What are the options? There are several that are fairly obvious, some of which are not particularly popular. A tax increase: We already pay 12.5 percent of what we make into Social Security. That is a rather high percentage. For many people that is the largest tax they pay. So tax increases are not particularly a good option.

We could cut benefits. I do not think people generally want to cut benefits. There may be some changes made in benefits because people are living longer and there are changes in our lives.

The third alternative is one which I think probably has the most appeal, and that is to get a higher rate of return on the money we are putting into Social Security and have been putting into it for some time. That is the part of the bill we have introduced.

It is a bicameral, bipartisan bill that enhances the program through private accounts. It will take a portion of the money you and I put into Social Security—I believe it is about 2 percent of the 12.5 percent—and that becomes a personal account for each person. It can be invested then at the direction of that account owner. It can be invested in equities, stocks, it can be invested in bonds, or it can be invested in a combination of those things. It will be invested by a private investor such as the Federal employees program is now. You will have a broad choice. The owners will not be doing the investing, but they will be choosing the kinds of investment they want.

This can then accumulate as a nest egg for the owner. If the owner is unfortunate not to live long enough to receive the benefits that will accrue to his or her estate, it will be the owner's.

We have been talking a lot about a safety box, some way to take the money that comes in to Social Security and ensure it is used for that purpose and not spent for some other purpose or not loaned to the general fund. This probably and certainly is the best way to do that.

I make the point that we are not looking at total privatization. Some people accuse us of that. That is not the case. It is a partial privatization. It puts money in so it can earn more than it has earned in the past. As most people understand, excess in the trust funds now has to be invested in Government securities. It has a relatively lower return, lower than if you and I invested those securities. This is a change for improvement.

We need to work on the lockbox. We tried five times to pass the lockbox legislation to have some way to ensure Social Security funds coming in are not expended for other things, and that they are, indeed, kept for the purpose of maintaining and strengthening Social Security. That is what we want to do.

There are some other good features of the plan. It is more progressive. It guarantees larger benefits for low-income workers. It increases widow benefits, which has been unfair in the past. It repeals earnings limitations, if you are a beneficiary and choose to continue to work. In, in fact, there are several incentives for continuing to work. Since people are living longer and are healthier, there is more reason and opportunity and willingness to work.

This bill is designed to protect current retirees. Current beneficiaries will not be affected by the changes. It is aimed primarily at young people who are beginning to pay into the program. Almost all young people 20 years old say: We probably won't get anything out of this; all we will do is pay. That is very unfair, and we can change that.

There is a great deal of talk about doing something with Social Security, but, frankly, the administration and our friends on the other side generally have not come up with a plan. Now we have a bipartisan plan which is before the Senate. We can do something that will make the changes we propose to make and which are good for the American people.

Mr. President, I yield the floor.

Mr. GRASSLEY addressed the Chair.

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

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 1390 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. I yield the floor and suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, what is the pending business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business now closed.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2000—MOTION TO PROCEED

The PRESIDING OFFICER. The Senate will now resume consideration of the motion to proceed to H.R. 1555, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the consideration of a bill (H.R. 1555) to authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

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

Mr. DOMENICI. Mr. President, frankly, this is a very important debate that starts today on a very important bill, H.R. 1555, and there is a very important amendment that we will allude to and talk about this afternoon with reference to reorganizing the Department of Energy in ways that have been suggested by many in order to minimize security risks in the future and maximize the efficiency and effectiveness of the department of the Department of Energy that works on the nuclear weapons installations, facilities, and research within that department.

I note the presence of Senator LEVIN on the floor, and I want to be as accommodating as he would like in terms of his using time. I am prepared to speak a lot today about history and the like, but whenever he is ready, I will be glad to yield to him.

I am going to start today's debate by inserting into the RECORD a June 30, 1999, column from the Wall Street Journal, written by Paul C. Light. He is a senior fellow at the Brookings Institute and the author of "The True Size of Government," Brookings, 1999.

I ask unanimous consent that that article be printed in the RECORD.

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

LOOSE LIPS AND BLOATED BUREAUCRACIES

How can Washington prevent future security breaches like the one at the Los Alamos nuclear laboratory? Last week former Sen. Warren Rudman, chairman of the President's Foreign Intelligence Advisory Board and head of a special investigating panel, recommended a "new semi-autonomous agency" within the Department of Energy that would have "a clear mission, streamlined bureaucracy and drastically simplified lines of authority and accountability."

Mr. Rudman is right to focus on the structure of the department, not the failures of one or two key bureaucrats. For the Energy Department has never had more layers of management than it does now—and its leadership has never been more disconnected from what is happening at its bottom. Secretary Bill Richardson last week appointed a security "czar," Gen. Eugene Habiger, to serve as the fulcrum for a newly rationalized chain of command. But the czar may merely add one more layer to a meandering, mostly unlinked collection of overseers who can easily evade responsibility when things go wrong.

At the department's founding in 1979, its secretary, deputy secretary, undersecretary and assistant secretary "compartments" contained 10 layers and 56 senior executives. By 1998 those four compartments had thickened to 18 layers and 143 senior executives, including an assortment of chiefs of staff and other alter-ego deputies who fill in whenever their bosses are out.

The problem in such overlayered, top-heavy organizations is not a lack of information on possible wrongdoing. Lots of people knew about the vulnerabilities at Los Alamos. The problem is finding someone who is

ultimately responsible for taking action. Which department executive does Congress hold accountable for the security breach? The secretary? His chief of staff? One of the two deputy chiefs of staff? The deputy secretary? Undersecretary? Assistant secretary for defense programs? For environmental management? For science? How about the principal deputy assistant secretary for military applications? Deputy assistant secretary for research and development? Defense laboratories office director? Perhaps the assistant secretary for strategic computing and simulation? Or the inspector general, deputy inspector general, or assistant inspector general?

The answer is everyone and no one. And the diffusion of accountability continues down into the University of California, the contractor that supervises the Los Alamos laboratory and three other DOE facilities. Whom does the federal government hold accountable at the university? The president? The senior vice president for business and finance? Vice president for financial management? Associate vice president for human resources and benefits? Assistant vice president for laboratory administration? The executive director for laboratory operations? Director of contracts management? The manager for facilities management and safeguards and security?

No wonder it takes a crisis to focus attention. With 15 to 25 layers just to get from the top of the department to the top of Los Alamos, information is bound to get lost along the way, and no one is accountable when it does.

The Department of Energy is hardly alone in such senior-level thickening. Forced by repeated hiring freezes to choose between protecting the bottom of government and bulking up its middle and top, federal departments and agencies have mostly sacrificed the bottom. In 1997, for the first time in civil service history, middle level employees outnumbered bottom-level ones. Nearly 200,000 senior and middle-level managers have retired from government in the past few years, and almost everyone next in line has been promoted—all at a cost of $3 billion in voluntary buyouts for what turned out to be a big retirement party with no effect on the basic structure of government.

Some of the lower-level jobs have disappeared forever with the arrival of time-saving technologies. Others have migrated upward into the middle-level ranks as professional and technical employees have added lower-level tasks to their higher-paid duties. Still others have migrated into the federal government's contract workforce which numbered some 5.6 million employees in 1996.

Meanwhile, the top of government has grown ever taller. From 1993 to 1998, federal departments created 16 new senior-level titles including principal assistant deputy undersecretary, associate deputy assistant secretary, chief of staff to the under secretary, assistant chief of staff to the administrator, chief of staff to the assistant administrator and—lets not forget—deputy to the deputy secretary.

Spies will be spies, and the Los Alamos espionage probably would have occurred regardless of the width or height of the government hierarchy. But the breach would have been noticed earlier and closed sooner had the top been closer to the bottom. If Congress wants to increase the odds that nuclear secrets will be kept in the future, it could do no better than to order a wholesale flattening of the Energy Department hierarchy. Then it should do the same with the rest of the federal government.

Mr. DOMENICI. Mr. President, I want to talk a little bit about what Mr. Light discusses in this column on the 30th day of June, 1999, and set it a bit in perspective. As Senators and those listening today might recall, starting about 3 months before this article written by Paul C. Light appeared in the Wall Street Journal, word broke through the media in the United States of the possibility that the People's Republic of China had, in fact, breached security at Los Alamos National Laboratory and, indeed, they may have some of the most significant and profound secrets with reference to our nuclear weaponry in their possession. That broke in the New York Times in a series of articles, and thereafter it was in the headlines and on the front pages of our papers for 3 or 4 weeks. Now it seems to have dwindled a bit because Congress and the executive branch are working on what we ought to do about it.

Frankly, one of the purposes for my being on the floor today and tomorrow and for as many days as it takes until we can take up the intelligence bill, H.R. 1555, which I have little to do with because I am not on that committee, is an amendment that would permit us to organize within the Department of Energy that aspect of the Department of Energy's work that has to do with nuclear weapons.

The reason that is important is because the American people should not be misled, nor should we let this issue go to sleep. The issue is a serious one. The issue of who develops and protects our nuclear weapons, and are they doing it in the best possible way, should be front and center with the American people because if, in fact, the security was breached to the extent that the Cox committee report had—that is a House Member's name; he was chairman of a joint committee in the House that prepared a report commonly known as the Cox report. If it is as bad as he and other House Members say in that report, and as bad as some others who have reported on it say, then clearly we are at risk that the Communist Chinese has sufficient information to develop, over time, a very significant arsenal of nuclear weapons.

Coupled with the fact that they are moving rapidly with respect to delivery systems, then clearly in the next millennium we will have a new adversary in the world. It will no longer necessarily be Russia as a successor to the weapons systems and delivery systems—the U.S.S.R.—but, essentially, we may have both Russia and China with substantial nuclear weapons. We may feel secure with our Air Force and our Navy and with our Army, as we have had these skirmishes in the past 3 to 5 years, but we will still be looking at a very dangerous world.

As a matter of fact, it may be the only single source of real power and military might that Russia might have for the first 50 or 100 years in the next millennium. And that is enough for a country that is not doing very well to be a bit dangerous. It is certainly enough for the world to be dangerous and America to be in danger and fearful if the Chinese Communist regime has a determined and dedicated and significant nuclear arsenal.

With that as a background, and with many hearings in both bodies—some joint, some singular by different committees—over the weeks since this was first broken, we have heard all kinds of evidence about how this happened—some of it in secret, some of it public. As a Senator from New Mexico, I have had to learn about nuclear weapons because two of the laboratories are in my State, and I happen to be chairman of the committee that funds all of the Department of Energy. I have said that there is so much that went wrong that there is plenty of blame for everyone. This is not exclusively a problem that occurred within that laboratory at Los Alamos. It is not exclusively a problem that something happened within the Department of Energy. It is not totally dispositive of this issue to stand on the floor of the Senate and say the FBI didn't do their job right—which they didn't. The problem is, it was a comedy of errors. Everybody seems to have messed up on this one.

Frankly, it seems that enough time has passed for us to be on the verge of fixing it, and so let's talk a minute about how we are going to fix it, and then I will read excerpts from the article that I asked be printed. First of all, there is no question that we received a formidable report from the PFIAB Commission, which is made up of five members. It is a presidentially appointed group.

The President did something different about this one than in the past in that he asked them to do the report and to plan to release it to the public. They did. It was released to the public, and its principal spokesman and chairman was the very distinguished former Senator from New Hampshire, Mr. Rudman.

We will talk at length about what they recommended. But suffice it to say they found that the management structure within the Department of Energy was in such a state of chaos that it could not control, in the form and manner that it existed over these past years, the security of valuable secrets and information within the laboratories; that it was incapable of doing it because it was disorganized, or organized in a manner where there was no accountability. So that if you wanted to blame the FBI for something that happened out of their Santa Fe, NM, office, they could clearly, if they chose, say: Yes, but somebody else fell down on the job.

If you asked the Director of the laboratories, he would say: Nobody ever

told me about it. Nobody brought me on board. I thought since they were doing an investigation of an individual that they were in charge of the investigation, and I didn't have anything to do with it.

There are many examples, real and anecdotal, that say the Department of Energy is incapable of maintaining within its current framework of management such a significant system as the nuclear weapons system of the United States of America.

Frankly, it pains me to come to the floor and say that I have arrived at that conclusion unequivocally. And it pains me to say that I arrived at it some time ago. As a matter of fact, there will be a big argument made that we should move slowly.

I would like in due course, if not today, tomorrow, to outline why the time has come to fix it in the manner recommended by the Rudman commission, which is a Presidential commission. How much more time do we need?

I will tell the Senate that 2 to 3 weeks before the Rudman report was issued, this Senator from New Mexico was busy working with Senators developing the exact same model that the Rudman commission ultimately recommended to the Congress and the President of the United States for restructure, in a formidable way with significant changes, of the entire apparatus that functions within DOE and produces for us safe, sound, and reliable nuclear weapons and that has all of the ancillary functions which are related to that.

Having said that, it was not just yesterday that there were recommendations that the Department of Energy was straining under its own bureaucracy and that the nuclear weapons laboratories were victims of it. In fact, we will allude to at least two prior reports and recommendations to that of the Rudman commission by which clearly we are sending a loud and clear signal: Fix it. It is not working. It is the risky way you have it done.

I would add, it is not only risky as to security, but let me suggest there is a substantial lack of efficiency and the ability to manage the nuclear weapons system adequately and frugally to get the very best we should have. It is almost an impossibility within the structure of the Department of Energy, a hybrid department made up of many different agencies and groups thrown together in a haphazard way. And then we expect the nuclear weapons part of it to function under the overload of management, rules, and regulations that apply across the board to any kind of function within the Department, some so removed from nuclear weaponry that you wouldn't even think of them being in the same personnel department, in the same environmental department, or in the same safety and health departments.

With that, let me move to the Wall Street Journal article and paint a little history along with this writer, Mr. Light.

He starts by saying:

> How can Washington prevent future security breaches like the one at the Los Alamos nuclear laboratory? Last week former Sen. Warren Rudman, chairman of the President's Foreign Intelligence Advisory Board and a head of a special investigating panel, recommended a ''new semiautonomous agency'' within the Department of Energy that would have ''a clear mission, streamlined bureaucracy and drastically simplified lines of authority and accountability.''
>
> Mr. Rudman is right to focus on the structure of the department, not the failures of one or two key bureaucrats. For the Energy Department has never had more layers of management than it does now—and its leadership has never been more disconnected from what is happening at its bottom.
>
> Secretary Bill Richardson, last week appointed a security ''czar,'' Gen. Eugene Habiger, to serve as the fulcrum for a newly rationalized chain of command. But the czar may merely add one more layer to a meandering, mostly unlinked collection of overseers who can easily evade responsibility when things go wrong.

I could not say it any better.

Continuing on:

> At the department's founding in 1979, its secretary, deputy secretary, undersecretary and assistant secretary ''compartments'' contained 10 layers and 56 senior executives. By 1998 those four compartments had thickened to 18 layers and 143 senior executives, including an assortment of chiefs of staff and other alter-ego deputies who fill in whenever their bosses are out.
>
> The problem in such overlayered, top-heavy organizations is not a lack of information on possible wrongdoing. Lots of people knew about the vulnerabilities at Los Alamos. The problem is finding someone who is ultimately responsible for taking action. Which department executive does Congress hold accountable for the security breach? The secretary? His chief of staff? One of the two deputy chiefs of staff? The deputy secretary? Undersecretary? Assistant secretary for defense programs? For environmental management? For science? How about the principal deputy assistant secretary for military applications? Deputy assistant secretary for research and development? Defense laboratories office director? Perhaps the assistant secretary for strategic computing and simulation? Or the inspector general, deputy inspector general, or assistant inspector general?
>
> The answer is everyone and no one. And the diffusion of accountability continues down into the University of California, the contractor that supervises the Los Alamos laboratory and three other DOE facilities. Whom does the federal government hold accountable at the university? The president? The senior vice president for business and finance? Vice president for financial management?

And on it goes. I will jump down in the article to another full quote:

> No wonder it takes a crisis to focus attention. With 15 to 25 layers just to get from the top of the department to the top of Los Alamos, information is bound to get lost along the way, and no one is accountable when it does.

I am going to skip a little bit of the article and move down to the end of it with another quote. I will insert it with the underline parts being that which I read.

> Spies will be spies, and the Los Alamos espionage probably would have occurred regardless of the width or height of the government hierarchy. But the breach would have been noticed earlier and closed sooner had the top been closer to the bottom. If Congress wants to increase the odds that nuclear secrets will be kept in the future, it could do no better than to order a wholesale flattening of the Energy Department hierarchy. Then it should do the same with the rest of the federal government.

The reason I read excerpts from the article is that it is quite obvious to me this man has his finger right on the problem.

Let me now proceed to a discussion of the latest thorough investigation of the Department of Energy and its mission as the primary functionary in nuclear weapons from research to security to safekeeping, et cetera. Let me move to the latest thorough report, and then we will go back to some others that existed prior thereto.

I don't know that I want to make this report a part of the RECORD, but everybody should know if they want to read what has been said by the latest contingent of reputable, dedicated, knowledgeable Americans, I am reading from ''Science at its Best, Security at its Worst,'' a report on security problems of the U.S. Department of Energy by a special investigative panel, the President's Foreign Intelligence Advisory Board, of June 1999.

There are plenty of these reports around for anybody who wants to participate in this discussion. We will make them available. We will see that some are in the Cloakroom for people who might want to review them. I will talk a little bit about the significance of this report and why I think the time has come to adopt its principal recommendations.

For those who wonder what we are trying to do, obviously, we had to draw from a lot of people to do what was recommended in this report. While Members may not find every word of the extensive amendment I will soon allude to in detail within this report, let me repeat, for anybody interested in the security of the weapons laboratories and the nuclear weapons activity of our Nation, the amendment we are trying to call up as part of H.R. 1555 is the recommendations from this report.

Let's get in the RECORD what this report is. This report is the result of a March 18, 1999, President Clinton request that the President's Foreign Intelligence Advisory Board, commonly known as PFIAB, undertake an inquiry and issue a report on ''The security threat at the Department of Energy's weapons lab and the adequacy of measures that have been taken to address it.''

I will read the names of the board members and make sure the Senate

and everybody knows who they are: The Honorable Warren B. Rudman, chairman; appointed members are Ms. Ann Z. Caracristi, Dr. Sydney Drell, Mr. Stephen Friedman, to form the special investigative panel. They are the members. They were given detailees from several Federal agencies, including CIA, FBI, DOD, to augment the work of the staff. They spent 3 months interviewing 100 witnesses, received more than 700 documents encompassing thousands of pages, and conducted on-site research and interviews at five of the Department's National Laboratories and plants: Sandia National Lab, Pantex in Texas, Oak Ridge in Tennessee, Livermore in California, and Los Alamos in New Mexico.

This report and an appendix that supports it, both of which are unclassified, are now before the Senate. A large volume of classified material which was also reviewed and distilled for this report has been relegated to a second appendix and is authorized for special kinds of authorized recipients.

This report examines the 20-year history—which I just alluded to in reading the excellent article by Mr. Light—of security and counterintelligence issues at the laboratories, with an issue on five laboratories that focus on weapons and related weapons research. It looked at the inherent tensions between security concerns and scientific freedom at the laboratories. In effect, they looked at the institutional culture and efficacy of the Department. They looked at the growth and evolution of foreign intelligence and the threat thereafter to the National Laboratories, particularly in connection with foreign visitors programs, the implementation of effective Presidential Decision Directive No. 61, the reforms instituted by the Secretary, and other related initiatives.

At some point in time within the last 5 or 6 months when it started to evolve that, in fact, there could have been a very serious, significant, prolonged, and persistent breach at Los Alamos, the President of the United States—and others might argue that the timeliness of the President's actions is an issue. I am not sure that I will argue that point. My point in what I will discuss today and tomorrow, and for however long it takes to get this bill up and get this amendment considered, is going to be discussing how we fix what is wrong with this Department of Energy as it relates to nuclear weapons and how we do it now—not 6 months from now, not a year from now, but now.

Eventually, the President issued a Presidential decision directive which is called No. 61. Now, that suggested in no uncertain terms that some things be changed in the Department, and changed forthwith. However, those were things the Department could do without any legislation. They preceded the thorough recommendations that were made by the Rudman commission. Then it included additional measures to improve security and counterintelligence.

I ask unanimous consent to have printed in the RECORD the page of the abstract of the Rudman report, with the panel of members and the staff.

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

PANEL MEMBERS

The Honorable Warren B. Rudman, Chairman of the President's Foreign Intelligence Advisory Board. Senator Rudman is a partner in the law firm of Paul, Weiss, Rifkind, Wharton, and Garrison. From 1980 to 1992, he served in the U.S. Senate, where he was a member of the Select Committee on Intelligence. Previously, he was Attorney General of New Hampshire.

Ms. Ann Z. Caracristi, board member. Ms. Caracristi, of Washington, DC, is a former Deputy Director of the National Security Agency, where she served in a variety of senior management positions over a 40-year career. She is currently a member of the DCI/Secretary of Defense Joint Security Commission and recently chaired a DCI Task Force on intelligence training. She was a member of the Aspin/Brown Commission on the Roles and Capabilities of the Intelligence Community.

Dr. Sidney D. Drell, board member. Dr. Drell, of Stanford, California is an Emeritus Professor of Theoretical Physics and a Senior Fellow at the Hoover Institution. He has served as a scientific consultant and advisor to several congressional committees, The White House, DOE, DOD, and the CIA. He is a member of the National Academy of Sciences and a past President of the American Physical Society.

Mr. Stephen Friedman, board member. Mr. Friedman is Chairman of the Board of Trustees of Columbia University and a former Chairman of Goldman, Sachs, & Co. He was a member of the Aspin/Brown Commission on the Roles and Capabilities of the Intelligence Community and the Jeremiah Panel on the National Reconnaissance Office.

PFIAB STAFF

Randy W. Deitering, *Executive Director*.
Mark F. Moynihan, *Assistant Director*.
Roosevelt A. Roy, *Administrative Officer*.
Frank W. Fountain, *Assistant Director and Counsel*.
Brendan G. Melley, *Assistant Director*.
Jane E. Baker, *Research/Administrative Officer*.

PFIAB ADJUNCT STAFF

Roy B., *Defense Intelligence Agency*.
Karen DeSpiegelaere, *Federal Bureau of Investigation*.
Jerry L., *Central Intelligence Agency*.
Christine V., *Central Intelligence Agency*.
David W. Swindle, *Department of Defense, Naval Criminal Investigative Service*.
Joseph S. O'Keefe, *Department of Defense, Office of the Secretary of Defense*.

Mr. DOMENICI. I note the presence of the cochairman of the committee that actually has jurisdiction and is in control of the bill, H.R. 1555, Senator BOB KERREY of Nebraska.

I say to the Senator what I said to one of his staff members who was on the floor. Whenever the Senator is ready, I will relinquish the floor and yield. I am prepared to speak today and tomorrow and however long is necessary until we all get together and get the bill up and get the amendment to it called up. I am not here today to keep others from speaking. My responsibility with reference to the amendment which we propose is to start talking about the significance of it and of the Rudman report to the future security prospects for our nuclear resource development by the Department of Energy.

I started on that report of your good friend and mine, Senator Rudman. This is not a bad breaking point for me if the Senator desires to speak.

Mr. KERREY. I have a unanimous consent request, and then I am pleased to let the Senator continue.

PRIVILEGE OF THE FLOOR

Mr. KERREY. Mr. President, on behalf of Senator BIDEN, I ask unanimous consent that the privilege of the floor be granted to David Auerswald, an American Political Science fellow on the Democratic staff of the Foreign Relations Committee, during the pendency of H.R. 1555, to authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities for the United States Government.

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

Mr. DOMENICI. Mr. President, what I want to do, in the presence of my friend, is recap. I heretofore, I say to the Senator from Nebraska, made the point of why we need some dramatic, drastic, and significant reform of the Department of Energy as it applies to nuclear weaponry in all its context. I have indicated there are a number of reports that point in the direction of doing something very different, not just some new boxes in the Department.

I said I would start with a review of the Rudman report as to what they recommend, because the amendment I will be proposing and of which Senator KERREY is a cosponsor is our best effort to incorporate into the bill language the Rudman recommendations. We are not inventing something new, although some of us were on that trail before the Rudman report. It is essentially an effort to convert these recommendations, of which my colleagues are fully aware, to a bill, and that legislation will be presented when we are on the bill. We do not know when that time will come. We are now on a motion to proceed to that bill.

Let me now, in my own way, talk a bit about the Rudman report. The Senate is now fully aware of who the commissioners are, what their origins are, and the fact that this is the first such report that has been made public. In the past, Presidents have used them, but they have not made them public. The President asked from the outset that this report be made public. That was prudent because we were in such a

state of confusion and chaos regarding how much of our future security was actually stolen. This was a good way to say some people are recommending ways to fix it. It is public.

Let me state to the Senate, and those interested, some of the significant findings of this report. Remember, the reason the report is significant is not because it is the only report of its type, but it is the last one recommending drastic change. These findings I am going to be talking about are in support of the bill we want to introduce, because they are in support of the Rudman commission's recommendations.

Findings found at pages 1 through 6—I am going to pick out the ones I think most adequately present the issue and the reasons for doing something.

No. 1, from my standpoint:

> More than 25 years worth of reports, studies and formal inquiries—by executive branch agencies, Congress, independent panels and even the DOE itself—have identified a multitude of chronic security and counterintelligence problems at all the weapons labs.

I give this fact at the outset because I am very concerned there still will be some in the public, at the laboratories and in the Senate, who will say we need more time. Remember, the finding I just stated was that for 25 years there have been reports, studies, and inquiries that addressed the issues in this amendment we want to call up on the bill.

No. 2:

> Organizational disarray, managerial neglect, and a culture of arrogance—both at DOE headquarters and at the labs themselves—conspired to create an espionage scandal waiting to happen.

Those are not my words. I might have phrased it differently. Essentially, in the amendment we want to call up, we are also trying to change the organizational disarray. We are trying to change it so that managerial neglect will be harder to be vested in this part of the DOE. We are addressing the culture, but we are not destroying the actual necessary component within these laboratories of freedom for scientists. But freedom is not absolute for scientists who work on nuclear weapons. We want to give them as much freedom as is consistent with minimizing security risks, and that means there has to be pushed through management a change in the culture without changing the scientific excellence.

> . . . DOE headquarters and at the labs themselves—conspired to create an espionage scandal waiting to happen.

The way it is phrased one would think they were doing something intentional in that regard. I would not have used ''conspired.'' It happened that way because of the way it is managed and the way the culture has developed.

Let me move down to another couple I think are very important:

> DOE has a dysfunctional management structure and culture that only occasionally gave proper credence to the need for rigorous security and counterintelligence programs at the weapons laboratories. For starters, there has been a persistent lack of real leadership and effective management of the DOE.

They also factually concluded that the Department—and this is very important—is a dysfunctional bureaucracy that has proven it is incapable of reforming itself. Why do I pull that one out? Because we are hearing that we do not need to do everything this report recommends because the Secretary is going to do it. As a matter of fact, the Secretary is a friend of mine. He is from my State. He served in the House and I in the Senate, and I have great respect for what he did. He has done more in the Department in the past few months than anybody we have had around in terms of seeing that it is really risky and things are dangerous there; we have to get on with fixing them.

The point is, the Rudman commission said the Department's bureaucracy is so dysfunctional that it cannot reform itself. For those who will come to the Chamber either in opposition to the amendment or indicating we should go slowly because the Secretary is doing some things, I will keep reading them this statement.

This is not our statement. This is the statement of five of the best people around appointed by the President of the United States to tell us how to fix this. In fact, I will tell you one of them, Dr. Drell, would be picked by anyone on any five-member commission that was going to survey and recommend how we should handle nuclear weapons within our bureaucracy better.

He is on this, and he agrees. They are saying the Secretary cannot fix it because the bureaucracy is so rambunctious, so overlapping, so inconsistent that it cannot fix itself.

Last:

> Reorganization is clearly warranted to resolve the many specific problems with security and counterintelligence in the . . . laboratories, but also to address the lack of accountability that has become endemic throughout the entire Department.

I am going to move to a couple more facts. We all know—no, we do not all know; some of us know because we have been around here long enough—that we can look at who have been the Secretaries of Energy over time, and the Rudman report has something to say about that.

This is a complicated Department, but if you know anything about it, it runs all the nuclear weapons activities in the country. For starters, one would think: Boy, we ought to put somebody in who knows a little bit about that.

The report says:

> The criteria for the selection of Energy Secretaries have been inconsistent in the past. Regardless of the outcome of ongoing or contemplated reforms, the minimum qualifications for Energy Secretary should include experience in not only energy and scientific issues, but national security and intelligence issues. . . .

I am not going to list the Secretaries in the last 30 years since the DOE was formed, and prior to it ERDA, but I am going to merely say there have not been very many Presidents who gave serious consideration to who should be the Secretary in the same context that the five-member commission looked at what should be the qualifications.

There will still be some who will say: Well, look, we have a Secretary who is trying. This has just come upon us. Let's go a little slower.

The Rudman commission made another finding, and it is the following:

> However, the Board is extremely skeptical that any reform effort, no matter how well-intentioned, well-designed, and effectively applied, will gain more than a toehold at DOE, given its labyrinthine management structure, fractious and arrogant culture, and the fast-approaching reality of another transition in DOE leadership. Thus we believe that he has overstated the case when he asserts, as he did several weeks ago, that ''Americans can be reassured; our nation's nuclear secrets are, today, safe and secure.''

That is an allusion to a statement by our Secretary of Energy. I take it Secretaries have tried to tell us they are doing everything they can within the structure they have and that we are moving in the direction of making things safe.

This board—I frequently call it a commission—the Rudman board, has taken a look at that statement versus what they think you can do in that Department, and they have concluded that things are still kind of at risk.

I note today, in the presence of the press the new securities czar, the distinguished four-star general who was appointed, is saying: We're working on it, but it is at least a year away in terms of having something in place. I note that is in the news today.

What did this distinguished board—sometimes referred to in my remarks as commission—actually recommend by way of reorganizations? I want everyone to know I am going to repeat that there are other reports, prior to this, that recommended dramatic changes within the Department, and I have not yet alluded to them. I am only talking about the Rudman recommendations.

They suggest that:

> The panel is convinced that real and lasting security and counterintelligence reform at the weapons labs is simply unworkable within DOE's current structure and culture. To achieve the kind of protection that these sensitive labs must have, they and their functions must have their own autonomous operational structure free of all the other obligations imposed by [the department].

In order to do that, they say it can be done in one of two ways.

> It could remain an element of DOE but become semi-autonomous—by that we mean

strictly segregated from the rest of the Department. This would be accomplished by having an agency director report only to the Secretary of Energy. The agency directorship also could be ''dual-hatted'' as an Under Secretary, thereby investing [him] with extra bureaucratic clout both inside and outside the department.

They go on to say:

Regardless of the mold in which this agency is cast, it must have staffing and support functions that are autonomous from the remaining operations at DOE.

Essentially, when you read the recommendations, the most significant words are their functions must have their own autonomous operational structure free of all other obligations imposed by DOE management.

You get that one of two ways. You get it semiautonomously—which I have just read—or you can take it out of the Department of Energy in toto, stand it free, i.e., NASA. They have suggested those are the two ways.

Those of us who have been involved for years think that we ought to start by trying to convince the Senate and House that we should make it semiautonomous, leaving it within the DOE, for a number of reasons, and only if all fails should we go the other route.

This Senator is very concerned about the laboratories that make us so strong and contribute so much to our science effectiveness in the world, that they remain the very best. I would not, for a minute, be talking about restructuring if I did not think those laboratories could continue to do work for others, work for other agencies, and work for the Department of Defense and nuclear weapons. I believe they can and they will. I believe they will, under the amendment about which we are talking.

So while there is much more to talk about, in summary, H.R. 1555, which is the annual intelligence authorization bill, the sooner we can get it up on the Senate floor, the sooner we can bring up this amendment, the Kyl-Domenici-Murkowski, et al. amendment, which has every chairman of every committee who is involved in this as cosponsors, along with a number of other Senators, and the distinguished Senator from Nebraska, who is here on the floor with us, Senator KERREY, and Senator FEINSTEIN of California. As soon as we can start debating it—obviously, we are willing to listen; we do not claim that every ''t'' is crossed right and every ''I'' is in the proper place, but we believe the format to accomplish what the Rudman five-member board recommended is within the four corners of that amendment, and that is what we ought to be looking at now in the next few days to get it done.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Nebraska.

Mr. KERREY. Mr. President, the Senator from New Mexico has done a very good job of outlining an urgent need to change our law governing the Department of Energy. I have high praise for him and Senators WARNER, MURKOWSKI, KYL, and, on our side, Senators LEVIN, BINGAMAN, and LIEBERMAN, who have worked to try to fashion a piece of legislation, a law that will balance our need for secrecy and our need for security.

I appreciate very much, I say to the Senator, his leadership on this and the sense of urgency that he has brought to the need to change our law. My hope is that we, at the end of the day, at the end of this debate—I do not think there is going to be very much objection to moving to this bill—my hope is that we can get a very large majority, if not a unanimous vote in support.

I know the Senator from Michigan, Mr. LEVIN, has some amendments he wants to offer. He has talked to me a little bit about them. We will have a chance to talk about those, I guess, tomorrow when we come to it.

But there is no question that the laboratories have been a tremendous source of pride and a tremendous source of discovery and a tremendous success story as far as delivering to the United States of America things that have made the United States of America more secure and more prosperous.

Likewise, there is no question that over the years—over the last 20 years or so—since the Department of Energy was created, there has been sort of a gradual buildup of layers of bureaucracy that make it more and more difficult for any Secretary of Energy, whether that individual has the requisite skills or not, to know what is going on in the laboratories and to have the authority needed to manage those agencies so those laboratories, as Senator Rudman, chairman of the PFIAB says in the title of his report, can get both the best science and the best security simultaneously. We unquestionably have the best science. I am quite certain the Senator from New Mexico believes the same way I do. In visiting the labs, in particular the lab that is under question, Los Alamos, most of the people I have met there described themselves as being very conservative to extremely conservative on the question of security and expressed their concern that their reputation for keeping the United States of America safe has been damaged. Of all the people who are anxious to get the law changed so that the lab's reputation for being the world's finest both for science and security can be restored, there are no more powerful advocates of that than at Los Alamos Laboratory from Dr. Brown on down.

This is an unusual opportunity because normally the intelligence authorization bill goes through almost with unanimous consent. Since I have had the opportunity a few years to come here with the chairman, with usually about 15 minutes' worth of conversation and without a lot of interest, the bill goes through. The good news this year is that it will not go through quite so quickly. It is good news because it gives us an opportunity to examine what it is this bill does and what it is this bill does not do.

Unfortunately, current law does not allow us to tell the people of the United States of America either how much we spend on all of our intelligence collection, analysis, or dissemination efforts, or does it allow us to tell what the individual components of that are. I say ''unfortunately'' because I do believe quite strongly that we would be better off changing the law so the public did know both of those things. I believe that unless the people of the United States of America support what it is we are doing with our intelligence efforts, it is very difficult, over a long period of time, to sustain that effort. I myself am very much concerned that at the moment the general public does not either understand what it is we do on the intelligence side, or as a consequence of some very highly publicized failures are they terribly confident that we are doing a very good job of collecting intelligence, analyzing that intelligence, producing that intelligence, and then disseminating that intelligence to either warfighters or to national policymakers.

I have had the good fortune of watching the men and women who do this work for a number of years. I am not only impressed with their skills, but I am impressed with their patriotism and impressed with their successes, most of which I cannot talk about on the floor this afternoon.

Let me make the case, first of all, for secrecy. I think there are times when it is absolutely vital and needed. When we have warfighters on the field, as we recently had in Kosovo, we obviously can't provide the target list to the public and let people know where it is that these pilots are going to be flying. We cannot obviously provide battlefield information. Otherwise, we are going to increase the risk to these warfighters. It is always difficult in an environment where it is just the United States, let alone where there are 18 allies, to contain that intelligence and not have a terrible example of something where intelligence information got to our enemies, and as a consequence, they were better prepared, and as a consequence either we were not as successful as we wanted to be or there were casualties as a consequence.

It is a life-or-death matter that we keep these secrets. We have asked men and women to put their lives at risk, and we have to protect their interests. Otherwise, we will find it very difficult to find volunteers to go on these missions.

It is needed for military operations. It is needed for some covert operations

as well, where the President has signed a finding. He has asked that certain things be done, again, in the interest of the United States, overseen by the Congress. Today, I have very high praise for this administration in that regard. Since the Aldrich Ames spy incident where Aldrich Ames, traitor to his country, not only gave up U.S. secrets, he gave up secrets that led to the deaths of many men and women who were working on our behalf, this administration has increasingly come to the oversight committees, one in the House and one in the Senate that were created in 1976, with what are called notifications of errors, notifications of problems and mistakes that were made on a weekly basis.

We are receiving information that the executive branch thinks we need to know in order for us to make judgments about what it is we think the United States of America ought to be doing. So there is a lot more—in fact, it feels like a fire hose at times—notifications that are occurring in both the House and the Senate committee.

Indeed, our committee was notified about this particular incident in 1996, and I think we responded appropriately to it at the time. We pushed back and asked for additional counterintelligence. When I say ''this particular incident,'' I am talking about the notification of the possibility that the Chinese had acquired what we now know in published accounts to be details about a weapons system known as the W–88, our most sophisticated nuclear weapon, that the Chinese had acquired that through espionage in the 1980s.

We were notified of that in 1996, 11 years after it was suspected to have happened. I think the committees were properly notified, and I think the committees properly responded and measured the relative threat to other things in the world and pushed back and responded, I thought, in an appropriate fashion. There was much more that we probably could have done. I will let history judge whether or not we did enough. The point is, there are secrets. As a consequence of those secrets, under law, under a resolution we have created, the Senate Committee on Intelligence and the House has done the same. Those committees have congressional responsibility for hearing these secrets and making judgments, first, about what kind of structure, what kind of budget, and what kind of operations we are going to approve.

I make the case that secrecy is needed in order to maintain our security both for military and for our operations. There are sources that we use, there are methods we use, both of which must be kept secret in order for us to continue to recruit and in order for us to continue to operate with a maximum amount of safety for, again, the men and women who have chosen, as a result of their patriotic love of their country, to serve their country in these missions. We need to make certain we provide them with the secrecy needed for them to conduct their operations.

However, there are times when secrecy does not equal security. It is a very important point for us to consider as we both debate this bill and try to think about how we want to write our laws and think about how we are going to do our operation. Sometimes secrecy can make security more difficult.

There is a recently declassified report called the Venona Report that describes the acquisition of information about spies inside the United States during the post-World War II era. In that report, there is a very interesting moment when General Omar Bradley, who at that time was in charge of intelligence, made the decision not to inform the President of the United States that Klaus Fuchs and others were spies for the Soviet Union. The President was not informed. Secrecy was maintained. General Bradley liked President Truman; he was an Army man like himself. But he made a judgment that secrecy had to be maintained, that the commanding officer of all our forces, that the President, duly elected by the people, didn't have a need to know. So a judgment was made to preserve secrecy.

I believe, as a consequence, policies didn't turn out to be as good as they should have and security was compromised as a consequence. I am not blaming General Bradley. I see it from time to time. Indeed, what caused me to talk about this was my belief that we should change the law and allow the people of the United States of America to know how much of their money we are allocating for intelligence and how much in the various categories is being allocated. I fear that all the public has are bad stories about mistakes that are being made, the most recent one being a mistake in targeting inside of Belgrade.

The Chinese Embassy was mistakenly hit one block away from another target that should have been hit. A great deal of examination of that has already been done. It caused us a great deal of trouble with the Chinese Ambassador. Under Secretary of State Pickering had to make a trip to China. This all occurred at a very delicate time when we were trying to get the Chinese to agree to some changes in their policy to ascend to the WTO. It was a big embarrassment.

I get asked about it all the time: What kind of so-and-so's are over there? Are we getting our money's worth? Are we wasting our money? Couldn't they just have spent $2 on a map that was readily available to show where the Chinese Embassy was? Why spend billions of dollars on all these folks if they don't even have good enough sense to use a commercially made $2 map?

There are questions about the failure to predict the detonation of a nuclear weapon in India over a year ago, which was followed by a detonation by Pakistan. A third item I hear a lot is that the CIA failed to predict the end of the Soviet Union, and anybody that can't predict that doesn't deserve to get a lot of U.S. tax dollars.

It is unfortunate that only the bad stories get out. First of all, on the targeting of the embassy, it was a mistake, but we were in a war, for gosh sakes. We are being asked to deliver targets, asked to identify the targets, and the operation's requirement was to minimize the casualties to the United States and our allies. Not a single American or single ally was killed during that entire operation. I consider that a mark of tremendous success. That did not occur by accident. There is no shelf of books with one saying ''T'' for targets in Belgrade and Kosovo. We had to develop those targets on our own and relatively late. We didn't expect the bombing operation to go on that long. We had—when I say ''we,'' I mean the administration—the impression that possibly it would be over quicker, based upon the experience of 1995.

In short, it was a tremendous success. Not only were we able to conduct that operation without a single allied casualty, but, in addition, we reversed the trend of modern warfare in the 20th century. Modern warfare in the 20th century has seen an increasing fraction of casualties that are noncombatants. I believe, in this case, except for the casualties produced by the Serbian army and their military police and their paramilitary units in Kosovo, there was also success in minimizing civilian casualties in this effort.

We could not, for example, have implemented Dayton. One of the untold stories is the success of the intelligence operations. At that time, it was General Hughes who organized the takeover authority in December of 1995. It was a United Nations operation, transferred over to NATO. They worked night and day to set up a communications system that allowed us to know who was and who wasn't abiding by the Dayton agreement—a very, very complicated agreement. The people who were in charge of developing our intelligence operation read it, knew it, and disseminated it down the ranks. Everybody understood what had to be done. It was impressive that, in a very small amount of time, we were able to put together an intelligence collection and dissemination effort that enabled us to implement the Dayton agreement.

There are many other examples, such as the Indian detonation of a nuclear weapon. In fact, we had the intelligence collection that predicted and prevented one about 18 months earlier. Nobody should have been surprised. We

don't really need to have intelligence officers collecting and predicting a detonation of nuclear weapons in India when the successful party in an election promised, and made a part of their campaign a promise, to detonate if they were elected, to test a nuclear weapon.

Anyway, I think it is very important for me, as somebody who has been given by my leader the opportunity to sit on this committee and to observe what is going on, to attempt to correct things I thought were wrong, make decisions about how much taxpayer money to allocate, about how to respond to mistakes made and intelligence errors that occur, how to respond and correct those errors—it is very important for me to say to taxpayers that my view is that you are getting your money's worth.

According to published accounts, we spend $28 billion a year. I wish I could provide that number as well as some additional details, but if that is the current dollar amount, according to published accounts, in my view, just watching what is done, the American people are getting their money's worth. There are tremendous threats in the world that our intelligence agencies collect against. They supply that intelligence to our warfighters, to our military people. Imagine what it would be like to be in charge of U.S. forces in South Korea. You have the most heavily militarized area in the world between North and South Korea. There are about 37,000 young men and women in South Korea defending against a possible attack from North Korea, and the question to their commanding officer is: What are North Korea's intentions? What are they doing? They need an answer.

It is an extremely hard target to penetrate and to know what is going on. Those warfighters need to know that information. They can't operate in the dark. Our intelligence collection operators do that time in and time out, day in and day out, try to collect, process, produce, and disseminate intelligence to warfighters and the national policymakers and decisionmakers, in order that the United States of America can be as safe as it possibly can be. My view is that they have achieved a substantial success. They are not perfect; none of us are. But their substantial success deserves a very high amount of praise.

Mr. President, a related problem we have with intelligence is that many people presume that the Director of Central Intelligence, who manages the CIA and other national intelligence efforts, controls it all. Not true, though the Brown commission report that was assembled after the Aldrich Ames betrayal recommended that increased authority be given to the Director of Central Intelligence to budget and select personnel for these other areas. For many reasons, these authorities were not granted the Director. The current Director, Mr. Tenet, controls far less than they realize, under law.

I don't believe that is a healthy situation. We were successful 2 years ago in getting the Director, under statute, some additional authorities. But my view is that it is not enough to match authority with responsibility. We have not done that. We are holding the Director responsible for intelligence failures in many areas over which he has no real direct budget authority or personnel authority.

So the distinguished Senator from New Mexico has properly identified a problem at the laboratories, as a result of the structure of the law that governs the Department of Energy, that needs to be fixed. The concern is that through some set of facts—today, we don't even know what the set of facts are—the Chinese probably acquired information about our nuclear secrets, and, as a consequence, they may have the capacity to build and deploy very dangerous weapons. They stole secrets from us, and, as a consequence, we are concerned about how to increase the secrecy of these labs.

I underscore with this statement that secrecy does not in all cases equal security. There are times when secrecy will make security more difficult to achieve. My own view is that the failure under law to let the public know what our expenditures are, and how those moneys are spent, decreases our security because, unless I am mistaken in just sensing citizens' attitudes toward our intelligence agencies, they do not have a sufficient amount of confidence that they are getting their money's worth. As a consequence of that lack of confidence, I think we are having a difficult time acquiring the resources necessary in a world that is more complicated and a world that, in many ways, is more dangerous than it was prior to the end of the cold war.

My hope is that this debate about the Department of Energy can occur relatively quickly, that we can get to it tomorrow, that we can resolve the remaining conflicts, and that we can get this intelligence authorization bill passed. Both the chairman and I see the year 2000 as a watershed year. We were successful last year in increasing the resources given to our intelligence checks and analysis and production and dissemination efforts. We need to continue that trend.

We have been downsizing in the 1990s. I believe very strongly that that downsizing must stop if we are going to be able to honestly say yes to the American people, that we are doing all we can to keep them as safe as possible against a real range of threats which are still out there in the world.

The United States of America is the leading nation on this planet. We have the strongest economy. We have the strongest military. We have the longest running democracy. We tend to take sides on issues, whether it is in the Middle East, Northern Ireland, or someplace else on the planet. We clearly take sides when it comes to fighting for individual freedom—for the freedom of people in China, for the freedom of people in Russia, and throughout this planet. We put our resources and our reputation and our lives on the line.

In 1996—it has been so long ago—Americans stationed in Saudi Arabia after the gulf war, flying missions and supporting missions in the southern area, were killed. We suspect a variety of possibilities as perpetrators. But they were killed not because they were in Saudi Arabia by accident; they were in Saudi Arabia defending U.S. interests, and they were killed because they were targeted by people who didn't want them in Saudi Arabia.

We take sides, and, as a consequence, we are targets. We are targets as well because we have been successful. There is jealousy and hatred towards the people of the United States of America.

We understand the interconnected nature of our economy and of our diplomacy throughout the world. A problem in Angola can be a problem in Omaha, NE relatively quickly.

So we forward-deploy our resources. We don't just have missions in NATO or missions that involve the United Nations. We are forward-deployed throughout the world in an attempt to make the world more peaceful, more democratic, and more prosperous. It is a mission the United States of America has selected for itself. I thank God that it has. It is a mission that has resulted in enormous success.

I don't know how the rest of my colleagues felt at the time, but I remember quite vividly and was very moved for moments during Joint Sessions of Congress—not that Presidents haven't moved me with their State of the Union Addresses. But far more moving to me was Vaclav Havel, Nelson Mandela, Lech Walesa, and Kim Dae-jung of South Korea.

All four of these men came to a Joint Session of Congress and said to the representatives of the people of this country: Thank you; you have put your lives on the line for our freedom; you put your money on the line for our freedom; you stayed the course, and we are free.

Since Kim Dae-jung of South Korea gave that address, if I ever ran into a man who fought in the ''forgotten war'' in South Korea in the 1950s, I am quick to say this. I know there are many criticisms of that war. Many people wondered whether or not it was worthwhile. Let me tell you, on behalf of the President of South Korea and the people of South Korea, that that war was worth fighting.

All one has to do is look at the difference between living in freedom in

South Korea—an imperfect democracy, as many are; but, nonetheless, the people of South Korea are free; their standard of living is higher; they have the liberty to practice their religion, to speak on the streets—and North Korea, which is a nation of great suffering and great anguish. Large numbers of people are dying as a consequence of malnutrition. The country is arguably in the worst condition of any country on the face of this Earth.

That didn't occur by accident. The world marketplace didn't get that done. I am a big fan of the marketplace and a big fan of what business can do. The intervention that liberated the people of South Korea was not the intervention of Sears & Roebuck; it was the intervention of American forces, American will, American blood, and American money. The people of South Korea are free as a consequence.

We didn't make a decision based on the shape of their eyes or based on the color of their skin or based upon their religion. We didn't do it based upon a desire to own territory or a desire to own wealth or a desire to establish a colony. We did it based upon a desire to fight and to keep the people of South Korea free.

When you take a stand such as that, as the distinguished occupant of the Chair knows—he has been in politics a very long time, an outstanding public servant—you know when you take a stand, especially on a controversial subject, you are apt to provoke some enemies; you are apt to get people organized against you. They don't agree with the position on this, that, or the other thing.

The United States has enemies as a result of taking a stand and as a result of our having taken a stand throughout the world in general on behalf of freedom.

We provoke animosity in many ways. We are at risk, as a consequence, not just from nation states—that is the older world where nation states were the No. 1 threat—today, it is nonnation state actors such as Osama bin Laden and other terrorists who organize themselves away from the normal powers and structures of government. Cyber warfare, biological and chemical warfare—all of these things we have discussed at length are real and present dangers to the people of the United States of America.

It is certainly true that our diplomats at the State Department and our diplomats in other areas of Government have to try to use our intelligence and produce diplomatic successes, as well as to reduce threats. But the State Department, the Department of Justice, the Department of Defense, the Department of Energy, the Department of Agriculture—throughout Government—the Congress, and the President of the United States regularly receive analysis that has occurred after checks have been done, after analysis has been done, after production has occurred, and then it is disseminated to people who make decisions all the time and, hopefully, make better decisions as a consequence of the intelligence delivered to them.

My view is that this budget decline we have experienced in the 1990s needs to stop. I hope that this intelligence authorization bill will be passed by the Senate, that we can go to conference quickly with the House, and get it to the President for his signature. I have no doubt that the President, subject to our not putting things on here that the President can't support, will sign the bill.

One of the things that I think undercuts our ability to do that is the continued belief we have to keep from the American people how much money is being spent. I have said that often enough now. I am not going to offer an amendment. I can count votes. I know that amendment would not succeed. But I intend to continue to make the point and try to persuade, especially my friends on the other side of the aisle, that we will increase the Nation's security by making this information publicly available to the American people.

Again, the point here is that 100 percent secrecy does not always equal 100 percent security. Sometimes 100 percent secrecy can actually decrease the security, as a consequence of the right people not getting the information. As a consequence of discussions not proceeding subject to compartmentalization that prevented one key person from talking to another key person, and, as a consequence, neither one of them knew what the other was doing, the result is that a bad decision was made.

I also would like to discuss an issue that, to me, is extremely important. I don't know if the Senator from New Mexico has additional things he wants to say.

Does the Senator from Michigan desire to speak? Since I will be assigned to sit down for a long period of time, Senators may want to move on. I think I will have plenty of time to talk about this bill.

Mr. President, I presume they would like to speak. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my good friend from Nebraska and my friend from New Mexico for their courtesies in sharing the floor so that we can chat about some of the issues which we will be taking up when we move to this bill tomorrow, which I hope and expect we will.

One of the issues we are going to be taking up, which will probably take more time than other issues in this bill, is the Department of Energy reorganization issue. This comes to the floor on this bill. Whether it is the best place or not, it is going to happen. I think everyone wants this reorganization issue to be resolved, hopefully, in some kind of a consensus manner, if possible, in a way that it can become law.

There is strong opposition in the House to the reorganization of the Department of Energy being added to either the Department of Defense authorization bill or to this appropriations bill, this intelligence appropriation. That is a fact of life we have to deal with.

I suggest the more we are able to come together in a bill which has more of a consensus support, the stronger position we are going to be in, in trying to persuade the House to take up this matter promptly, for all the reasons the Senator from New Mexico gave, as well as to get the President to sign the bill. I hope we will take these hours between now and the time this bill is before the Senate to attempt to work out some of the differences that do exist.

I simply want to summarize where at least I am in terms of the recommendations of the Rudman commission. I am for those recommendations. The label of the agency is not as important to me as the powers of this new agency—semiautonomous agency, separately organized agencies, as they are called, including DARPA. I believe we should have a separately organized agency which is synonymous with, I presume, a semiautonomous agency.

That does not resolve the issue, simply to agree on a label. The question then is: What powers will that agency have and what is the relationship of that new agency to the Department of Energy? That is the issue we should try to resolve in a consensus manner if we possibly can.

We want two things to be true: We want this agency to have a significant degree of autonomy, independence, separate organization, separate staff, legal advice, personnel advice. We want them to have their own set of staff so they can operate in a significantly independent way.

On the other hand, we want the Secretary to be able to run his agency, to run the overall agency. If it is going to be in the Energy Department, if it is not going to be carved out of the Energy Department—which was the other alternative that Rudman suggested as a possibility—if it is going to be inside the Energy Department, then we have to have the Secretary be able to implement the policies of the Department of Energy, which have to apply to all parts of the Department of Energy, whether or not they are ''separately organized'' agencies within the Department.

That is the balance we are trying to strike. I will come to that a little bit later, as to how other separately organized agencies within the Department

of Defense have struck that balance. Reaching a consensus, instead of having a significantly divided vote, is going to strengthen the prospects for reorganization of the Department of Energy along the lines Senator Rudman has proposed.

Do we need to reorganize the Department? We sure do. For 20 years or longer, there have been reports after reports after reports of lack of accountability, of duplication, of an inability for this Department to function in a very smooth and strong way, particularly as it relates to elements of national security. We should do something about it. We should do it now. It doesn't mean we should simply say let's delay it for some later time. On that, I think, there is a consensus. We ought to fix this Department, not just say let's do it at a later time.

I hope there is also some agreement that we ought to take the few days that may be necessary to try to put together a reorganized DOE—one which has a separately organized agency to handle these nuclear issues—so we can have a stronger chance of this becoming law. We have all been frustrated by the breakdown in security which the Cox commission report highlighted by the so-called PFIAB report, the President's Foreign Intelligence Advisory Board, which Senator Rudman chaired. That frustration has been compounded by the fact that past administrations and past Congresses have received literally dozens of intelligence studies, GAO reports, FBI briefings, going back to the mid-1970s, detailing inadequate security safeguards at the Department of Energy labs and detailing foreign espionage efforts to obtain sensitive U.S. technology. This has been going on for over 20 years.

This is what Senator Rudman said at a joint hearing of four Senate committees:

> I had our staffs sit down and add up the number of reports that have found problems with the security of the DOE for the past 20 years. The numbers are astounding. 29 reports from the General Accounting Office, 61 internal DOE reports and more than a dozen reports from special task forces and ad hoc panels. Altogether, that is more than 100 reports, or an average of five critical reports a year for the past two decades.

Here we are, 20 years down the road, Senator Rudman said, still battling with the same issues. I think you would agree with me, that is totally unacceptable. All Members listening that day I think were nodding our heads, without exception.

As Senator Rudman noted last month, security at the Department of Energy has been an accident waiting to happen for over 20 years. Three administrations and Congress share the responsibility for not doing more over the years to heed the warnings of those reports to legislate corrective action. The challenge is to put that frustration, which we all share, to constructive use and to put in place an effective and workable management structure, the Department of Energy's nuclear weapons program, that ensures our vital national security secrets are not compromised in the future.

The Rudman recommendations include not just putting in place a separately organized agency but also putting that agency under the effective direction and control of the Secretary of Energy. That is going to be, it seems to me, what we have to resolve. We want it separately organized, but we want the Secretary to have effective direction and control of that agency. Those are two goals. Those two goals can be harmonized. They have been with other separately organized agencies, including some that I will mention in the Department of Defense which are used by Senator Rudman as his model, including DARPA.

We should seek both things: That semiautonomy, or that separate organization, which will put some focus and accountability inside that agency. If we are going to leave it in the Department of Energy—and that seems to be the consensus, that we leave it inside the Department—we must be able to have a Secretary who can effectively direct and control that semiautonomous or separately organized agency within his Department. It is a real challenge, but it is doable. We will do it with some care. They are both legitimate goals.

There have been some steps taken already to achieve those goals. As the Senator from New Mexico pointed out, we had a Presidential Decision Directive No. 61 which President Clinton signed over a year ago. The Rudman report noted, to its credit, in the past 2 years the Clinton administration has proposed and begun to implement some of the most far-reaching reforms in DOE's history. In February of 1998 that directive was signed. The Rudman report highlighted 5 of the most significant of the 13 initiatives in Presidential Directive No. 61.

First, counterintelligence and foreign intelligence elements in DOE would be reconfigured into two independent offices and report directly to the Secretary of Energy.

Second, the Director of the new Office of Counterintelligence would be a senior executive from the FBI and would have direct access to the Secretary of Energy. That is a very important question we are going to have to resolve and take up again, whether or not we want the director of a new Office of Counterintelligence to be not only a senior executive from the FBI but to have direct access to the Secretary of Energy. If we want to hold the Secretary of Energy accountable, which I do, then we have to access to him directly, it seems to me, a director of a new Office of Counterintelligence. That will be one of the issues we will be discussing and hopefully resolve.

Third, existing DOE contracts with the labs would be amended to include counterintelligence program goals, objectives, and performance measures to evaluate compliance with these contractual obligations.

Counterintelligence personnel assigned to the labs would have direct access to lab directors and would report concurrently to the Director of the Office of Counterintelligence.

The Senate has also acted in a number of ways. We passed significant legislation this year under the leadership of Chairman WARNER in the Armed Services Committee. We have adopted a series of measures in the National Defense Authorization Act which were designed to enhance counterintelligence, security, and intelligence activities at DOE facilities.

These measures include putting in statute most of the specific recommendations on security and counterintelligence contained in PDD–61. For instance, our bill, which is now in conference, includes a provision establishing separate offices of counterintelligence and security at DOE, each reporting to the Secretary. That provision, which the Senate already adopted, is in the DOD authorization conference, which is going on right now. It is taking up a Senate provision which establishes an office of counterintelligence and security at the DOE reporting directly to the Secretary.

That is not inconsistent, in my book, with having a counterintelligence chief at the agency. I do not view that as being inconsistent. On the other hand, we have to be clear one way or the other as to whether or not we believe there is an inconsistency in having both a counterintelligence person for the entire agency directly reporting to the Secretary, as well as having this new agency having its own counterintelligence chief. To me, that is not inconsistent, but the people who are offering the amendment may view that as being an inconsistency.

Mr. DOMENICI. Will the Senator yield?

Mr. LEVIN. Yes, I will yield.

Mr. DOMENICI. On page 5 of the amendment, which I think my colleagues have, we adopted the language that is in the Armed Services bill:

> The Chief of Nuclear Stewardship Counterintelligence shall have direct access to the Secretary.

Secretary of Energy.

Mr. LEVIN. That is somewhat different than the provision in the Senate bill which established the separate Office of Counterintelligence and Security at the DOE reporting directly to the Secretary. We have to work out whether we intend that to be the same or whether we intend that to be two separate offices of counterintelligence.

For instance, the new agency, I say to my good friend, is going to presumably have its own personnel director

and its own programs inspector general and its own general counsel, but so is the Department of Energy going to have its own general counsel and its own personnel director and its own inspector general. There will be an office in that separate agency, and there will be an office at the Department. That is not inherently inconsistent. We do similar things with DARPA and with other separately organized agencies.

It seems to me, to make sure that we are not creating confusion and lack of accountability, we would want to make that clear in the amendment that we, indeed, are talking about an office at the departmental level, as well as now a separate office with some of these staff functions at this separately organized agency.

Again, that is the kind of language which I think is important we attempt to work out.

Mr. DOMENICI. Mr. President, I do not know how much longer the Senator wants to speak, but I can only be here about 15 or 20 minutes and I still have a few comments. I want to listen attentively to what he is saying.

I believe I heard the Senator mention four or five things. I ticked them off as he mentioned them, and we find there may be two that are not in the bill which were thought to be management techniques. Three out of five or three out of six are in the bill. I am willing to work on anything my colleagues want to work on, except I want to make sure of what I consider to be the most important recommendation of all, when the Rudman report says:

> To achieve the kind of protection that all these laboratories have, they and their functions must have their own autonomous operational structure free of all the other obligations of DOE management.

If we start with that, then I think we can work on that in terms of how you get there and make sure it means what you want it to mean. Frankly, I am very pleased this afternoon because I heard both the Senator from Michigan and the cochairman of the Committee on Intelligence say they want to get on with the bill and they want to try to work on the amendment to get it as bipartisan as we can.

Frankly, if that is the way we are moving, I am ready to say, let's work on it. I have given my colleagues my draft. It is the final draft. As soon as my colleagues have amendments, we want to look at them. I have three or four Senators to check with, and I am sure my colleagues have, too, but I do think you clearly understand, in the way the Senator has expressed it, that it will have its autonomous functions within that agency.

The Senator has a great concern, and if I was not positive that we had satisfied it, I would not be here.

On the second page, paragraph (C), we say:

> The Secretary shall be responsible for all policies of the agency. The Under Secretary for Nuclear Stewardship shall report solely and directly to the Secretary and shall be subject to the supervision and direction of the Secretary.

That was put in because everybody said we ought to do that. It was a little earlier than some of you think. My colleagues missed it for a while. It is there.

At the end of the page we also say:

> That the Secretary may direct other officials of the Department who are not within the agency for nuclear stewardship to review the agency's programs and to make recommendations to the Secretary regarding the administration of these programs, including consistency with similar programs and activities of the Department.

The Senator from Michigan has expressed a concern about that one. This may not be exactly the wording he would like, but I believe it moves in the direction of one of his previous concerns.

Mr. LEVIN. Mr. President, I thank my friend from New Mexico. Senator Rudman has said the following, in addition to the quotation my colleague cited:

> That the Secretary is still responsible for developing and promulgating DOE-wide policy on these matters.

Then he said, and this is in his memorandum of clarification dated June 30, the second paragraph from the bottom:

> He is still responsible——

Talking about the Secretary——

> for promulgating DOE-wide policy on these matters, and it makes sense to us that a Secretary would want advisers on his or her immediate staff to assist in this vein. We understand that is why Secretary Richardson recently created DOE-wide czars to advise him on security and counterintelligence.

There is a need for a Secretary who is running a Department to have, as Senator Rudman points out, advisers on his or her immediate staff to assist him in developing and promulgating DOE-wide policy on these matters.

I want to take up the suggestion of my friend from New Mexico. It is possible we can achieve both, as the DOD does with DARPA and other separately organized agencies, or what I think the Senator from New Mexico would indicate are semi-autonomous agencies, agencies which are not separate from a Cabinet-level agency; they are not separate from the Department. We are not creating a new department, and I do not think the Senator from New Mexico wants to create a new department. We want this inside a department which is subject to departmental-wide policies and a Secretary who is able to effectuate those policies.

Mr. DOMENICI. Can I comment?

Mr. LEVIN. Sure.

Mr. DOMENICI. That is a fair statement that the Senator made about what I would like to see. I also stated on Friday past, the first time I ever said this as a Senator who has been involved with these nuclear activities since I arrived—and I have been chairman of the subcommittee that appropriates it for almost 6 years—if the semiautonomous agency is weakened, to the extent it is really just another of blocks on a chart, I will wholeheartedly support taking it all out of the Energy Department and making it a freestanding department. In fact, I am almost looking at this that if it were a freestanding agency like NASA, and moved within the Department, how would the Secretary control it? I am beginning to think of it that way. He still would have to control it so long as it is in his Department. But I think we have said that in the amendment.

We are willing to work with you on whether there are better ways to make sure he still is the boss; that is what you are talking about, that he is in control. The Under Secretary in charge of this new semiautonomous agency is not totally independent or we would not call him ''semiautonomous.''

Mr. LEVIN. Exactly.

Mr. DOMENICI. If we wanted him independent, we would put him out here like NASA and call him an Administrator or Director. So as long as we are thinking the same way, we are willing to work with you.

Mr. LEVIN. As I understand what you are saying, you want one Secretary to be able to have effective direction and control of this quasi-autonomous agency that is in his Department. With that standard, if that is a standard which you also accept, it seems to me that we ought to be able to find common ground. Whether that includes all the other Senators who have interests in this, neither of us can say. But as far as I am concerned, the test for me is whether or not we leave the Secretary of Energy like the Secretary of Defense with DARPA, having effective direction and control of that separately organized agency which has been called here a semiautonomous agency. That is my standard.

I am going to continue to work with colleagues on both sides of the aisle; and our staffs will share some amendment language which at least this Senator is working on. There are other Senators who have amendments as well. We will get you our amendment language by the end of the day in the spirit of trying to achieve some kind of a joint position on this going into the debate tomorrow.

I am happy to yield the floor. I heard my friend from New Mexico indicate that he is only able to stay a few more minutes. I am basically done. There are a few more thoughts I have about some of the separately organized agencies inside the Department of Defense and the way they are organized. They were used as the models by Senator Rudman. If we follow those models, I think—not exactly and not precisely—but if we follow the spirit of those models, we will have a Secretary of Energy

who can effectively direct and control his semiautonomous agency that would be created, including, it seems to me, to be effective, the use, as Senator Rudman pointed out, of advisers on his immediate staff to assist him in effectively directing and controlling—which are my last words, not Senator Rudman's.

I yield the floor and thank my friend from New Mexico.

Mr. DOMENICI. I say to the Senator, I will not take very long.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from New Mexico.

Mr. DOMENICI. I thank you for recognizing me.

I say to Senator LEVIN, I have read that part of the Rudman report which talks about the Secretary having adequate input and having staff to make input. Let me tell you what I would be very worried about; and I remain worried about it as we talk with the members of the staff of the Secretary.

I think the worst thing we could do is to create this semiautonomous agency on paper but make it still like it is subject in every detail to the Secretary of Energy and his staff. So I am not going to sit by and tell you I agree because I do not agree that we should say on the one hand an Under Secretary is going to run it, and it is created with autonomous authority for him, and then say the Secretary's office can, with various staffers, run it day by day. Because then all we have done is created autonomy and then taken it away.

There are two ways to take it away. One is very direct. For example, just take out the environment and say they do not have control of the environment. That is one way. The other is to put it all back into the Secretary in detail so his staff can be running it.

I think you and I would be serving our country terribly if we created it, in a poor manner, semiautonomous and then found in 5 years, when it was set up, that three strong men in the Secretary's office were running it. I think that would be the worst ending we could have because we would be back to seeing how good they were at things; and without that, it would be an unsuccessful operation. There would be more masters rather than just the one we are looking for.

Having said that, I want to speak for a moment—because I forgot to during my opening remarks—about the kind of science that exists at these laboratories, especially our three deterrent laboratories and two that help them that are partially in this mode, and a little bit about the origin of all this work.

I want to start by ticking off a few names. This is by far not the entire list.

This whole scientific entourage that we have here which we call the nuclear weapons laboratories, the great crown treasures of our science-based research, was started in an era when America did not have enough scientists of its own who were nationalists, American born and raised, educated in America.

So guess what the list of the early Manhattan Project scientists who helped us get a bomb sounded like. They sounded like Italians. Enrico Fermi; he was an Italian. He was at one of the other laboratories in the country. Both he and his wife were taken to Los Alamos and they became some of the principal players. It sounded like Hans Bethe; it sounded liked Edward Teller, Carl Fuchs—and the list goes on.

Frankly, we were taking a real gamble because they knew what they were doing, each and every one of them. Collectively, they knew they were preparing an atomic bomb for the United States of America to either win the Second World War or to use it to stop it. They were working at a ferocious pace to get it done before the Germans got it done. We all remember that as we read about it.

Those scientists had contacts all over the world, whatever kind of world it was at that point in time. The same thing is happening today. We should not be surprised that we have marvelous Chinese scientists at our laboratories. They are American born, American educated, and I assume some are naturalized citizens, and they are among our best.

It just so happens that the Chinese seem to have breached our security in some intricate ways, not the way the Russians did it. They did not come along with a big bribe and pay somebody off. They did it in an intricate way by little bits and pieces. Since the Chinese scientists who make their nuclear program work are intimate about Americans in science, would you believe that it is our understanding that the chief scientist in charge of their nuclear weapons development has a Ph.D. from one of our universities? You do not think he knows American scientists of his era? He was apparently a very good nuclear physicist or scientist—Ph.D.—from one of our universities. We understand in the hierarchy there may be six or seven who were educated as MIT or Caltech or someplace, and they are running their program.

The point of it is, we cannot, in some fit or frenzy, put a wall up around these laboratories and say these scientists cannot exchange views around the world; they cannot travel to conferences.

Let me ask you, do you think they would stay at the laboratories, if they are among the greatest minds around, if you told them they can be only half a scientist, that they cannot go to a conference where Chinese scientists are coming who may exchange views on something extraordinarily new in the field of physics which has nothing necessarily to do with nuclear bombs? The truth of the matter is, if you try it, do you know who the losers will be? The losers will be the American people, because we won't have the greatest scientists in those laboratories. What has made us the most secure nuclear power in the world? Our scientists. We talk about everything else, but it is the scientists over the last 40 years, successors to this list I gave —incidentally, I did not mean to imply that there weren't many early scientists who were American; obviously there were. Some of the leaders were Americans, no question about it. We should not leave the impression that we don't want scientists, whatever their national origin is or whatever their basic culture is, working in our laboratories and we want to muzzle them; for if we put a wall around the laboratories, it will be a matter of a decade and nobody will want in the laboratories, much less out of the laboratories. Instead of worrying about getting secrets out, we will have to worry about getting enough good things to happen where there are some secrets.

I want to make that point so everyone will know that my approach and the approach I am working on with other Senators to create this semiautonomous agency is not directed at closing these laboratories, closing the lips and the brains of scientists and putting them behind a bar up there.

When I was a young boy, believe it or not, we had a family that could all fit in one big car. On a number of occasions we drove from Albuquerque to Los Alamos because we were inquisitive. We had heard that if you went up there, they wouldn't let you in. So we would drive up, and they wouldn't let us in. We would drive up to these big gates, and that was the Los Alamos scientific laboratory. No trespassing. So I was there. That was the early version of this. Now they have grown into much larger institutions, much more sophisticated kinds of science.

In addition, because my friend Senator LEVIN has been talking about things that concern him, I will mention two or three things that I want everyone to know.

First, what is a semiautonomous agency and what is an independent agency? The best I can tell Senators is, a model of independence would probably be NASA. I don't know the best model for a semiautonomous agency within a department, but I will tell my colleagues that what it means is described very clearly in the Rudman report, that the functions of this agency must be autonomous and not subject to the everyday rule of the larger department.

If we are not prepared to do that, then let's not kid ourselves and say we have done it halfway. It must be done in a way that is consistent with the agency director reporting only to the

Secretary of Energy and in a manner that would assure that its functions are autonomous, even if it means we must have a duplication of functions. Because if there is one set of functions, we are back where we are. If it is not subject to the Secretary's power, then it is not semiautonomous; it is autonomous.

I think we are on the same side, trying to make it semiautonomous, which means the Secretary is still all powerful. Having said that, let me say that as we proceed, I am willing to look at the document line by line as it gets introduced—it has been circulated—and cite where I believe we have covered most of the aspects that are of concern and that have been expressed as of concern on the floor, save two.

One of them has to do with the laboratories being able to take work for other agencies, for the Defense Department and from the Energy Department, and thus remain laboratories that are diversified, that are, thus, very attractive to scientists. I will insert in the RECORD, and not read much from it, testimony given in the Committee on Commerce Subcommittee on Energy and Power and the Committee on Science Subcommittee on Energy in the House, by William Happer.

Dr. Happer is one of the distinguished scientists in the United States and used to be in the department. He concludes in the statement, in reference to the new agency:

> I do not think that the ANS need hinder the support by other parts of DOE, or by outside agencies, of science at the Weapons Laboratories. As a former director of the Office of Energy Research, I saw, at very close quarters, how work was funded by my office at the Weapons Laboratories, and how other Federal agencies—for example, the National Institutes of Health, or DARPA—arrange to have work done. The creation of an ANS within DOE might actually help the interactions between the Science Laboratories and the Weapons Laboratories if it leads to better management [at the semiautonomous agency].

I ask unanimous consent that the Happer statement of July 13 in its entirety be printed in the RECORD.

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

TESTIMONY OF WILLIAM HAPPER

Thank you for this opportunity to testify on current proposals to restructure the DOE. I am a Professor of Physics at Princeton University and Chair of the University Research Board. I am also the Chairman of the Board and one of the founders of a high-tech startup company, Magnetic Imaging Technologies, Inc., which makes images of human lungs with laser-polarized gases. So I have experience with the business world outside of academia. I have had a long familiarity with the activities of DOE, as a practicing scientist, as a member of advisory committees for DOE Weapons Laboratories and Science Laboratories, and as the Director of the Office of Energy Research under Secretary of Energy James Watkins during the Bush administration.

The DOE has many missions, but none more important than nuclear stewardship, that is, ensuring the safety, security and reliability of the US nuclear stockpile. Connected with this mission are—or at least used to be—many others, the construction and operation of nuclear reactors for the production of special nuclear materials, the enrichment of stable isotopes, the construction of scientific facilities to learn more about the fundamental scientific issues connected with nuclear weapons, and how to ensure the safety of those working with dangerous materials—radioactive, toxic or both. I could go on, but my point is that the DOE weapons program is so challenging that it needs the most capable technical, scientific and managerial talents available. As long as the United States maintains its own nuclear weapons and feels it necessary to cope with those of others, we must ensure that the part of DOE responsible for nuclear weapons functions as well as possible.

Regretfully, I must agree with various assessments, stretching back many years, that DOE's missions—including the nuclear weapons mission—are often poorly managed. The recent Rudman and IDA reports, the Galvin report of a few years ago, and many others have clearly spelled out what is wrong. The DOE has become a bureaucratic morass, with many paper-pushing, regulatory offices competing to build up their staffs of FTE's and SES billets, to take credit for successes of increasingly-harried, front-line scientists, engineers and technicians, and to avoid responsibility for anything that may go wrong. The recent revelations of Chinese espionage and the DOE reaction to it are but one example of how difficult it is for the DOE to cope with serious real and potential problems in the weapons program, and other DOE programs as well. So I support a reorganization of DOE along the lines suggested in the Rudman report. If a reorganized DOE with a more efficiently operating Nuclear Stewardship Agency (NSA) is a result of the Chinese espionage, at least we will have some benefit from the regrettable affair.

I have no illusions that a semiautonomous Nuclear Stewardship Agency within DOE will correct all of the problems we are struggling with, but I am sure that the current DOE structure will not work. I say this as a pragmatist and an experimental scientist. We have tried to make the current structure work for many years and it always fails. When one of my experiments does that again and again, I try something else.

We have several reasons to be hopeful that a semiautonomous agency could work. The example of NSA within the Department of Defense (DoD) has often been cited as a successful, semiautonomous agency, and there are other precedents like DARPA in DoD or the Naval Reactor Program within DOE. I like the word "Agency," which comes from the Latin root "to do." An agent does something for you. Some in the current structure of DOE and its supervisors seem not to care if anything ever gets done. This is not acceptable for any worthwhile mission, but it is simply not tolerable for Nuclear Stewardship.

Nuclear weapons, ours and those of our potential adversaries are real and very dangerous. They are too important not to take very seriously.

There is a wise old saying, sometimes ascribed to the Chinese, that "The best fertilizer for a farm is the feet of the owner." Someone has to own the mission of nuclear stewardship, or at the very least someone must be a dedicated Steward. To succeed, the Steward must have the means to manage. As best I understand the proposed the Agency for Nuclear Stewardship, it will give the Steward both ownership and the means to do the job.

You cannot be a good Steward of the Nuclear Weapons mission of DOE unless you control all of the key functions, manufacturing, security, research, safety, etc. There is never enough money or enough personnel to do everything that is needed, so the Steward will have to balance many competing needs: the security of plutonium facilities; human resources; environmental, safety and health requirements; research needed to ensure that aging nuclear weapons remain safe and effective; counterintelligence precautions—the list is extremely long and every issue is important. However, someone must make the decision on how to distribute finite resources to do the best possible job. With the current DOE structure, various offices can demand that this action or that be taken with no concern for the broader problem of how to optimize finite resources of funds and people. One unfunded mandate after another comes down from headquarters or the field office. It is not possible to fully respond to all of the mandates. So the poor front-line troops do the best they can, and a year later another GAO report comes out saying that this or that requirement was not met. There is substantial duplication, triplication or even quadruplication of roles in DOE, with the front-line DOE contractor, the DOE site office, the DOE field office and headquarters all contributing to some issues.

I have testified before that part of DOE's problem is that it has too many people at headquarters and in the field offices. I would hope that the ANS Steward would not be saddled with making work for every DOE employee currently on a payroll related to the ANS mission. But I am a realist, and if every employee remains, the system could probably still be made to work better with the sort of crisp management structure envisaged for the ANS. Almost all of the DOE civil servants I met during my time there were good and talented people, determined to do something to earn their keep. It is a shame that so many of them are used for counterproductive activities.

Some would say letting the ANS Stewart control most of the important oversight now assigned to various independent DOE offices would be letting the fox watch the hen house. I do not think this needs be the case, and in any event the current structure is not working. The proposed ANS Steward will have a clear list of responsibilities, and will have to report annually to the Secretary of Energy—and through the Secretary to the Congress and to the President—on how well these responsibilities have been fulfilled, and why the allocation of funds and people for safety, security, research programs, etc. is optimum. One could also enlist the aid of other federal agencies for periodic tests of how well the ANS is fulfilling its mandate. For example, another competent federal agency could be tasked to try to penetrate the computer security of the ANS.

Concerns have been raised about possible bad effects of ANS on DOE science. Indeed, one of the strengths of the DOE weapons laboratories has been the strong basic science done there and the close ties their scientists maintain to other DOE laboratories and to the rest of the scientific world. This has paid important dividends to our country and we do not want to lose these benefits in a restructuring of DOE. One of the benchmarks on which the Nuclear Steward will be judged

should be the health of science in the Weapons Laboratories.

To help maintain ties of the laboratories to the entire scientific world, visits by foreign scientists to the weapons laboratories should continue, but we should redouble our efforts to be sure such visits do not result in the loss of classified information. Those of you who have visited weapons laboratories realize that non-classified scientific work is often done ''outside the fence'' where security issues are less urgent. The Steward should ensure that there is a graded system of visitor controls. It would be silly to follow the same procedures for a scientist coming to talk to colleagues about human genome sequencing as for one who may be interested in weapons-related topics. Visitor controls should be very stringent in the latter case, but relatively light in the former.

I do not think that the ANS need hinder the support by other parts of DOE, or by outside agencies, of science at the Weapons Laboratories. As a former Director of Office of Energy Research, I saw, at very close quarters, how work was funded by my office at the Weapons Laboratories, and how other federal agencies—for example, the National Institutes of Health, or DARPA—arranged to have work done. The creation of an ANS within DOE might actually help the interactions between the Science Laboratories and the Weapons Laboratories if it leads to better management within the ANS.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

Mr. KERREY. Madam President, this bill doesn't normally get a lot of attention, but because of the concern over the loss of secrets through our laboratories at the DOE, we are going to have a debate about an amendment to restructure the Department of Energy.

I want to make a point that I made earlier, which is that secrecy and security are not the same thing. Sometimes secrecy equals security. Sometimes secrecy can make security more difficult, harder for us to accomplish the mission of keeping the United States of America as secure as we possibly can.

I am not going to offer an amendment to this bill, because it has been defeated pretty soundly in the past—although I must say I am tempted to do so—to disclose to the American people how much is spent on intelligence gathering. Right now, under law, we cannot do that. I want to call my colleagues' attention to what is happening. Our first vote is on cloture. I think cloture will be invoked pretty easily. Our leader is not going to hold anybody up from voting for cloture. Maybe we can go right to the bill.

Listening to Senators DOMENICI and LEVIN earlier, I think they may be able to solve their differences. The vote may end up being unanimous, which is my wish. I hope we can continue to move closer together on that piece of legislation, an important piece of legislation on which Senator DOMENICI and others have been working.

I want to call my colleagues' attention to what we do every year basically, and that is, the authorization of appropriations for the intelligence bill is very small, as a consequence of not being able to disclose to the American people what is in the bill. The House bill contains six titles. The Senate bill, which will be offered as a substitute for the House bill, also contains six titles. The first two titles are identical. Titles I and II in the House bills are identical. Then there are general provisions, and then each bill has additional things in there.

But you can see the problem we have getting public support for intelligence collection. That is one step in the process of intelligence. We collect with imaging efforts, we collect with signals intercepts, we collect with human intelligence, and we have measurement intelligence. We have all sorts of various what are called INTs that are used to gather raw data.

Then somebody has to take that data and analyze it. What does it mean? What does this data mean? What is the interpretation of it? Oftentimes secrecy can be a problem because one compartment may not be talking to another.

This administration and others have worked to try to bring various people together so there is more consultation than there has been in the past. But oftentimes decisions have to be made very quickly. Sometimes interpretations of public information are made, and an adjustment is made.

Let me be very specific. About 80 percent, in my view, of the decisions that most elected people make in Congress having to do with national security are made as a result of something they acquired in a nonclassified fashion in a TV report, in a radio report, in a newspaper report, or a published document. Staff analyze it and come and say: This is what we think is going on—about 80 percent of the information that we process.

I would say that would probably be on the low side. It may be even higher than that. Indeed, the President may be in a similar situation. He may be making a decision on a very high percentage of publicly accessible information as opposed to classified information.

That is quite the trend. The trend is both healthy and at times disturbing because more and more information is being made available to the public that was not available in the past. The good news is citizens have more information. They process that information. We have a lot of independent analysts out there.

In a couple of years, when metering satellite photographs are available, we are going to see competing analyses being done over images. This is what I see when I take that photograph.

I say this because I think it is true that it is very difficult, for any length of time for the Congress and the President to do something the public doesn't support, especially when it comes to spending their money.

In this case, I just hazard a guess. I never polled on this. But certainly I take a lot of anecdotal stories on board from citizens who question whether or not they are getting their money's worth. Is all the money we are spending worthwhile when we aren't able to tell where the Chinese Embassy is in Belgrade? A $2 map would have told us where it was. When we were unable to forecast a class of facility, when we were unable to foresee that India was going to test a nuclear weapon following an election, during which the party that was successful campaigned, and their platform said, if we are elected and we come to power, we are going to test a nuclear weapon? Many failures, in short, are out in the public, and the public acquires the information. I think it has caused them to lose confidence that they are getting their money's worth.

It is a real crisis for us. It is a real challenge for us because, again, if you look at the document we will be voting on sometime in the next couple of days—usually this thing goes through very quickly and we don't have much time to consider it. In an odd way, I thank the Senator from New Mexico for bringing so much attention to the Department of Energy's need for restructuring because it has given us some time to pause and look at this piece of legislation.

As I said, the two most important titles, the ones you will see in almost every intelligence authorization bill, is title I and title II. Title I has five sections. It authorizes appropriations. It give us classified schedule authorization, personnel ceiling adjustment authorization, community management account authorization, and emergency supplemental appropriations. That is in the House bill. The Senate bill has four titles. It is quite revealing when you go into title I.

Again, normally, if this is a Department of Defense authorization, each one of these titles would provide the detailed and specific number of how much is being spent, all the way down to the very small individual accounts that would be disclosed to the public. There would be a great debate going on. The committee report comes out. The budget comes out. The bill is reported by the Armed Services Committee. Editorials are written. Journalists and specialists say we are spending too little; we are spending too much; we need to build this weapons system, and so forth. A great public debate then ensues when the committee brings

the bill up and reports it out for full consideration by the Senate.

I think that debate is healthy. The public participates and helps us decide what it is we ought not be doing. Sometimes we still put things in we shouldn't and some things we should. We still make mistakes. That public debate helps us.

Under this authorization, what you see in section 101 is the following: The funds are hereby authorized to be appropriated for fiscal year 2000 for the conduct of intelligence and intelligence-related activities of the following elements of the U.S. Government: the CIA, the Department of Defense, the Defense Intelligence Agency, the National Security Agency, the Department of the Army, the Department of the Navy, the Department of Air Force, the Department of State, the Department of Treasury, the Department of Energy, the Federal Bureau of Investigation, the National Conference Office, and the National Imagery and Mapping Agency—11 different Government agencies are named but no dollar figure is included. The only dollar figure in this entire budget comes in section 104 where the public learns we are authorizing $171 million to be appropriated for the Community Management Act of the Director of Central Intelligence. We have that piece of information.

Later in the bill that we will be voting on, we learn $27 million is available for the National Drug Intelligence Center. Then later, a third time we get another number. We learn $209.1 million is authorized to be appropriated to the Central Intelligence Agency's retirement and disability fund for fiscal year 2000.

That is all the public learns. That is all the public knows. The public does not know how much we spend in each one of these agencies, nor how much the committee is recommending in this authorization bill, nor the total amount of dollars being spent.

We have had debates about this before. There are good arguments usually filed against it: This is going to deteriorate our national security; we need to maintain, in short, a secret in order to preserve national security.

I have reached the opposite conclusion, that this is a situation where the preservation of a secret deteriorates our national security as a consequence, first of all, of not having a public debate about whether this is the right allocation but, most importantly, as a consequence of deteriorating citizens' confidence that we are authorizing and appropriating the correct amount.

In short, keeping this secret from the American people has caused difficulty in retaining their consensus that we ought to be spending an amount of money they do not know in order to collect, analyze, produce, and disseminate intelligence. I think that is a problem for us.

Again, I have not done any polling on this, so I don't know. I typically don't poll before I make a decision, to the consternation of my staff and supporters. But my guess is, just from anecdotes, there is a deterioration of confidence.

It bothers me because my term on the Intelligence Committee—thanks to the original appointment by our former Democratic leader, George Mitchell, from the great State of Maine, and also Leader DASCHLE's confidence in retaining me on this committee—over time my confidence has increased.

Indeed, the argument in my opening statement about this bill is that we have drawn down intelligence investments in the 1990s as we have drawn down our military from roughly 2 million men and women under active duty uniform to 1.35 million. We have also drawn down our intelligence efforts to a point where I don't believe we can do all of the things that need to be done either today or in the future.

As I said, I have to collect intelligence. I have to analyze the information. I have skilled people who can analyze it. These images delivered from space very often mean nothing to me when I look at them. It requires somebody who is not only skilled but can process it in a hurry and can make something of it in a hurry.

In the situation with India, where we had difficulty warning the President that a test might occur, again, according to published accounts, the Indians were aware that we, first, were able to identify a year earlier they were about to test, and we warned them not to test, as a result of overhead imaging. And they took evasive measures in the future.

These are very difficult things to tell. You have to hire skilled people to do it. That is the analysis. The next piece is the production. It is getting very exciting but also very complicated. There is a lot of competition with the private sector to do this production work.

Back in the ice age when I was on the U.S. Navy SEAL team, we were given a map if we were going to do an operation in an area in Vietnam. We would look at a map and say: This is the area we will operate in. The map might be 10 years old. Then we would supplement that with human intelligence. Somebody would say: There are some changes here that aren't quite the same as the map.

Today an image is used. It is enhanced. It is remarkable how quickly we can deliver very accurate pictures of theaters of operation to the warfighter to disseminate differently, produced in a much different way, and enable that warfighter to have a competitive edge on the battlefield.

Indeed, anybody who is thinking about becoming an enemy of the United States of America knows we have tremendous capability on the intelligence side. We get warnings, and those warnings are delivered when threats begin to build. Oftentimes a mere warning enables the heading off of a potential threat that could have erupted into a serious conflict and would have resulted in a loss of lives.

The effort to collect, analyze, produce, and disseminate to the right person at the right time, and to make a decision, is not only complicated, but it is also quite expensive. It is not done accidentally.

I hope this year is a watershed year and we are able to authorize additional resources for our intelligence agencies. If we don't, at some point we will have a Director of Central Intelligence in the future deliver the bad news to Congress that there is something we want to do but we can't because we cannot accomplish the mission we want to accomplish—not just because of resources but also because it is getting harder and harder to do things we have in the past taken for granted, such as intercept signals, conversations, or communications of some kind between one bad person and another bad person with hostile intent against the United States.

Increasingly, we are seeing a shift in two big ways away from nation states. In the old days, we could pass sanctions legislation or do something against a government that was doing something we didn't like. What do we do if Osama bin Laden starts killing Americans or narcoterrorists or cyberterrorists say they hate the United States of America and are going to take action against us? It is very difficult—indeed, it is impossible—for diplomacy to reduce that threat. We need to intercept and try to prevent it and, very often, try to prevent it with a forceful intervention.

Not only is it shifting away from the nation state, making it harder both to collect and to do the other work—the analysis, the processing and dissemination, or production of dissemination—the signals are becoming more complex and difficult to process, and they are becoming more and more encrypted.

I have had conversations with the private sector, people in the software business, who say we have to change this export regimen that makes it difficult for these companies to sell encryption overseas. This administration has made tremendous accommodation within the industry to try to accommodate their need to sell to companies that are doing business all over the world.

Don't doubt there is a national security issue here. There is significant interception, both on the national security side and the law enforcement side. That encryption at 128 bits or higher is actually deployed. We will find our people in the intelligence side coming back and saying: Look, I know

something bad happened, and do you want to know why I didn't know? I will tell you why I didn't know. I couldn't make sense of the signal. We intercept, and all we get is a buzz and background noise. We cannot interpret it. We can't convert it.

In the old days, we converted with a linguist or some other technological application. In the new world, we are being increasingly denied access to the signals. As described by the technical advisory group that was established on the Intelligence Committee, it was described as number of needles in the haystack but the haystack is getting larger and larger and harder, as a result, for the intelligence people to do the work they need to do.

The chairman is moving to the floor. I know he will make a brilliant and articulate statement.

Earlier, the Senator from New Mexico offered a statement on his amendment that he hopes to offer tomorrow. Senator LEVIN was here as well. I believe there is reason to be encouraged that we will move this bill quickly tomorrow, and reasonably encouraged, as well, that the differences which still exist on this bill can be resolved, and we can get a big bipartisan vote and move this on to conference.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Madam President, I have been listening in my office, before I came to the floor, to Senator KERREY's comments. While we don't agree on everything, we agree on most things working on the Intelligence Committee.

I want to say this about the distinguished Senator from Nebraska who is the vice chairman of the committee. We have tried to work together on very tough issues in the Intelligence Committee and tried to bring them to the floor of the Senate together—not separately. I think it says a lot when we can do this. I certainly have a lot of respect for the Senator from Nebraska and enjoy working with him. One thing about him, he is candid, and that goes a long way on anything.

I think we have to devote our time and our effort in the Intelligence Committee and in the Senate to what works, what works best on basic intelligence gathering, as well as counterintelligence, where there is a shortfall.

In that spirit, Madam President, I rise in support of the motion to proceed to consideration of H.R. 1555, the Intelligence Authorization Act of Fiscal Year 2000.

As chairman of the Senate Select Committee on Intelligence, I am deeply disappointed that certain Members of the minority have decided to oppose this motion. I hope it will be short lived. The intelligence bill, I believe, is a balanced, thoroughly bipartisan piece of legislation that is critical to our national security.

Some Senators are objecting to the Kyl-Domenici-Murkowski amendment to restructure the Department of Energy, not the underlying bill. I am a cosponsor of that amendment, as is the distinguished vice chairman of the Intelligence Committee, Senator KERREY.

Basically, this is essentially the same proposal that prompted a filibuster threat when it first was offered to the Defense authorization bill back before the Memorial Day recess. At that time, the argument was, ''it's too soon, it's premature, there haven't been any hearings yet.''

Whatever the merit of those arguments at the time, I believe, they are wholly without merit today. The Intelligence Committee has held two open hearings on the Kyl amendment and DOE security and counterintelligence issues, including a joint hearing with the Energy, Armed Services, and Government Affairs Committees that more than 60 Senators had the opportunity to attend. The Intelligence Committee also held a detailed, closed briefing on the report of the President's Foreign Intelligence Advisory Board, also known as the Rudman report.

We heard testimony from Secretary of Energy Richardson twice, from Senator Rudman twice, and from the sponsors of this amendment.

I also should point out that, long before the current controversy, the Senate Intelligence Committee, on a bipartisan basis, identified problems in DOE's counterintelligence program and took steps to address those weaknesses. Most importantly, it sought to energize the Department of Energy to allocate the necessary resources, and take the necessary steps, to eliminate these vulnerabilities.

Since the Kyl et al amendment was first offered, the sponsors have negotiated extensively, and in good faith, with the Department of Energy in order to address the concerns that Secretary Richardson has expressed, without changing the underlying thrust of the amendment, which is to create a semiautonomous agency for nuclear security within the Department of Energy.

Last month, the need for action was dramatically reinforced by the publication of the Rudman report, entitled ''Science at its Best; Security at its Worst: A Report on Security Problems at the U.S. Department of Energy''—a report on security problems at the U.S. Department of Energy.

I commend former Senator Rudman and also Dr. Drell, and others, who were so involved in this work.

The Rudman report found among other things, that:

> At the birth of DOE, the brilliant scientific breakthroughs of the nuclear weapons laboratories came with a troubling record of security administration. Twenty years later, virtually every one of its original problems persists. . . . Multiple chains of command and standards of performance negated accountability, resulting in pervasive inefficiency, confusion, and mistrust. . . .
>
> In response to these problems, the Department has been the subject of a nearly unbroken history of dire warnings and attempted but aborted reforms.

Building on the conclusions of the 1997 Institute for Defense Analyses report and the 1999 Chiles Commission, the Rudman panel concluded that:

> The Department of Energy is a dysfunctional bureaucracy that has proven it is incapable of reforming itself. . . . Reorganization is clearly warranted to resolve the many specific problems . . . in the weapons laboratories, but also to address the lack of accountability that has become endemic throughout the entire Department.
>
> The panel is convinced that real and lasting security and counterintelligence reform at the weapons labs is simply unworkable within DOE's current structure and culture. . . . To achieve the kind of protection that these sensitive labs must have, they and their functions must have their own autonomous operational structure free of all the other obligations imposed by DOE management.

To provide ''deep and lasting structural change that will give the weapons laboratories the accountability, clear lines of authority, and priority they deserve,'' the Rudman report endorsed two possible solutions:

One was the creation of a wholly independent agency, such as NASA, to perform weapons research and nuclear stockpile management functions; or two, placing weapons research and nuclear stockpile management functions in a ''new semiautonomous agency within DOE that has a clear mission, streamlined bureaucracy, and drastically simplified lines of authority and accountability.''

The latter option, or the second approach, is the one contained in the Kyl-Domenici-Murkowski; amendment. Examples of organizations of this type are the National Security Agency and the Defense Advanced Research Projects Agency, DARPA, within the Defense Department.

The new semi-autonomous agency, the Agency for Nuclear Stewardship, would be a single agency, within the DOE, with responsibility for all activities of our nuclear weapons complex, including the National Laboratories—nuclear weapons, nonproliferation, and disposition of fissle materials.

This agency will be led by an Under Secretary. The Under Secretary will be in charge of, and responsible for, all aspects of the agency's work, who will report—and this is very important—who will report directly and solely to the Secretary of Energy, and who will be subject to the supervision and direction of the Secretary of Energy. The Secretary of Energy will have full authority over all activities of this agency. Thus, for the first time—yes, Madam President the first time—this critical function of our national Government will have the clear chain of command that it requires.

As recommended by the Rudman report, the new agency will have its own senior officials responsible for counterintelligence and security matters within the agency. These officials will carry out the counterintelligence and security policies established by the Secretary and will report to the Under Secretary and have direct access to the Secretary. It is very important that this happen. The agency will have a senior official responsible for the analysis and assessment of intelligence within the agency who will also report to the Under Secretary and have direct access to the Secretary.

The Rudman report concluded that purely administrative reorganizational changes are inadequate to the challenge at hand: They say: ''To ensure its long-term success, this new agency must be established by statute.''

For if the history of attempts to reform DOE underscores one thing, it is the ability of the DOE and the labs to hunker down and outwait and outlast Secretaries and other would-be agents of change—yes, even Presidents.

For example, as documented by Senator Rudman and his colleagues, ''even after President Clinton issued Presidential Decision Directive 61 ordering that the Department make fundamental changes in security procedures, compliance by Department bureaucrats was grudging and belated.''

At the same time, we in the Senate should recognize that our work will not be done even after this amendment is adopted and enacted into law. As the Rudman report warned, ''DOE cannot be fixed by a single legislative act: management must follows mandate. . . . Thus, both Congress and the Executive branch . . . should be prepared to monitor the progress of the Department's reforms for years to come.''

It is an indication of how badly the Department of Energy is broken that it took over 100 studies of counterintelligence, security, and management practices—by the FBI and other intelligence agencies, the GAO, the DOE itself, and others, plus one enormous espionage scandal—to create the impetus for change.

I am encouraged by what appears to be some progress toward getting to this bill. I think we all are seeking—and I hope we are—the same thing: A better and more secure Department of Energy. This nation must have no less.

I ask my colleagues: please, do not let the Senate become the lastes obstacle to reform at the Department of Energy.

Stop the delay. Vote for cloture tomorrow morning, and let's get on with the business of the people and make our labs safe for our future and our country.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

Madam President, I rise in support of the Kyl-Domenici-Murkowski-Kerrey amendment. I will first identify the need for the amendment.

What we found in this issue concerning the Department of Energy is lack of accountability. What this amendment will do, in a nutshell, is to create a single agency in the Department of Energy, an Agency for Nuclear Stewardship, that will undertake all activities of our nuclear weapons laboratories programs, including the nuclear weapons laboratories themselves. It puts one person in charge, and that will be the Under Secretary for Nuclear Stewardship. That is the person in charge of and responsible for all aspects of the new Agency for Nuclear Stewardship. It creates a clear chain of command, a new Under Secretary for Nuclear Stewardship solely and directly reporting to the Secretary of Energy.

Why do we need this? I believe all my colleagues will agree that the Department of Energy, as far as its security arrangements are concerned, is badly broken. To suggest that we should take time to evaluate at greater length when we have in the report of the investigative panel, the President's Foreign Intelligence Advisory Board—a report which I have before me entitled ''Science At Its Best, Security At Its Worst.''

I am very proud of the role of the laboratories as far as science is concerned, but what we have is a severe breach of our national security.

In summary, the amendment would create a new agency within the Department of Energy called the Agency for Nuclear Stewardship.

The Agency for Nuclear Stewardship would be semiautonomous because it would be responsible for all of its activities. It provides that the Secretary of Energy shall be responsible for all policies of the agency; that the Agency for Nuclear Stewardship, headed by the Under Secretary for Nuclear Stewardship, would be just that, responsible, again, to the Secretary of Energy. The Under Secretary for Nuclear Stewardship shall report solely and directly to the Secretary; and that individual shall be subject to the supervision and direction of the Secretary.

Make no mistake about it, the chain of command is to the Secretary of Energy. The Under Secretary for Nuclear Stewardship will have authority over all programs at the Department of Energy related to nuclear weapons, nonproliferation, and fissile material disposition.

The agency's semiautonomy, as recommended by the Rudman report, is created by making all employees of the agency accountable to the Secretary and Under Secretary of Energy but not to other officials of the Department of Energy outside the agency.

Specifically, the language reads:

> All personnel of the Agency for Nuclear Stewardship, in carrying out any function of the agency, shall be responsible to and subject to the supervision and direction of the Secretary and the Under Secretary for Nuclear Stewardship, or his designee within the agency, and shall not be responsible to or subject to the supervision or direction of any other officer, employee or agent of any other part of the Department of Energy.

The Secretary, however, may direct other officials, other departments who are not within the Agency for Nuclear Stewardship, to review the agency's programs and to make recommendations to the Secretary regarding the administration of such programs, including consistency with other similar programs and activities in the Department.

The Under Secretary for Nuclear Stewardship will have three deputy directors who will manage programs in the following areas:

First, Defense programs; that is, the lab directors and the heads of the production and test sites will report directly to this person; second, the nonproliferation and fissile materials disposition; and third, the naval reactors.

The Under Secretary for Nuclear Stewardship will appoint chiefs of—and they are as follows—first, counterintelligence—this must be a senior FBI executive whose selection must be approved by the Secretary of Energy and the Director of the Federal Bureau of Investigation—second, is security; and third is intelligence.

These three chiefs shall report to the Under Secretary and shall have, statutorily provided, direct access to the Secretary and all other officials of the Department and its contractors concerning these matters. It requires the Under Secretary for Nuclear Stewardship to report annually to the Congress regarding the status and effectiveness of security and counterintelligence programs at the nuclear weapons facilities and laboratories, the adequacy of the Department of Energy procedures and policy for protecting national security information, and whether each DOE National Laboratory and nuclear weapons production test site is in full compliance with all departmental security requirements, and, if not, what measures are being taken to bring the lab into compliance—security violators at the nuclear weapons facilities and laboratories, foreign visitors at the nuclear weapons facilities and laboratories.

In other words, what we have is a complete listing of requirements for the Under Secretary for Nuclear Stewardship to report annually to the Congress. So not only will he report to the Secretary but he will report to the Congress.

It requires the Under Secretary for Nuclear Stewardship to keep the Secretary and the Congress fully and currently informed regarding losses of national security information and requires every employee of the Department of Energy, the National Laboratories, or associated contractors to alert the Under Secretary whenever they believe there is a threat to or a loss of national security information.

In order to address concerns that Department of Energy officials were blocked from notifying Congress of security and counterintelligence breaches, the amendment contains a provision stating that the Under Secretary shall not be required to obtain the approval of any DOE official except the Secretary before delivering these reports to the Congress and, likewise, prohibits any other Department or agency from interfering.

As we look over the history of the debacle associated with the breach of our national security regarding the laboratories, clearly, we have case after case, as we look to the former Secretaries, where there was a lack of an effective transfer of information, transfer of security matters, and just the transfer of everyday activities associated with responsibility and accountability. The system failed.

The system failed because various people did not have access to the Secretary who were in charge of responsible security areas that mandated that they have such access in order to complete the communication within the chain of command.

As a consequence, I support this amendment. We need this amendment to protect the national security. We need it to keep our nuclear weapons secrets from falling into the wrong hands. We have already suffered a major loss of our nuclear weapons secrets.

According to the House Select Committee, the Cox report, the Chinese have stolen design information on all of the United States' most advanced nuclear weapons. This is simply unacceptable.

The question we now face is: Will we lose more national security information if we do not take action? The answer is: Certainly that we stand greater exposure. The problem is the management of the Department of Energy. The problem is lack of accountability and lack of responsibility.

Let me quote from the report of the President's Foreign Intelligence Advisory Board, the Rudman report. Again, I refer to this report, ''Science at its Best, Security at its Worst.''

> Organizational disarray, managerial neglect, and a culture of arrogance—both at DOE headquarters and the labs themselves—conspired to create an espionage scandal waiting to happen.

This is in the report itself.

Further:

> The Department of Energy is a dysfunctional bureaucracy that has proven it is incapable of reforming itself.

Right out of this report.

I quote further:

> Accountability at the Department of Energy has been spread so thinly and erratically that it is now almost impossible to find.

Right out of the report.

Further:

> Never have the members of the Special Investigative Panel witnessed a bureaucratic culture so thoroughly saturated with cynicism and disregard for authority.

Further quote:

> Never before has this panel found such a cavalier attitude toward one of the most serious responsibilities in the federal government—control of the design information relating to nuclear weapons.

Further:

> Never before has the panel found an agency with the bureaucratic insolence to dispute, delay, and resist implementation of a Presidential directive on security.

If that isn't evidence enough that the security is at its worst, I do not know what other points to make. To date, the only DOE people who have been removed from their jobs as a consequence of the question of who is accountable are: Wen Ho Lee, who is alleged to have engaged in espionage at Los Alamos, is yet to be even charged with anything—not everyone a security violation; a gentleman by the name of Notra Trulock, the person who uncovered the alleged espionage and pushed perhaps too hard to stop it—which I might add, the Department of Energy felt a little uncomfortable with. He was shuffled off to a sideline position in the Department of Energy because he was too aggressive in bringing this matter to light. A gentleman by the name of Vic Reis, Assistant Secretary of the Department of Energy for Defense Programs, has, I understand, resigned because he disagrees with the officials down there and happens to support the pending amendment, the Kyl-Domenici-Murkowski amendment.

Not a single high-level bureaucrat at the Department of Energy, the FBI, or the Justice Department has been removed, demoted, or disciplined over this massive failure. One has to wonder with all the talent associated with these agencies who bears the responsibility for failure in this case?

The questions we must answer are certainly clear: How long are we willing to put up with this? Do we want to continue with the status quo? Our proposal is pending the cloture vote tomorrow. Those that are in opposition—who feel perhaps a bit uncomfortable with this—do they have a proposal to fix it? Clearly, they don't. We want to fix the problem.

For reasons that I fail to understand, the administration is very reluctant to address this problem with a strong proposal for identifying accountability in the Department of Energy. Unfortunately, Secretary Richardson is opposed to our amendment as it stands. When it came up the last time on the defense bill, Secretary Richardson sent two letters threatening a veto by the President. Why doesn't the administration want to do anything significant to correct this problem? They seem to be willing only to rearrange the deck chairs, so to speak. They seem to be willing to make changes, but only those that ultimately result in the status quo.

We want to steer the ship in a different direction so that it won't hit another iceberg. This Nation should not have to suffer from another massive loss of our most sensitive nuclear weapons secrets. The President's own intelligence advisory board agrees with our legislative solution. That is what the Rudman report said.

Our amendment is patterned after the Rudman report. Let me again quote from this report:

> The panel is convinced that real and lasting security and counterintelligence reform at the weapons labs is simply unworkable within the Department of Energy's current structure and culture. Further, to achieve the kind of protection that these sensitive labs must have, they and their functions must have their own autonomous operational structure, free of all of the other obligations imposed by the Department of Energy management.

Well, today we have a situation where everybody is pointing the finger at everybody else. No one wants to take the responsibility. No one wants to be held accountable.

Fundamentally, the issue is how to create accountability and responsibility at the Department of Energy. I encourage my colleagues to examine our amendment because that is just what it does. It creates accountability. It creates responsibility. No longer can we have a situation such as we have seen within the Department, where it is impossible to determine who bears the responsibility for the Wen Ho Lee breach of security. It creates accountability and responsibility by establishing a new Agency for Nuclear Stewardship inside of the Department of Energy to be headed up by a new Under Secretary of Energy.

This new agency is now made responsible for all aspects of our nuclear weapons programs, including the previously loosely-managed laboratories. If there is a problem in the future, we will know who to point the finger at, who to hold responsible, a single agency with a single person heading it and in charge of all aspects of nuclear weapons programs. Our amendment also requires the new Under Secretary to report to the FBI and Congress all threats to our national security. No longer will we be kept in the dark, having to pretty much depend on the New York Times to find out what is going on.

The Secretary of Energy is uncomfortable with this reorganization. Evidently, his idea is to rely on the same old management team, everyone in charge but no one responsible, no clear identifiable accountability.

In conclusion, let me quote the testimony of Mr. Vic Reis. This came up late last week. Mr. Reis is the Assistant Secretary of Energy for Defense Programs. He testified before the Energy Committee last week.

I might add, Mr. Reis' responsibility in the line of command is that the lab directors report directly to Mr. Reis.

Mr. Reis said:

> You may recall at previous hearings, Mr. Chairman, you noticed me in the audience and you asked for my opinion as to who or what was to blame for the security issues at the national laboratories. I responded that I didn't think you would find any one individual but that there were organizational structures of the Department of Energy that were so flawed that security lapses are almost inevitable.

Now, this is the gentleman to whom heads of the labs report. He says that you can't find any individual to blame. The organizational structure was so flawed that security lapses were inevitable.

Then Mr. Reis went on to say:

> The root cause of the difficulties at the Department of Energy is simply that the Department of Energy has too many disparate missions to be managed effectively as a cohesive organization. The price of gasoline, refrigerant standards, Quarks, nuclear cleanup and nuclear weapons just don't come together naturally. Because of all this multilayered crosscutting, there is no one accountable for the operation of any part of the organization except the Secretary, and no Secretary has the time to lead the whole thing effectively. By setting up a semi-autonomous agency, many of these problems will go away.

Madam President, in short, if you want espionage to continue at the laboratories and maintain the environment where it can occur, then stick with the present system. But if you, like me, want to stop this atmosphere where espionage can flourish, I think you should vote for the motion and invoke cloture for the amendment.

What we have here is a situation where I think it is appropriate that we identify where the differences are between the Secretary, Senator KYL, Senator DOMENICI, Senator KERREY, and Senator MURKOWSKI and in our amendment. What we do is we create a single semiautonomous agency, as I have indicated, that reports directly to the Secretary of Energy. The new Under Secretary for Nuclear Stewardship will be responsible for both setting policy and implementation of policy, subject to the overall supervision and direct control of the Secretary of Energy.

I want to make that clear: Subject to the overall supervision and direct control of the Secretary of Energy.

Evidently, that is not what the Secretary wants. The Secretary is willing to allow the new Under Secretary for Nuclear Stewardship to implement policy but not set policy. There is a big difference, implementing and setting. More significantly, the Secretary wants to allow any part of the Department of Energy to set the policies that the new Under Secretary would have to follow. So somebody else is setting it.

The Secretary's proposal would violate our fundamental concept; that is, clear and identifiable lines of authority and responsibility—in other words, a direct chain of command. We have been discussing our differences, but so far we seem to be unable to resolve them.

There is one other thing I will mention that was said the other day that relates to this matter under discussion. Two current nuclear weapons lab directors and one former lab director said at a hearing that while they could report their problems and issues to Mr. Reis, who is their supervisor, that Mr. Reis has no clear line of authority to pass those up through the chain of command to the Secretary.

So here we have it. This substantiates the justification for our amendment. Here is the gentleman who is responsible to have the input from the lab directors report to him, the three labs, Livermore, Sandia, Los Alamos.

But the gentleman in charge, Mr. Reis, under the current structure and chain of command within the Department of Energy, has no clear line of authority to pass those recommendations, those matters, up through the chain of command to the Secretary. So here you have the person that is responsible to get the information from the lab directors, but there is no provision, no requirement, no line of command up to the Secretary so that policy matters can be addressed. That one observation with these three lab directors illustrates the problem we are trying to fix with this legislation.

As it stands today, there is no chain or lines of authority and responsibility. Right now, everybody is in charge, but nobody is responsible. I guess it is fair to say there are several missing links, if you will, in the DOE chain of command and authority. The purpose of the amendment is to fix that problem.

I often think back to military concept and a ship at sea. Someone is in charge of the CON—in other words, the ship is under the direction of the officer in charge, and he has the CON. There is no question of where the responsibility sets. If he is relieved, the command of the ship is taken over and that person accepts the responsibility. In the DOE, we don't have those clear lines of authority, and that is the justification for the amendment pending before this body today.

Is this thing broke to the point where it mandates that the Senate take action? I think it is fair to say that the answer is clearly yes. The ineptness, the bungling, the pure mismanagement at all levels are things that have occurred within this agency. The Department of Energy never took the most basic precautions to guard against the theft of the nuclear secrets. The FBI conducted feeble investigations. The Department of Justice, led by Attorney General Reno, virtually ignored requests for warrants to search Wen Ho Lee's computers. What we have here are the results of one of the worst cases in the history of this Nation of our national security being jeopardized.

I have held about 9 hearings as chairman of the Energy and Natural Resources Committee on these matters, and three important discoveries were made by my committee. First, the Department of Energy and the FBI bungled the computer waiver issue. I have a chart here. The lab directors, the attorneys, and directors of counterintelligence all agree that the DOE had the authority to search Lee's computer because he signed a waiver. Well, this is the waiver. This is a copy of the waiver that actually Wen Ho Lee signed, dated April 19, 1995:

> Warning: To protect the LAN system from unauthorized use and to ensure that the systems are functioning properly, activities on these systems are monitored and recorded and subject to audit. Use of these systems is expressed consent to such monitoring and recording. Any unauthorized access or use of this LAN is prohibited and could be subject to criminal and civil penalties.

Here is the part Wen Ho Lee signed:

> I understand and agree to follow these rules in my use of the ENCHANTED LAN. I assume full responsibility for the security of my workstation. I understand that violations may be reported to my supervisor or FSS–14, that I may be denied access to the LAN, and that I may receive a security infraction for a violation of these rules.

Now, the issue here is that the FBI claimed that the Department of Energy told him there was no waiver; no such waiver existed. The FBI wrongly assumed, then, that they needed a warrant to search. What is the result of this inept communication? Well, Lee's computer could have been searched, but instead was not searched for some three years. When the computer was finally searched, they discovered evidence that Wen Ho Lee had downloaded legacy codes to an unclassified computer.

The fundamental problem is that nobody was looking at the big picture. Surely, protecting nuclear secrets and national security outweighs the feeble attempts that were made to get a possible conviction.

What we have here is, one, the Department of Energy did not know that Wen Ho Lee had signed a waiver. They could not find it in his personnel file because the file had been mislaid. Had they known that, as I indicated earlier, they could have monitored his computer. Instead, the FBI said, no, they were doing an investigation, and since

they didn't have a waiver, his computer was not monitored by the Department of Energy. Yet, they found later that the waiver existed, as evidenced by the poster I just showed in evidence.

The FBI and the Department of Justice next bungled the counterintelligence warrant or the FISA, as evidenced by chart 2. The FBI, not once or twice, but three times requested warrants from the DOE. This is chart 2. This is the FISA report. Department of Energy, FBI, Department of Justice, and the FISA warrant, approved or rejected. Notra Trulock briefs the FBI. An FBI request was made by John Lewis, then assistant director of the FBI National Security Division. An FBI request was made to Gerald Schroeder, Acting Director, Office of Intelligence Policy and Review. It was rejected. Here is the rejection. Here is the sequence of events. The first time we had the sequence of the DOE, FBI, and Department of Justice proceeding to authorize the FISA warrant to investigate the alleged counterintelligence and espionage charges alleged against Wen Ho Lee.

The second time, Notra Trulock and others continued to prod FBI's investigation of Wen Ho Lee. FBI request made to John Lewis, then Assistant Director of the FBI National Security Division. FBI request made to Gerald Schroeder. Again, it was rejected. The second time it was rejected by the Department of Justice.

Now, then the last time, Mr. Lewis, who is up there in the hierarchy, Assistant Director of the FBI, National Security Division, feels so frustrated that he makes a personal plea to Attorney General Janet Reno. Again, Notra Trulock and others continue to prod the FBI. John Lewis makes a personal request to the Attorney General because he feels so strongly that there is justification to authorize this investigation. But the personal appeal falls on deaf ears.

Why was it rejected? What happened? We don't know. Nothing happened. But we do know that the Attorney General ignored two pleas for help. Notra Trulock, then DOE Director of Intelligence, personally briefed Janet Reno in ''great detail'' about the Lee case in August of 1997. John Lewis, FBI Director of Intelligence, also indicated he personally pled to Janet Reno to approve the FBI's request for a warrant to search Lee in August of 1997.

Why did Attorney General Janet Reno ignore pleas from two top national security advisers? We don't know. We don't know because there is a great reluctance to provide the committees of jurisdiction with that information.

I am personally disappointed in the FBI and the Department of Justice's refusal to testify publicly. Probably 90 percent of what has been found in closed sessions is not really classified, in my opinion.

What we are looking for here is accountability. We in the Energy and Natural Resources Committee intend to continue to identify those persons whose inaction has led to one of the most potentially catastrophic losses in our national security history. Now we have a situation where they seem to want to hide behind the smokescreen of ''national security'' or to finger-point and say it is not our responsibility. That is simply an unconscionable set of circumstances.

Finally, as we address a couple of other points that may come up in the debate which I think deserve consideration, why create one semiautonomous agency within the Department of Energy? We are creating a hybrid that has no other identifiable comparison. Let me put that myth to rest. There are other semiautonomous agencies that function extremely well. That is what we are proposing with the amendment which has been laid down.

Let's look at three of those semiautonomous agencies.

DARPA, the Defense Advanced Research Project Agency, is a separate agency within the Department of Defense under a director appointed by the Secretary of Defense. It works.

NOAA, the National Oceanic and Atmospheric Administration, is the largest bureau within the Department of Commerce. It is a semiautonomous agency. It works.

NSA, the National Security Agency, was established by Presidential directive as a separate department organized as an agency within the Department of Defense. It was structured in that manner and form because it was necessary that there be accountability and responsibility within the National Security Agency. It is a semiautonomous agency.

I encourage my colleagues as we proceed to vote tomorrow—my understanding is that we are going to have one hour of debate equally divided on the cloture motion on the amendment—to recognize that the time to address this is now, that the responsibility clearly is within this body, and that the amendment we offered identifies the one thing that was lacking as we look at how this set of security breaches could have occurred, and that is, it addresses accountability and responsibility.

For those who feel uncomfortable, I encourage them to recognize that they have a responsibility of coming up with something that will work. We think that the amendment pending, the Kyl-Domenici-Murkowski-Kerrey amendment—I understand that Senators THOMPSON, SPECTER, GREGG, HUTCHINSON, SHELBY, WARNER, BUNNING, HELMS, FITZGERALD, LOTT, KERRY, FEINSTEIN, and BOB SMITH are a few of the other Members of the Senate who are cosponsoring this amendment.

It is a responsible amendment. Let's get on with the job. Let's put this issue in the restructured form that provides for accountability and responsibility, and move on. The American people and the taxpayers certainly deserve prompt action by this body. We have that obligation. The time is on the vote tomorrow.

I urge my colleagues to support the amendment.

I see no other Senator wishing time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

TRIBUTE TO COACH DAVEY WHITNEY, ALCORN STATE UNIVERSITY

Mr. LOTT. Mr. President, today I honor a Mississippian who made numerous contributions to Alcorn State University, to countless young student athletes and to the community. Coach Davey L. Whitney, Head Coach of the Men's Basketball team at Alcorn State University, has served as a leader at this educational institution, a professor of championship athletics and a mentor for many of his players.

Nearly 30 years ago, Coach Whitney first arrived on the Lorman, Mississippi, campus. From the beginning, Davey's tenure at Alcorn was destined for greatness. Within ten years, the Alcorn State Men's Basketball team went from little notoriety to groundbreaking achievement. His list of accomplishments is exemplary. His determination is heroic.

He was the first coach to lead an historically black college team to wins in both NCAA and NIT tournaments. His teams also won nine Southwestern Athletic Conference titles. In 1979, Alcorn accomplished something that no previous historically black college had done—winning a National Invitational Tournament game—when they defeated Mississippi State University.

Coach Whitney has been a mentor to many young men. Many of his players have become successful businessmen. Several of his players even had successful professional athletic careers in the National Basketball Association. Larry Smith, who was drafted by the Golden State Warriors, is now an assistant coach with the Houston Rockets. He is reproducing Coach Whitney's approach of discipline coupled with a warm personal devotion for the players.

Coach Whitney's career has not been one without trials. In 1989 he was fired after losing three successive seasons. Still Coach Whitney stayed involved in basketball by coaching in the Continental Basketball Association and the United States Basketball League.