

number of nuclear warheads in the United States and Russian arsenals, for reducing the number of nuclear weapons of those two nations that are on high alert, and for expanding and accelerating programs to prevent diversion and proliferation of Russian nuclear weapons, fissile materials, and nuclear expertise; to the Committee on Foreign Relations.

Ms. LANDRIEU. Mr. President, when Winston Churchill addressed the student body at Westminster College in 1946, he declared to the United States that "with primacy of power is also joined an awe-inspiring accountability to the future . . . you must not only feel the sense of duty done, but also the anxiety lest you fall below that level of achievement." Over the course of the cold war, we did not fail in our duty, nor should we in the new century.

In the same speech he laid before the whole world the rhetoric that would define the cold war. In describing the Sphere of Soviet dominance in Eastern Europe, Mr. Churchill described an Iron Curtain which the ancient capitals of Warsaw, Prague, and Budapest were held. With the fall of communism in the early part of the last decade, the United States has had to re-shape its review of Eastern Europe. No longer do we view the countries of Poland, the Czech Republic, or Hungary as isolated adversaries, but as partners in the very alliance that carried us through the cold war. In the same way that we have looked to reforming our relationship with the countries of the old Warsaw Pact we must find new ways to view Russia. It is difficult to fathom that in the 21st century we view Russia as a declared ally on the world stage while maintaining a nuclear posture at home which treats her as an enemy. It is time that we transform our nuclear doctrine from one that reflects the thinking of the cold war to one that fits in the context of the 21st century and addresses what is perhaps the greatest threat to our security.

When President Bush met with Mr. Putin a few weeks ago, he expressed that the United States and Russia can find a "common position" on a "new strategic framework". President Bush declared that the two countries are friends and that it is time for the U.S. and Russia to act that way. In context of this historic meeting, it is time that we "work together to address the world as it is, not as it used to be, it is important that we not only talk differently, we must also act differently."

I rise today to introduce legislation that would direct the President to seek in his own words: ". . . a broad strategy of active non-proliferation . . . to deny weapons of terror from those seeking to acquire them . . . and to work with allies and friends who wish to join us to defend against the harm they, WMD can inflict"

The Nuclear threat Reduction Act of 2001, NTRA, would make it the policy

of the United States to reduce the number of nuclear warheads and delivery systems held by the U.S. and Russia through bilateral agreements. These reductions should fall to the lowest possible number consistent with national security. It would enable the President to reduce our nuclear stockpile while negotiating such reductions with the Russians that are transparent, predictable and verifiable. To do such a thing would be a mark of principled leadership. It would acknowledge that it is no longer necessary to maintain large stockpiles of nuclear arms by the United States and Russia and that to continue to do so would be unacceptable.

On May 23, 2000 President Bush stated "The premises of cold war targeting should no longer dictate the size of our arsenal." I could not agree with the President more. The current level of nuclear weapons maintained by the United States comes at a great cost to ourselves financially and poses a significant threat to our security. The level of nuclear protection that we maintain forces the Russians to keep a similarly robust force which they cannot afford. The crumbling infrastructure of the Russian Military continually raises the risk of accidental launch or greater proliferation. Indeed, the legislation being considered today would ensure that once parts of the Russian arsenal are dismantled, they will be kept safe, they will be accounted for, and they will eventually be destroyed.

The savings from reducing our nuclear arsenal are substantial. A recent CBO report estimated that \$1.67 billion could be saved by retiring 50 MX Peacekeeper missiles by 2003. We could use this money to address shortfalls in our conventional capabilities. Additionally, we can devote more funds to meeting the asymmetrical threats that will face us in the future. To invest in deterrents to cyberwarfare and to augment spending on homeland defense would be the best way to transform our thinking and spending from the Cold War to the twenty-first century.

In addition to this, the Nuclear Threat Reduction Act would encourage the U.S. and Russia to take their systems off of high-alert status. In the context of the cold war, such a strategy was necessary to ensure our security, but it no longer applies to present conditions.

The Nuclear Threat Reduction Act would also embolden existing Department of State, Energy, and Defense programs that seek to contain existing nuclear weapons material and expertise in Russia. The economic situation in Russia makes it more and more likely that a rouge state will acquire the means to manufacture nuclear weapons. This could come through the distribution of nuclear material or the exodus of Russian scientists. Our former

colleague Sen Nunn put it best when he said "We dare not risk a world where a Russian scientist can take care of his children by endangering ours." The cost to the United States is minuscule compared to the threat of nuclear proliferation. Work on this serious issue has already been addressed by the Nunn-Lugar bill, but it is time that we further our efforts.

In January of this year, a task force headed by Howard Baker and Lloyd Cutler issued a report calling the proliferation of the Russian nuclear stockpile "The most serious threat to national security we face today". The Baker-Cutler Task Force strongly endorsed existing non-proliferation programs and suggested that their goals could be achieved in 8-10 years if they are fully funded. Increased support for these programs will certainly bring them more in line with the immediacy and scope of the dangers that they address.

The NTRA requires the President to formulate and submit to Congress a strategic plan to secure and neutralize Russia's nuclear weapons and weapons-usable materials over the next eight years. The plan would have to include the administrative and organizational reforms necessary to provide effective coordination of these programs and to reflect the priority that the President attaches to them. The President himself has advocated such a strategy and I call on him to implement it.

Finally, the NTRA requires the President to submit a report to Congress on the feasibility of establishing a "debt for security" program with Russia. Under this concept, a portion of Russia's debts to various major powers would be forgiven in exchange for a Russian commitment to devoting those funds to non-proliferation activities. If successful, such a program could significantly help Russia's secure, account for, and neutralize its weapons materials.

In closing, The Nuclear Reduction Act of 2001 would help us fulfill the duty that comes with being the world's last remaining super power. By preventing the spread of nuclear materials and technology, reducing the nuclear stockpiles of the United States and Russia, and by taking our missiles off of high-alert status, we can fulfill that duty. I ask the other Members of the Senate to join me in support of this measure.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 819. Mr. THOMPSON proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

SA 820. Mr. MCCAIN (for himself, Mr. BAYH, Mr. CARPER, and Mr. EDWARDS) proposed an amendment to the bill S. 1052, supra.

SA 821. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 822. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 823. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 824. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 825. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 826. Ms. COLLINS (for herself, Mr. NELSON, of Nebraska, Mr. ENZI, Mr. VOINOVICH, Mr. HUTCHINSON, and Mr. ROBERTS) proposed an amendment to the bill S. 1052, supra.

SA 827. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 828. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1052, supra; which was ordered to lie on the table.

SA 829. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1052, supra; which was ordered to lie on the table.

SA 830. Mr. BREAUX (for himself, Mr. JEFFORDS, Mr. KENNEDY, Mr. MCCAIN, and Mr. EDWARDS) proposed an amendment to the bill S. 1052, supra.

#### TEXT OF AMENDMENTS

**SA 819.** Mr. THOMPSON proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 150, strike line 17 and all that follows through page 153, line 8, and insert the following:

“(9) REQUIREMENT OF EXHAUSTION.—

“(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102 and 103 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

“(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (10)(B), with respect to a participant or beneficiary, unless the requirements of subparagraph (A) are met.

“(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any ad-

ministrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

“(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

“(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

The court in any action commenced under this subsection shall take into account any receipt of benefits during such administrative processes or such action in determining the amount of the damages awarded.

“(D) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 103 of the Bipartisan Patient Protection Act of 2001 shall be admissible in any Federal court proceeding and shall be presented to the trier of fact.

On page 165, strike line 15 and all that follows through page 168, line 3, and insert the following:

“(4) REQUIREMENT OF EXHAUSTION.—

“(A) IN GENERAL.—A cause of action may not be brought under paragraph (1) in connection with any denial of a claim for benefits of any individual until all administrative processes under sections 102, 103, and 104 of the Bipartisan Patient Protection Act of 2001 (if applicable) have been exhausted.

“(B) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under subsection 502(a)(1)(B) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) unless the requirements of subparagraph (A) are met.

“(C) RECEIPT OF BENEFITS DURING APPEALS PROCESS.—Receipt by the participant or beneficiary of the benefits involved in the claim for benefits during the pendency of any administrative processes referred to in subparagraph (A) or of any action commenced under this subsection—

“(i) shall not preclude continuation of all such administrative processes to their conclusion if so moved by any party, and

“(ii) shall not preclude any liability under subsection (a)(1)(C) and this subsection in connection with such claim.

“(D) ADMISSIBLE.—Any determination made by a reviewer in an administrative proceeding under section 104 of the Bipartisan Patient Protection Act of 2001 shall be admissible in any Federal or State court proceeding and shall be presented to the trier of fact.

**SA 820.** Mr. MCCAIN (for himself, Mr. BAYH, Mr. CARPER, and Mr. EDWARDS) proposed an amendment to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; as follows:

On page 36 line 5, strike “except” and all that follows through “(2)” on line 8.

On page 62, between lines 10 and 11, insert the following:

(V) Compliance with the requirement of subsection (d)(1) that only medically reviewable decisions shall be the subject of inde-

pendent medical review and with the requirement of subsection (d)(3) that independent medical reviewers may not require coverage for specifically excluded benefits.

On page 62, line 20, after the period insert the following: “The Secretary, or organization, shall revoke a certification or deny a recertification with respect to an entity if there is a showing that the entity has a pattern or practice of ordering coverage for benefits that are specifically excluded under the plan or coverage.”

On page 62, between lines 20 and 21, insert the following:

(vii) PETITION FOR DENIAL OR WITHDRAWAL.—An individual may petition the Secretary, or an organization providing the certification involves, for a denial of recertification or a withdrawal of a certification with respect to an entity under this subparagraph if there is a pattern or practice of such entity failing to meet a requirement of this section.

On page 66, between lines 10 and 11, insert the following:

(5) REPORT.—Not later than 12 months after the general effective date referred to in section 401, the General Accounting Office shall prepare and submit to the appropriate committees of Congress a report concerning—

(A) the information that is provided under paragraph (3)(D);

(B) the number of denials that have been upheld by independent medical reviewers and the number of denials that have been reversed by such reviewers; and

(C) the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

**SA 821.** Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 1052, to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; which was ordered to lie on the table; as follows:

On page 148, between lines 23 and 24, insert the following:

“(D) EXCLUSION OF SMALL EMPLOYERS.—

“(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, in addition to excluding certain physicians, other health care professionals, and certain hospitals from liability under paragraph (1), paragraph (1)(A) does not create any liability on the part of a small employer (or on the part of an employee of such an employer acting within the scope of employment).

“(ii) DEFINITION.—In clause (i), the term ‘small employer’ means an employer—

“(I) that, during the calendar year preceding the calendar year for which a determination under this subparagraph is being made, employed an average of at least 2 but not more than 15 employees on business days; and

“(II) maintaining the plan involved that is acting, serving, or functioning as a fiduciary, trustee or plan administrator, including—

“(aa) a small employer described in section 3(16)(B)(i) with respect to a plan maintained by a single employer; and

“(bb) one or more small employers or employee organizations described in section 3(16)(B)(iii) in the case of a multi-employer plan.

“(iii) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subparagraph: