				395.65		1,348.29
Senator Carl Levin:									
Bosnia	Dollar		204.85						204.85
Yugoslavia	Dollar		98.38						98.38
Armenia	Dollar		98.00						98.00
Turkey	Dollar		125.00						125.00
Ukraine	Dollar		260.00						260.00
Russia	Dollar		811.04				205.73		1,016.77
Peter Levine:									
United States	Dollar				4,065.77				4,065.77
Germany			209.00						209.00
Italy	Lire	777,444	469.47	10,000	6.04			787,444	475.51
	Dollar		25.00						25.00
Senator John McCain:									
Japan	Dollar		275.00						275.00
China	Dollar		1,179.00						1,179.00
Thailand	Dollar		240.00						240.00
Vietnam	Dollar		125.00						125.00
Singapore	Dollar		753.00						753.00
United States	Dollar				5,498.24				5,498.24
Mark Salter:									
United States	Dollar				3,831.24				3,831.24
Japan	Dollar		275.00						275.00
China	Dollar		1,179.00						1,179.00
Thailand	Dollar		240.00						240.00
Vietnam	Dollar		278.00						278.00
Singapore	Dollar		502.00						502.00
Total			14,925.83		33,869.03		1,000.53		49,795.39

STROM THURMOND,
Chairman, Committee on Armed Services, Feb. 22, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS FOR TRAVEL FROM OCT. 1, TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Jack Reed:									
Russia	Dollar		503.00						503.00
Lithuania	Dollar		500.00						500.00
Neil Campbell:									
Russia	Dollar		556.00						556.00
Lithuania	Dollar		550.00						550.00
Total			2,109.00						2,109.00

ALFONSE D'AMATO,
Chairman, Committee on Banking,
Housing and Urban Affairs, Feb. 22, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John D. Rockefeller, IV:									
Taiwan	Dollar	29,411	903.00		6,074.00			29,411	6,977.00
Robert Six:									
Taiwan	Dollar	29,411	903.00		3,181.00			29,411	4,084.00
Sloan Rappoport:									
Spain	Dollar		1,500.00		1,534.50				3,034.50
Penelope Dalton:									
Spain	Dollar		1,220.67		783.92				2,004.59
Total			4,526.67		11,573.42				16,100.09

JOHN McCAIN,
Chairman, Committee on Commerce,
Science, and Transportation, Jan. 5, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES FOR TRAVEL FROM OCT. TO DEC. 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Frank Murkowski:									
Hong Kong	Dollar	9.125	1,179.00						1,179.00
Taiwan	Dollar	21,008	645.00						645
United States	Dollar				4683.46				4,683.46
Deanna Tanner Okun:									
Hong Kong	Dollar	9,125	1,179.00						1,179.00
Taiwan	Dollar	21,008	645.00						645.00
United States	Dollar				2953.76				2,953.76
Andrew Lundquist:									
Hong Kong	Dollar	9,125	1,179.00						1,179.00
Taiwan	Dollar	21,008	645.00						645.00
United States	Dollar				2365.46				2,365.46
Daniel P. Brindle:									
Hong Kong	Dollar	9.125	1,179.00						1,179.00
Taiwan	Dollar	21,008	645.00						645.00
United States	Dollar				2,558.46				2,558.46
David Garman:									
Argentina	Peso		1,556.00						1,556.00
United States	Dollar				4,369.50				4,369.50
Sarah Bittleman:									
Argentina	Peso		1,419.00						1,419.00
United States	Dollar				4,367.50				4,367.50
David Garman:									
Norway	Kronin		346.90						346.90
United States	Dollar				42223.38				4,223.38
Total			10,617.90		25,521.52				36,139.42

FRANK H. MURKOWSKI,
Chairman, Committee on Energy and National Resources, Jan. 8, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM OCT. TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Max Baucus:									
Canada	Dollar				527.08				527.08
Angela Marshall:									
Canada	Dollar		251.81		1,012.56				1,264.37
Senator Phil Gramm:									
Japan	Dollar		275.00						275.00
China	Dollar		1,179.00						1,179.00
Thailand	Dollar		240.00						240.00
Vietnam	Dollar		125.00						125.00
Singapore	Dollar		753.00						753.00
United States	Dollar				4,292.23				4,292.23
Richard Ribbentrop:									
Japan	Dollar		275.00						275.00
China	Dollar		1,179.00						1,179.00
Thailand	Dollar		240.00						240.00
Vietnam	Dollar		278.00						278.00
Singapore	Dollar		753.00						753.00
United States	Dollar				4,292.23				4,292.23
Senator Charles E. Grassley:									
New Zealamd	Dollar		865.00						865.00
Australia	Dollar		774.00						774.00
R. Alexander Vachon:									
United States	Dollar				1,562.09				1,562.09
United Kingdom	Dollar		780.92						780.92
Sweden	Dollar		547.95						547.95
Mark Patterson:									
United States	Dollar				1,562.09				1,562.09
United Kingdom	Dollar		1,059.15						1,059.15
Sweden	Dollar		690.70						690.70
Nicholas Giordano:									
United States	Dollar				1,588.55		8.28		1,596.83
United Kingdom	Dollar		788.50						788.50
Sweden	Dollar		501.63						501.63
Deborah Lamb:									
United States	Dollar				1,562.09				1,562.09
United Kingdom	Dollar		1,044.19						1,044.19
Sweden	Dollar		402.37						402.37
David Podoff:									
United States	Dollar				1,562.09				1,562.09
United Kingdom	Dollar		958.76						958.76
Sweden	Dollar		638.56						638.56
Faryar Shirzad:									
United States	Dollar				1,562.09				1,562.09
United Kingdom	Dollar		718.86						718.86
Sweden	Dollar		496.51						496.51
United States	Dollar				1,933.36				1,933.36
Switzerland	Dollar		794.52						794.52
Deborah Lamb:									
Belgium	Dollar		713.25						713.25
Grant Aldonas:									
United States	Dollar				1,933.36				1,933.36
Switzerland	Dollar		978.13						978.13
Belgium	Dollar		873.00						873.00
Faryar Shirzad:									
United States	Dollar				1,933.36				1,933.36
Switzerland	Dollar		865.68						865.68
Belgium	Dollar		730.72						730.72
Tim Keeler:									
United States	Dollar				1,322.16				1,322.16
Switzerland	Dollar		808.43						808.43
Belgium	Dollar		733.45						733.45
Lisa Lee:									
United States	Dollar				1,933.36				1,933.36

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM OCT. TO DEC. 31, 1998—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Switzerland	Dollar		950.14						950.14
Belgium	Dollar		815.18						815.18
Joan Woodward:									
United States	Dollar				924.55				924.55
Switzerland	Dollar		671.99						671.99
Ian Brzezinski:									
United States	Dollar				303.28				303.28
Sweden	Dollar		192.76						192.76
Ukraine	Dollar		109.00						109.00
Total			25,051.46		29,806.53		8.28		54,866.27

WILLIAM V. ROTH, JR.,
Chairman, Committee on Finance, Feb. 10, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Sam Brownback:									
Turkey	Dollar		176.00						176.00
Saudi Arabia	Dollar		246.00						246.00
Jordan	Dollar		366.60						366.60
United States	Dollar				4,329.54				4,329.54
Senator Paul Coverdell:									
Nicaragua	Dollar		200.00						200.00
United States	Dollar				1,471.16		179.38		1,650.54
Senator Christopher Dodd:									
Cuba	Dollar		917.00						917.00
United States	Dollar				1,964.54				1,964.54
Norway	Dollar		558.00						558.00
United States	Dollar				3,909.11				3,909.11
Senator Chuck Hagel:									
Russian Federation	Dollar		1,622.00						1,622.00
Lithuania	Dollar		228.00				398.47		626.47
Senator John Kerry:									
Argentina	Dollar		744.00						744.00
United States	Dollar				6,648.50				6,648.50
Indonesia	Dollar		466.00						466.00
Singapore	Dollar		135.00						135.00
Vietnam	Dollar		566.00						556.00
United Kingdom	Dollar		365.00						365.00
United States	Dollar				5,893.00				5,893.00
Senator Gordon Smith:									
Romania	Dollar		299.00						299.00
Sweden	Dollar		282.00						282.00
Ukraine	Dollar		582.00						582.00
United States	Dollar				5,626.28				5,626.28
Alex Albert:									
Nicaragua	Dollar		200.00						200.00
United States	Dollar				1,245.00				1,245.00
Stephen Biegun:									
Romania	Dollar		299.00						299.00
Sweden	Dollar		282.00						282.00
Ukraine	Dollar		582.00						582.00
United States	Dollar				5,626.28				5,626.28
Russian Federation	Dollar		1,622.00						1,622.00
Lithuania	Dollar		228.00				398.46		626.46
James Doran:									
Taiwan	Dollar		2,579.17						2,579.17
Hong Kong	Dollar		1,856.53						1,856.53
Thailand	Dollar		735.67						735.67
United States	Dollar				4,226.46				4,226.46
Heather Flynn:									
Guinea	Dollar		615.00						615.00
Kenya	Dollar		707.87						707.87
Rwanda	Dollar		917.00						917.00
United States	Dollar				9,777.30				9,777.30
Sherry Grandjean:									
Kazakhstan	Dollar		484.00						484.00
United States	Dollar				6,442.54				6,442.54
James Green:									
Argentina	Dollar		1,419.00						1,419.00
United States	Dollar				1,524.50				1,524.50
Garrett Grigsby:									
Germany	Dollar		876.00						876.00
Tanzania	Dollar		555.00						555.00
Kenya	Dollar		880.00						880.00
Mauritius	Dollar		838.74						838.74
United States	Dollar				9,032.09				9,032.09
Michael Haltzel:									
Germany	Dollar		2,100.00						2,100.00
United States	Dollar				5,627.51				5,627.51
James Jones:									
Indonesia	Dollar		466.00						466.00
Singapore	Dollar		251.00						251.00
Vietnam	Dollar		556.00						556.00
Thailand	Dollar		219.78						219.78
United States	Dollar				5,863.99				5,863.99
Peter Marudas:									
Germany	Dollar		375.80						375.80
United States	Dollar				679.42				679.42
Patricia McNerney:									
Argentina	Dollar		1,860.00						1,860.00
United States	Dollar				4,367.50				4,367.50
Michael Miller:									
Germany	Dollar		876.00						876.00
Tanzania	Dollar		555.00						555.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Kenya	Dollar		735.00						735.00
United States	Dollar				7,587.11				7,587.11
Roger Noriega:									
Nicaragua	Dollar		120.00						120.00
Argentina	Dollar		2,810.00						2,810.00
United States	Dollar				3,022.50				3,022.50
Venezuela	Dollar				1,454.00				1,454.00
Janice O'Connell:									
Cuba	Dollar		917.00						917.00
United States	Dollar				1,964.54				1.964.54
Kenneth Peel:									
Argentina	Dollar		2,535.00						2,535.00
United States	Dollar				4,367.50				4,367.50
Russian Federation	Dollar		1,622.00						1,622.00
Lithuania	Dollar		228.00				398.46		626.46
Christina Rocca:									
Turkey	Dollar		176.00						176.00
Saudi Arabia	Dollar		246.00						246.00
Jordan	Dollar		366.60						366.60
Kuwait	Dollar		362.00						362.00
United States	Dollar				4,329.54				4,329.54
Linda Rotblatt:									
Nigeria	Dollar		1,148.42		113.12				1,261.54
Senegal	Dollar		362.00						362.00
United States	Dollar				8,952.59				8,952.59
Nancy Stetson:									
Indonesia	Dollar		466.00						466.00
Singapore	Dollar		251.00						251.00
Vietnam	Dollar		556.00						556.00
United Kingdom	Dollar		274.00						274.00
United States	Dollar				6,293.00				6,293.00
Christopher Walker:									
United Kingdom	Dollar		1,095.00						1,095.00
United States	Dollar				4,657.28				4,657.28
Kenya	Dollar		735.00						735.00
Tanzania	Dollar		555.00						555.00
United States	Dollar				7,404.54				7,404.54
Michael Westphal:									
Germany	Dollar		876.00						876.00
Tanzania	Dollar		555.00						555.00
Kenya	Dollar		880.00						880.00
Mauritius	Dollar		838.74						838.74
United States:	Dollar				9,032.09				9,032.09
AMENDMENT TO THIRD QUARTER 1998									
Senator Chuck Hagel:									
Saudi Arabia	Dollar						163.06		163.06
Egypt	Dollar						424.86		424.86
Senator Charles Robb:									
United States	Dollar		,.		6,493.88				6,492.88
Kenneth Peel:									
Saudi Arabia	Dollar		,.				163.06		163.06
Egypt	Dollar		,.				424.86		424.86
Total	Dollar		49,968.92		149,96.4		2,550,61		202,485.94

JESSE HELMS,
Chairman, Committee on Foreign Relations, Feb. 23, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Fred Thompson:									
United Kingdom	Pound		1,534.50		4,621.28				6,155.78
Curtis Silvers:									
United Kingdom	Pound		2,187.00		5,642.92				7,829.92
Mitchel Kugler:									
Israel	Shekel		1,353.00		5,170.08				6,523.08
Total			5,074.50		15,434.28				20,508.78

FRED THOMPSON,
Chairman, Committee on Governmental Affairs, Jan. 8, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Powden, Mark E.:									
United States	Dollar				1,936.00				1,936.00
New Zealand	Dollar		450.00						450.00
Antarctica									
Day, Suzanne L.:									
United States	Dollar				1,936.00				1,936.00
New Zealand	Dollar		765.00						765.00
Antarctica									
Total			1,215.00		3,872.00				5,087.00

JIM JEFFORDS,
Chairman, Committee on Labor and Human Resources, Jan. 15, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON VETERANS' AFFAIRS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Arlen Specter:									
Syria	Dollar		180.00						180.00
Macedonia	Dollar		119.00						119.0
England	Dollar		850.35				7.50		857.85
Belgium	Dollar		390.82						390.82
Greece	Dollar		187.79						187.79
Bahrain	Dollar		199.80				3.96		203.76
Oman	Dollar		90.83						90.83
Jordan	Dollar		115.45						115.45
Turkey	Dollar		538.55				709.05		1,247.60
United States	Dollar				2,715.52				2,715.52
John Ullyot:									
Israel	Dollar		148.17				35.95		184.12
Syria	Dollar		207.13				17.82		224.95
Macedonia	Dollar		140.63				67.00		207.63
England	Dollar		625.24				125.14		750.38
United States	Dollar				5,138.22				5,138.22
Charles Robbins:									
England	Dollar		713.16				27.31		740.47
Belgium	Dollar		367.89						367.89
Bahrain	Dollar		139.42						139.42
Oman	Dollar		577.66		10.00		11.08		598.74
Turkey	Dollar		463.45				155.93		619.38
Greece	Dollar		166.49				2.90		169.39
Jordan	Dollar		127.12						127.12
United States	Dollar		245.65		5,544.03		107.75		5,897.43
Total			6,594.60		13,407.77		1,271.39		21,273.76

ARLEN SPECTER,
Chairman, Committee on Veterans' Affairs, Feb. 12, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Richard Shelby			3,748.00		5,007.58				8,755.58
Taylor W. Lawrence			4,600.00		5,007.58				9,607.58
Christopher Straub			1,370.00		5,827.82				7,197.82
Senator Richard Lugar			2,314.00						2,314.00
Kenneth Myers, Jr			2,431.00						2,431.00
Kenneth Myers III			2,383.00						2,383.00
Art Grant			1,690.00		4,342.55				6,032.55
Linda Taylor			1,684.00		3,859.94				5,543.94
Peter Dorn			1,684.00		4,485.36				6,169.36
Peter Cleveland			1,684.00		4,392.98				6,076.98
Christopher Straub			568.50		693.00				1,261.50
James Stinebower			858.00		693.00				1,551.00
Total			25,014.50		34,309.81				59,324.31

RICHARD SHELBY,
Chairman, Select Committee on Intelligence, Jan. 11, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Orest Deychakiwsky:									
United States	Dollar				3,597.59				3,597.59
Poland	Dollar		1,213.00						1,213.00
Belarus	Dollar		730.00						730.00
Chadwick Gore:									
United States	Dollar				5,184.09				5,184.09
Malta	Dollar		902.32						902.32
Germany	Dollar		1,187.94						1,187.94
Poland	Dollar		1,012.02						1,012.02
Robert Hand:									
United States	Dollar				1,856.34				1,856.34
Macedonia	Dollar		500.00						500.00
Janice Helwig:									
Austria	Dollar		16,693.20						16,693.20
Serbia-Montenegro	Dollar				659.00				659.00
Macedonia	Dollar				630.00				630.00
Poland	Dollar				490.00				490.00
Albania	Dollar				1,469.00				1,469.00
Norway	Dollar				960.00				960.00
Rep. Steny Hoyer:									
United States	Dollar				5,655.64				5,655.64
Norway	Dollar		229.00						229.00
Russia	Dollar		971.00						971.00
Marlene Kaufmann:									
United States	Dollar				5,655.64				5,655.64
Norway	Dollar		229.00						229.00
Russia	Dollar		971.00						971.00
Karen Lord:									
United States	Dollar				5,610.78				5,610.78
Germany	Dollar		916.00						916.00
Poland	Dollar		1,458.25						1,458.25
Ronald McNamara:									
United States	Dollar				4,198.59				4,198.59

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1998—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Poland	Dollar		1,428.00						1,428.00
Edward Wayne Merry:									
United States	Dollar				5,119.94				5,119.94
Bosnia-Herzegovina	Dollar		1,535.00						1,535.00
Croatia	Dollar		170.00						170.00
Slovakia	Dollar		900.00						900.00
Michael Ochs:									
United States	Dollar				5,644.88				5,644.88
Azerbaijan	Dollar		3,680.76						3,680.76
Turkey	Dollar		211.00						211.00
Erika Schlager:									
United States	Dollar				3,591.37				3,591.37
Slovakia	Dollar		1,080.00						1,080.00
Czech Republic	Dollar		955.00						955.00
Poland	Dollar		3,183.91		4,203.18				7,387.09
Dorothy D. Taft:									
United States	Dollar				4,982.88				4,982.88
Azerbaijan	Dollar		1,391.28		238.00				1,629.28
Turkey	Dollar		211.00						211.00
Polland	Dollar		3,094.00		2,443.20				5,537.20
Belarus	Dollar		730.00						730.00
Total			45,582.68		62.190.12				107,772.80

ALFONSE D'AMATO,
Chairman, Commission on Security
and Cooperation in Europe, Dec. 21, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FROM DEC. 10 TO DEC. 12, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Pete Domenici:									
Nicaragua	Dollar		128.00						128.00
Honduras	Dollar		100.00						100.00
Senator Bill Frist:									
Nicaragua	Dollar		167.25						167.25
Honduras	Dollar		102.00						102.00
Alice Grant:									
Nicaragua	Dollar		166.50						166.50
Honduras	Dollar		132.00						132.00
Michael Miller:									
Nicaragua	Dollar		141.50						141.50
Honduras	Dollar		132.00						132.00
Veronica Rodriguez:									
Nicaragua	Dollar		134.00						134.00
Honduras	Dollar		100.00						100.00
Elizabeth Turpen:									
Nicaragua	Dollar		115.50						115.50
Honduras	Dollar		132.00						132.00
Sally Walsh:									
Nicaragua	Dollar		109.50						109.50
Honduras	Dollar		100.00						100.00
Delegation expenses:[1]									
Nicaragua							1,479.00		1,479.00
Honduras							163.35		163.35
Total			1,760.25				1,642.35		3,402.60

[1] Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1997.

TRENT LOTT,
Majority Leader, Jan. 13, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY AND DEMOCRATIC LEADERS FROM NOV. 2 TO NOV. 13, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Chuck Hagel:									
United States	Dollar				5,337.50				5,337,50
Argentina	Dollar		1,419.00						1,419.00
Senator Bob Kerrey:									
United States	Dollar				4,710.50				4,710.50
Argentina	Dollar		1,351.00						1,351.00
Senator Mike Enzi:									
United States	Dollar				4,459.50				4,459.50
Argentina	Dollar		1,419.00						1,419.00
Kent Bonham:									
United States	Dollar				4,203.50				4,203.50
Argentina	Dollar		2,535.00						2,535.00
Kate English:									
United States	Dollar				1,217.50				1,217.50
Argentina	Dollar		2,787,00						2,787,00
Deb Fiddelke:									
United States	Dollar				4,049.50				4,049.50
Argentina	Dollar		1,791.00						1,791.00
Debra Reed:									
United States	Dollar				1,217.50				1,217.50
Argentina	Dollar		3,230.00						3,230.00
Franz Wuerfmannsdorbler:									
United States	Dollar				1,217.50				1,217.50

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY AND DEMOCRATIC LEADERS FROM NOV. 2 TO NOV. 13, 1998—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Argentina	Dollar		3,279.00						3,279.00
Delegation expenses: [1]									
Argentina							2,236.11		2,236.11
Total			17,811.00		26,413.00		2,236.11		46,460.11

[1] Delegation expenses: include direct payments and reimbursements, to the Department of State and to the Deparment of Defense udner authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179, agreed to May 25, 1977:

TRENT LOTT, Majority Leader,
TOM DASCHLE, Democratic Leader,
Dec. 23, 1998.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY AND DEMOCRATIC LEADERS FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator William Roth, Jr.:									
Poland	Zloty		728.00						728.00
Lithuania	Lita		152.00						152.00
Denmark	Krone		160.75						160.75
Senator Dale Bumpers:									
Poland	Zloty		810.00						810.00
Lithuania	Lita		228.00						228.00
Denmark	Krone		239.75						239.75
Senator John Warner:									
Poland	Zloty		288.00						288.00
Lithuania	Lita		228.00						228.00
Denmark	Krone		239.75						239.75
Senator Charles Grassley:									
Poland	Zloty		810.00						810.00
Lithuania	Lita		228.00						228.00
Denmark	Krone		239.75						239.75
Senator Barbara Mikulski:									
Poland	Zloty		810.00						810.00
Senator Daniel Akaka:									
Poland	Zloty		810.00						810.00
Lithuania	Lita		228.00						228.00
Denmark	Krone		239.75						239.75
Senator Tim Hutchinson:									
Poland	Zloty		810.00						810.00
Lithuania	Lita		228.00						228.00
Denmark	Krone		239.75						239.75
Senator Gordon Smith:									
Poland	Zloty		522.00						522.00
Lithuania	Lita		228.00						228.00
Senator Michael Enzi:									
Poland	Zloty		810.00						810.00
Lithuania	Lita		228.00						228.00
Denmark	Krone		239.75						239.75
Steve Biegun:									
Poland	Zloty		522.00						522.00
Lithuania	Lita		228.00						228.00
Ian Brzezinski:									
Poland	Zloty		810.00						810.00
Lithuania	Lita		228.00						228.00
Virginia Flynn:									
Poland	Zloty		810.00						810.00
Lithuania	Lita		228.00						228.00
Denmark	Krone		239.75						239.75
Julia Hart:									
Poland	Zloty		810.00						810.00
Lithuania	Lita		228.00						228.00
Denmark	Krone		239.75						239.75
Brian Moran:									
Poland	Zloty		660.00						660.00
Lithuania	Lita		228.00						228.00
Denmark	Krone		219.75						219.75
Delegation Expenses: [1]									
Poland							8,998.75	8,998.75	
Lithuania							2,798.74	2,798.74	
Denmark							4,123.92	4,123.92	
Total			15,196.50					15,921.23	31,117.73

[1] Delegation expenses include direct payments and reimbursements to the Department of State and the Department of Defense. Including inflight expenses, reciprocal entertainment, and stationery expenses.

TRENT LOTT, Majority Leader,
TOM DASCHLE, Democratic Leader,
Jan. 25, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY AND DEMOCRATIC LEADERS FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
A. Christopher Bryant:									
United States	Dollar				678.41				678.41
Germany	Dollar		812.95						812.95
Total			812.95		678.41				1,491.36

TRENT LOTT, Majority Leader.
TOM DASCHLE, Democratic Leader,
Feb. 24, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Robert Smith:									
United States	Dollar				6,803.00				6,803.00
Russia	Dollar		750.00						750.00
Dino Carluccio:									
United States	Dollar				5,016.00				5,016.00
Russia	Dollar		715.00						715.00
Senator Connie Mack:									
United States	Dollar				4,727.00				4,727.00
N. Ireland	Dollar		502.46				850.13		1,352.59
Ireland	Dollar		446.00				637.29		1,083.29
Gary Shiffman:									
United States	Dollar				4,727.00				4,727.00
N. Ireland	Dollar		533.00				850.13		1,383.13
Ireland	Dollar		496.00				637.28		1,133.28
Total			3,442.46		21,273.00		2,974.83		27,690.29

TRENT LOTT,
Majority Leader, Feb. 24, 1999.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE DEMOCRATIC LEADER FROM OCT. 1 TO DEC. 31, 1998

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Tom Daschle:									
United States	Dollar				5,693.37				5,693.37
Austria	Dollar						335.85		335.85
Czech Republic	Dollar						10.50		10.50
Senator Byron Dorgan:									
United States	Dollar				662.21				662.21
Austria	Dollar						335.85		335.85
Czech Republic	Dollar						10.50		10.50
Total					6,355.58		692.70		7,048.28

TOM DASCHLE,
Democratic Leader, Feb. 24, 1999.

MEASURE READ FOR THE FIRST TIME—S. 609

Mr. COCHRAN. Mr. President, I understand that S. 609, which was introduced earlier by Senator MURKOWSKI, is at the desk. I ask that it be read the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 609) to amend the Safe and Drug-Free Schools and Communities Act of 1994 to prevent the abuse of inhalants through programs under that Act, and for other purposes.

Mr. COCHRAN. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, pursuant to section 201(a)(2) of Public Law 93–344, announces on behalf of the President pro tempore of the Senate and the Speaker of the House of Representatives the joint appointment of Mr. Dan L. Crippen as Director of the Congressional Budget Office, effective February 3, 1999, for the term of office expiring on January 3, 2003.

NURSING HOME RESIDENT PROTECTION AMENDMENTS OF 1999

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 38, H.R. 540.

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

The legislative clerk read as follows:

A bill (H.R. 540) to amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the Medicaid Program.

The Senate proceeded to consider the bill.

Mr. BAYH. Mr. President, today I rise as an original co-sponsor of S. 494, the Nursing Home Resident Protection Amendments of 1999, a bipartisan bill that would protect Medicaid patients from being dumped out of nursing homes in favor of patients who pay only through private funds.

When a senior citizen enters a nursing home facility he or she does so with the intention of making it their new home. It may not have the memories or immediate comfort level of the home they are used to, but for each elderly person that must enter a nursing home, they are exchanging the feelings of familiarity connected with their old home for the security and peace of mind that only comes with constant medical attention. In the recent past, some nursing home companies took actions that jettisoned these residents from the beds of their new homes based solely on their method of payment. Those who had the economic capability to pay with private funds were allowed to remain in the facility while those that needed governmental assistance in payment, paying with Medicaid dollars, were told to leave.

The eviction is not just a matter of the inconvenience of finding a new home, it is a matter of life and death. Studies show that death rates among nursing home patients who are transferred or evicted is two to three times higher than normal.

In some circumstances people were left without any real ''home'' to go to. Someone's method of payment should not determine whether or not they can continue to live in their new community or receive necessary medical attention. Once a facility has decided to accept a resident they should not be able to remove them based on whether they pay with private dollars or Medicaid. That is discrimination. Therefore, I decided to co-sponsor this bill and join the efforts of Senator BOB GRAHAM and others to prevent this discriminatory and traumatizing event from happening to even one more person.

I fully agree that the nursing home industry is a vital element in the continuum of care available to the elderly, and that a balance must be struck between encouraging private operators to

make the investment necessary to operate these vital facilities and protecting patients and their families from unfair treatment. The reality is that nursing homes are a business and it must be economically feasible for them to operate. However, once a nursing home accepts a patient they should fulfill their promise and allow the patient to remain a part of the nursing home community regardless of payment status.

This issue is of particular concern to me since Indiana seniors experienced this unfair treatment. Approximately sixty elderly patients from one nursing home facility in Indiana, Wildwood, were told to leave because of their method of payment. In some cases, after they had worked hard to save for their future and were forced to spend every dollar to support themselves in the nursing home. Even spending every dollar they saved did not ensure them security since, once that money was depleted and they received government assistance, they were told their money was not good enough to keep them in the facility.

Robyn Grant was the Indiana State Long-Term care Ombudsman for eight years. She recently testified on behalf of the National Citizens' Coalition for Nursing Home Reform before the House Subcommittee on Health and Environment in regard to this issue. Ms. Grant relayed the letter of a daughter of a resident who was evicted because they were paying with Medicaid. That woman wrote that ''You have destroyed lives and emotions and torn apart families. Yes, many of these people though not blood related, considered their companions and friends as family. Your facility was their home. Physical and emotional health was gravely endangered by the insensitive actions of the nursing home company.''

Current law must be changed so there is no propensity for seniors to be torn apart from their newly found families in the future.

Nursing homes should have the ability to chose what payment programs in which they will participate. However, if a facility decides to accept Medicaid patients, they must uphold the promise they made to those seniors. This bill would prevent a nursing home that decides to withdraw from the Medicaid program from evicting residents who were accepted prior to the facility's withdrawal. In addition, if a facility is a private-pay only, it would be required to notify the resident upon her entrance to the facility that she could be evicted after her private funds were exhausted. The Nursing Home Resident Protection Amendments of 1999 would protect the 68% of nursing home residents who rely on Medicaid at some point during their stay. This bill will not cost anything, but will have a significant positive impact on the lives of seniors faced with the need to enter a nursing home.

We owe it to all our citizens to keep them informed and protected from discriminatory practices. This bill does that and I urge my colleagues to join us in turning this legislation into law.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 540) was considered read the third time and passed.

ORDERS FOR TUESDAY, MARCH 16, 1999

Mr. COCHRAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 a.m. on Tuesday, March 16. I further ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved and the Senate then begin consideration of a resolution commending Senator KERREY on the 30th anniversary of the events leading to his receiving the Congressional Medal of Honor.

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

Mr. COCHRAN. I ask unanimous consent that the Kerrey resolution be considered under a 1-hour time limitation, divided between Senators HAGEL and EDWARDS, and that there be no amendments in order to the resolution or preamble.

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

Mr. COCHRAN. I further ask unanimous consent that at 11:30 a.m., the Senate resume consideration of S. 257, the missile defense bill, under the provisions of the unanimous consent agreement reached earlier today.

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

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate stand in recess for the weekly party conferences to meet between the hours of 12:30 p.m. and 2:15 p.m. on Tuesday.

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

PROGRAM

Mr. COCHRAN. Mr. President, for the information of all Senators, the Senate will reconvene on Tuesday at 10:30 a.m. and begin 1 hour of debate on a resolution commending Senator KERREY of Nebraska. Following that debate, at 11:30 a.m., the Senate will resume consideration of the missile defense bill with a Cochran amendment pending regarding clarification of funding. Under the previous order, there will be 1 hour for debate on the amendment equally divided between the chairman and ranking member or their designees. The Senate will recess from 12:30 p.m. until 2:15 p.m. for the weekly party luncheons, and immediately upon reconvening at 2:15 p.m. will proceed to a vote on or in relation to the Cochran amendment. Further rollcall votes are expected throughout tomorrow's session in relation to the missile defense bill in the hope of making progress on this important legislation.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. COCHRAN. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:33 p.m., adjourned until Tuesday, March 16, 1999, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 15, 1999:

DEPARTMENT OF JUSTICE

RAYMOND C. FISHER, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE DAVID R. THOMPSON, RETIRED.

ADALBERTO JOSE JORDAN, OF FLORIDA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA, VICE LENORE CARRERO NESBITT, RETIRED.