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Senate

The Senate met at 10:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by Rabbi Yechiel Eckstein, president of the International Fellowship of Christians and Jews.

We are pleased to have you with us.

PRAYER

Our Father in Heaven, we come before You this day and every day in awe, gratitude, praise, humility, and prayer. This, indeed, is the day the Lord has made, let us rejoice and be glad in it.

O Lord, instill in our hearts a love for You and for all Your creation. May we be ever mindful that it is from You that we derive our strength, our wisdom, our hope, and our conviction.

May we be inspired by Your Word and reminded of Micah's admonition to act justly, love mercy, and walk humbly with the Lord our God. May we never avert our eyes from the pain and suffering of others.

O Lord, on this and every day, we seek Your guidance and direction. Watch over us and our leaders—indeed, the men and women in this room.

We pray for the peace of Jerusalem as Psalms 122:6 urges us to do, and indeed for peace among all people of all nations. So that, instead of finding swords and weapons we will find only plowshares and pruning forks. We, the people, look to You, O God and to you, our leaders, to bring that day of peace about.

May we be inspired to transcend our diversities and differences and be blessed from on high with the fulfillment of the ancient Biblical promise of Psalm 133, ''How good and how pleasant it is for brethren to dwell together in unity.'' God bless you and always be with you. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

WELCOME TO RABBI YECHIEL ECKSTEIN

Mr. THOMAS. Mr. President, first, on behalf of the Senate, I say welcome to Rabbi Yechiel Eckstein, president of the International Fellowship of Christians and Jews, to the Senate. Thank you so much for your prayer this morning. Rabbi Eckstein is an outstanding spiritual leader, author, lecturer, and radio and television communicator. Chaplain Ogilvie has invited Rabbi Eckstein to lead a seder dinner for Senators and their spouses this next Tuesday evening, April 15, 1997, which should be a great opportunity. My wife and I attended last year and, as Methodists, we enjoyed it a great deal. We intend to be there again this year.

Rabbi, we thank you for your message and sharing with us some of the feelings of the heritage we share as Jews and Christians.

SCHEDULE

Mr. THOMAS. Mr. President, I would like to announce today's schedule on behalf of the majority leader. Today there will be a period of morning business until the hour of 12:30 this afternoon. At 12:30, the Senate will recess until the hour of 2:15 to allow for the weekly policy conferences to be held. When the Senate reconvenes at 2:15, we will resume debate on the motion to proceed on S. 104, the Nuclear Waste Policy Act legislation. Under the order, the time between 2:15 and 5:15 will be equally divided, with a vote occurring at 5:15 on invoking cloture on the motion to proceed to S. 104.

If cloture is invoked, the majority leader hopes that the Senate will be allowed to proceed to the consideration of the bill in a reasonable time period. If cloture is not invoked, I remind all Senators that a second cloture motion was filed last night and therefore a second cloture vote would occur tomorrow. If that vote becomes necessary, all Members will be notified later today as to when they can expect that vote on Wednesday.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. ROBERTS). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30, with Senators permitted to speak therein for up to 5 minutes each.

Who seeks time?

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

TAXES

Mr. THOMAS. Mr. President, several of us have asked this morning for a half hour to talk about an item that is of particular interest now, and that is taxes. It is of particular interest because we are now close to April 15, when taxes are more real to us all than they are at some other times. We want to talk about taxes because they are part of the Republican agenda. We have talked, over the years, about the idea of allowing families to spend more of their own money, allowing businesses to be able to invest and create jobs in the private sector. I think it is appropriate to talk about taxes because it has been an area of controversy—the idea of whether or not we ought to have an effort at tax relief at the same time we seek to balance the budget.

Mr. President, I am here to tell you that having been in my home district in Wyoming over the past week, as most of us have, and having a series of town meetings, the issue that came up most often is: What are you going to do

about taxes? What are you going to do about the capital gains tax? What are you going to do about estate taxes or some tax relief for families to be able to help take care of their own children?

So I feel very strongly about it. Let me just say that too often when we talk about taxes and the budget, I think it seems that we are talking about arithmetic and bookkeeping when we talk about budgets. It just seems to me that when we talk about budgets, we are really talking about something quite broader than that, and that is the direction of this Government and whether or not we want to have more central Government, or whether we want to have less, whether we want to move more of our activities back closer to people at the State and local governments, or whether we want to continue to build up more and more at the central Federal Government level.

With that concept, the philosophical direction that is inherent in those decisions is also a decision about taxes and, I suspect, if possible, although we haven't done it for 30 years, to balance the budget and to continue to spend at the same time. You do that by raising taxes. That is the way you do that. That is what the President did several years ago, to move toward a balanced budget by continuing to spend but to raise taxes.

There is a philosophical difference of view. There are those who believe that we ought to have more Government, who believe that the Government actually spends money to a better advantage than people themselves do, who believe that we ought to have more and more functions carried on at the Federal level in the central Government. That is a legitimate point of view. I don't happen to share it.

I think, Mr. President, that quite often when we talk about the details of issues, really at the center of it is that issue of whether you want more Government or whether you want less. It is a pretty basic philosophical issue. That is what we are talking about here. It does seem to me that—No. 1, when you have a tax burden on the American citizens that averages between 38 and 40 percent in taxes for families, that is a heavy burden. That is a very heavy burden.

It seems to me, of course, that there are lots of ways in which we can reduce the size of the Federal Government. We can contract, we can have more things done in the private sector, and we can move more of it to the State government. There are a lot of the things out of the $1.7 trillion budget we don't have to do. Many of those things have been there forever and they just go on because they go on. I guess I am suggesting that we ought to take a long look at that budget. In my view, one of the priorities for this Congress and for this Senate ought to be to balance the budget and provide tax relief for American citizens. That is what it is all about, I believe, so we want to talk about that.

There is a different view. There are those who, I think legitimately from a strategic point of view, say, ''Let us balance the budget first.'' That is OK, I guess, if you are committed then to doing the tax relief. However, I believe we ought to deal with them at the same time. I am one who signed a letter—there were 16 of us, I believe—to the leader saying that we ought to deal with the whole concept of the size of the budget, how we balance the budget and how we give tax relief to American families and to business. That seems to be what we ought to do.

What did I hear about at home? I heard about capital gains taxes. I heard an awful lot about the idea that people would like to be able to invest in businesses if they could make some profit over time, even if it is nothing more than inflation over time, and about paying taxes on the investments for the inflation they have made. That discourages them. We have a lot of small businesses in my State, as is true everywhere. Small business is the backbone of this economy. We have a lot of farmers and ranchers and families who have spent their whole lives putting together an estate in their ranch or farm. Now we find, quite often, because those are not really cash-flow cows—there is a great deal of asset value there, but not much cash—you have to dispose of that property in order to pay the taxes. You can't pass it on to your family. There is a lot of concern about that.

Well, Mr. President, I have been joined by several of my associates to talk for a little bit about taxes this morning. So I yield to my friend, the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Thank you, Mr. President, and I thank the Senator from Wyoming for yielding time and for organizing this time to talk about the desperate need for tax relief for American families and businesses. I rise today in very strong support for meaningful and permanent tax relief for American families and businesses. This is, I believe, no time for us as conservatives, no time for us as Republicans, no time for us as Americans to retreat or backtrack or to equivocate on our commitment to the American people that we will fight for them and fight for tax relief.

One of the problems—and there are many—with the President's budget is that he matches temporary, very narrowly targeted tax cuts with permanent tax hikes. So while the minimal targeted tax cuts would be sunsetted, the American people will be obliged to continue to pay and pay and pay the tax increases. Not too long ago, Mr. Greenspan, Chairman of the Federal Reserve, testifying before the Senate Banking Committee, said, ''Ultimately, you cannot solve the long-term deficits from the receipt side. It's got to be from the expenditure side.''

Put very plainly, it seems to me that Mr. Greenspan is saying that the problem we have in our chronic deficits is not that the Federal Government does not have enough money, it is not that our National Government does not have enough revenues; it is that we are, in fact, addicted to spending. So the question is—and the debate continues to exist—Can we balance the budget and provide tax relief simultaneously? I think the answer to that is an emphatic, yes. The problem is not that we don't have enough revenues or that we need to increase taxes. The problem has been and continues to be that we spend too much and that we cannot get a control on our spending habit and that we are unwilling to deal with the very real problem of entitlement spending that consumes more and more of the budget pie.

So I suggest that we can cut taxes and that we must cut taxes for the American people. There are three areas, I think, particularly that we need to emphasize. First, as the Senator from Wyoming emphasized, was family tax relief. Families today, working families, hard-working families, are being squeezed more and more by an ever larger tax bite—almost 40 percent for the average family—at the Federal, State, and local level, which is more than they are spending for housing, for education for their children, for health care, more than they are spending for recreation, all combined together, they are spending to the tax collector. That is too much. That is unfair.

I also was listening to my constituents over the recess. We had 12 town meetings in Arkansas. In Fayetteville, AR, after making a speech and taking questions for more than an hour, a gentleman came up to me and said, ''Senator, something is wrong in America.'' He said, ''I was raised in a family of eight of us. There were eight children. Mom stayed home, dad worked. Dad, as a single breadwinner in a single-income family, he could provide for the eight of us. We had a pretty good life. My dad had a high school education. Now I have a college degree, two children. My wife and I both work, and we can barely keep things together. Something is wrong.'' While there may be many, many answers to that question, what is wrong and what has happened—a big part of it—is that Government has gotten larger, and as Government has gotten larger, its demand on the family has increased and the amount that it confiscates from the American family of higher taxes has grown to the point that the American family has a very difficult time paying it.

We need family tax relief. We need estate tax relief. There are fewer things I heard more about during my town meetings than the need for estate tax relief. There are fewer taxes in this country I believe that are more un-American than the estate tax. There are fewer taxes that are more of a killer and a destroyer of the American dream than the estate tax.

We used to say that part of the American dream is if you work hard,

save your money, and if you invest well, that you not only will have a better life, but you will be able to pass that on to your children and grandchildren so that they will have greater opportunities than we have. But today, if you work hard and if you have done well, we will take 55 percent of it in estate taxes. It is killing that American dream, or a big part of that American dream. I think that is wrong.

There are five bills in the Senate to reform or to eliminate the estate tax. I am on all of them. I think we need to at least raise the exclusion. But better yet, we need to eliminate it. It is a very ineffective way to fund the Federal Government anyway. We are 65 cents short in collections for every dollar that we receive from the estate tax. It is a very ineffective way of funding Federal programs.

Then, finally, I want to mention that we desperately need immediate capital gains tax relief. I heard a great deal about this. This is what they say. They say, yes, the Republicans are for capital gains tax relief, that it is a tax break for the wealthy. Well, we know that the vast majority of tax filers will at some time in their life file capital gains on their tax returns, most of those being middle-income earners. It is not a tax break for the wealthy.

Let me tell you how it plays out in Arkansas. A young couple started 30 years ago building a poultry farm in the Ozark Hills. They spent their life paying off that mortgage. They are getting up in age. They are not wealthy. But they have worked their whole lives to pay off that farm. Maybe they can no longer tend that big farm, or maybe they want to move into town close to the hospital, or maybe they need to get in close to the grandchildren. They go to sell that farm. They discover that the capital gains taxes would be so high that they can't afford to sell the farm they worked a lifetime to pay for. They are not wealthy. But that is what we have done with the capital gains tax.

I will give you one other example. My chief of staff is from Stone County, AR. Stone County has one of the largest per capita incomes in the State of Arkansas. His parents own a little cafe called Cody's Cafe in Fifty-Six, AR, next to the State park. It is a good restaurant. It has good food. I recommend it. I eat there when I am in Fifty-Six, AR. But Todd's parents wanted to sell that little restaurant. It is a mom-and-pop operation. They don't have many employees. It is a very small cafe. They wanted to sell it and put it into another business, in another restaurant in another part of Arkansas. They had a buyer, somebody who was going to buy that cafe-restaurant. Those buyers undoubtedly were going to expand, and they were going to hire additional employees as well. Todd told his parents, ''Before you make that deal, before you sign that contract, be sure to check with your accountant. Find out what the capital gains taxes will be.''

When they checked they found they couldn't afford to make that sale. So they hung onto it. They continued to operate it.

But I want you to think with me, my colleagues. What would have been the impact had they been able to make that sale, had we not had the exorbitant capital gains tax we impose? We would have had a new business started with new employees. The economy would have been stimulated with more taxes being paid to the Federal Treasury. We would have had new business owners there in Stone County with the desire to expand that restaurant operation, hire additional employees and, therefore, not only stimulate the economy in Stone County, but pay more taxes to the Federal Treasury.

You take that little example from Stone County, AR, and multiply that thousands of times across the United States, and you begin to get the picture of what we could do in stimulating the American economy, and therefore making it easier for us to balance the Federal budget if we would simply cut drastically and dramatically the capital gains tax rate. I believe we need to do that.

So I know there are others who are here to speak. I just want to conclude by saying this is no time for us to retreat on our promise made to the American people that we are going to work for tax relief. I believe it is the moral equivalent of what President Bush did in 1990. I admire and love President Bush, but I think he made a terrible mistake when he told the American people ''no new taxes,'' and then violated that pledge in reaching a budget deal. We must not, in our desire to reach some mythical budget deal, forsake, abandon, or equivocate on the promise and the pledge we made to the American people that we have come up here to lessen that ever-increasing tax burden under which they labor.

So I, for one, will continue to work for a budget that is going to have family tax relief, estate tax relief, and capital gains tax relief for the American people.

I yield the floor, Mr. President.

Mr. THOMAS. I want to ask the Senator if there is a Fifty-Six, AR.

Mr. HUTCHINSON. There is a Fifty-Six, AR, and Cody Cafe is the place to eat.

Mr. THOMAS. Mr. President, I yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

THE SINKING OF THE ''TITANIC'', TAX DAY, AND OTHER MANMADE DISASTERS

Mr. GRAMS. Mr. President, 1 week from today, we will mark the anniversary of two infamous, manmade disasters. One may slip by unnoticed. I am certain the other will not.

The first disaster we will commemorate next Tuesday is the 85th anniversary of the sinking of the *Titanic*, an event made all the more tragic because it could have been prevented. The story of the *Titanic* is a sad story of excess, of man's ongoing reach for something bigger, something more powerful.

The second manmade disaster is the arrival of tax day. Now, I do not mean to draw a direct comparison between the loss of life in the *Titanic* incident and the plight of America's working men and women. But for many Americans, April 15 is another potent symbol of man's ongoing reach for something bigger and more powerful. The bigger and more powerful entity in this case is not the world's largest ship, but the largest government the world has ever known. And Washington's constant need to expand its reach has imprisoned working families in a disastrous cycle of taxation.

Look what our outrageous tax burden has done to families over the past 40 years. Taxes today dominate the family budget. The annual tax bill for a typical family now averages $21,365—significantly more than they spend on food, clothing, and shelter every year.

Factor in State and local taxes and the hidden taxes that result from the high cost of government regulations, and a family today gives up more than 50 percent of its annual income to the government. We pay an especially high price in my home State of Minnesota—a study released last year by Harvard University revealed that Minnesota taxpayers pay the seventh highest taxes in the Nation.

Taxes are not merely an inconvenient fact of life. They are the 1990's version of highway robbery.

Who has borne the brunt of these ever-increasing taxes since the 1940's? Working families with children. No wonder these Americans shake their heads in dismay each April.

Mr. President, when my colleagues and I in the sophomore class were elected in 1994, we were sent here by our constituents on a promise that we would balance the budget and cut taxes. That same promise was made by the Members of the new freshman class. And we do not intend to let 1 more year pass without delivering on those promises. Tax relief and deficit reduction can and must go hand in hand. Any budget presented in this Chamber that favors deficit reduction at the expense of lower taxes—what Washington's big spenders like to call the save-the-dessert-for-after-dinner approach—is nothing more than an exercise in futility. Until the opponents of tax relief recognize that what they call dessert is what most taxpayers consider their salary, we will never reach agreement on a budget.

I would like to also add that I received a letter today from a mayor back home who opposed tax relief. He didn't call it dessert, but he called it political goodies that we would like to disperse to our constituents. Allowing working men and women to keep more of their money is what he calls political goodies.

This is the mindset of many who are serving in government today, whether they be local, State, or Federal officials. Somehow the people's money is somehow government's claim, and if we want to make sure that they can keep some of it, it is somehow political goodies.

But it was later in his letter that I found what was really his real concern. In the letter I think he felt that lower taxes could mean fewer dollars to be sent from Washington to his town. So his concern wasn't the political goodies, but it could mean fewer dollars if we reduce the size and scope of the Federal Government. That is money that would be allowed to be spent, or really the pork from Washington—not political goodies but pork. Let the Federal Government raise the taxes rather than having the local taxes support the programs for pork that they want. So, in other words, provide for their residents. It is really great that we can stand here and get credit for spending their money—the taxpayers' money—for programs, for what really is pork that the Government thinks that they should have, or that they need. It is great that we have this great ability to figure out for the local citizens what is best for them.

The American people have spoken very clearly on this point. A USA Today-CNN-Gallup Poll released just last week confirms what many of us have been saying all along: Tax cuts must be part of any budget agreement we enact this year. When asked if they think the Republicans should drop their attempts to include tax cuts in their overall plan to reduce the budget deficit, or should they keep the tax cuts in their plan, fully 70 percent of the respondents said the tax cuts should stay. Seven out of ten Americans are calling on us to keep our tax-cutting pledge. And a majority agreed that tax cuts and deficit reduction can be accomplished at the same time.

Mr. President, if Congress intends to make the strongest possible statement in support of working Americans, we will not do it by building a bigger Federal Government that demands more taxpayer dollars. We will do it by cutting taxes and leaving families a little more of their own money at the end of the day.

Earlier this year, I was proud to join my colleagues, Senator HUTCHINSON and Senator COATS, in reintroducing this desperately needed tax relief in the form of the $500 per-child tax credit.

The $500-per-child tax credit takes power away from Washington and puts it back with families, where it can do the most good. Once we leave that money in the family bank account, taxpayers are empowered to use it meeting the needs of their families, whether that is clothing, medical and dental expenses, insurance, or even groceries, or education.

Mr. President, there is no action Congress can take today that will make next Tuesday, April 15, any easier for America's working families. But we have before us unlimited opportunities to profoundly change every other tax day, far into the future. Washington created the mess we are in, and the taxpayers are now demanding that Washington get us out of it. Thank you very much. I yield the floor.

Mr. THOMAS. Mr. President, I yield to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Thank you, Mr. President. I thank my colleague from Wyoming for putting this order together at this propitious time to discuss tax policy in the country with April 15 looming on the horizon and Americans all over the country concerned about the amount of money we pay to the Federal Government in Federal income taxes.

Mr. President, I have an important announcement to make. I have been authorized to announce that on tax day, April 15, the U.S. Senate will have a historic opportunity to vote on a resolution which will express the sense of the Senate that we support a requirement that Congress, the House and the Senate, be required to raise taxes with a supermajority. In other words, that we could not raise taxes with a bare majority, that it would require a two-thirds vote for a tax increase to go in effect, much like the requirement in States throughout the United States, and a very successful requirement, I might add. The full House is actually going to vote on tax day on the actual constitutional amendment. Our resolution will be a sense of the Senate in support of that same concept. Obviously, we are not prepared yet to actually vote on the constitutional amendment.

The reason for this, Mr. President, is that the average family of four back in 1948 paid about 5 percent of its income in Federal taxes. But today that burden is about 24 percent. And, as our colleague from Minnesota just noted, if you add the State and local taxes to the mix, we are paying about 40 percent of our income in taxes to government.

The last tax increase to pass in the Congress in 1993 was the largest in history. And, yet, it failed to even achieve a majority in the U.S. Senate. There was a tie of 50–50. President Clinton's largest tax increase in history only passed because Vice President GORE came to the Chamber and cast the deciding vote. We believe that it ought to be at least as difficult to raise taxes as it is to cut them. It is now easier, sadly, to raise taxes than it is to cut them.

Consider this irony. This two-thirds majority would fix this problem, by the way. When we passed the balanced budget amendment of 1995, the President vetoed it. It included big tax cuts. The President vetoed it. We had to have a two-thirds majority to overcome the veto, and we couldn't do that. So it would have required a two-thirds vote for us to reduce taxes. But, as I pointed out, the biggest tax increase in the history of the country in 1993 passed without even a majority vote.

As I said, Mr. President, we think it ought to be at least as hard to raise taxes as it is to cut them. That is why we are going to be voting on April 15 to support the principle that there should be a supermajority for Congress to raise taxes.

The Kemp commission, appointed by the Speaker of the House and the previous majority leader of the Senate, came to this conclusion about this requirement. I am quoting: ''The commission believes that a two-thirds supermajority vote of Congress will earn Americans' confidence in the longevity, predictability, and stability of any new tax system.''

They made that point in recommending this two-thirds supermajority of both Houses of Congress to raise taxes as a key component of our tax policy. As I said, there are 14 States that currently have some form of tax limitation in effect. There was an interesting study in 1994 by the Cato Institute which found that a family of four in States with tax and expenditure limits faces estate and tax burdens that are $650 lower on average 5 years after the implementation than it would have been if the State tax growth had not been slowed. In other words, the people who live in States that have these supermajority requirements are better off, pay less in taxes than those States which do not have such a requirement.

It also matters, Mr. President, how we raise or lower taxes. Or I should say, put it another way, how we increase revenues to the Treasury matters because you can increase revenue to the Treasury not by raising tax rates but actually by lowering certain tax rates.

We all agree that lower tax rates stimulate the economy, which results in more taxable income and transactions and more revenue to the Treasury as a result. In fact, the tax cuts out of the early 1980's make this point. They spawned the longest peacetime economic expansion in our Nation's history.

Revenues to the Treasury, the Federal Treasury, increased as a result from $599 billion in fiscal year 1981 to $990 billion in fiscal year 1989, up about 65 percent.

On the other hand, higher tax rates discourage work and production and savings and investment so there is ultimately less economic activity to tax. That is exactly what Martin Feldstein, the former Chairman of the President's Council on Economic Advisers, found when he looked at the effect of President Clinton's 1993 tax increase. He found that taxpayers responded to the sharply higher marginal tax rates imposed by the Clinton tax bill by reducing their taxable incomes by nearly $25 billion. They did that by saving less, investing less, and creating fewer jobs, and the economy eventually paid the price in terms of slower growth.

In other words, as I said, how Congress raises taxes is more important than how much it can tax. The key is whether tax policy fosters economic growth and opportunity. And that is why we believe, as I said before, that it ought to be more difficult to raise tax rates. It ought to be just as easy to cut taxes. We should raise tax rates only if there is enough consensus on that to provide a two-thirds majority of both Houses of Congress.

So on April 15, tax day, all of us in the Senate will have the opportunity to go on record to tell our constituents where we stand. Do we believe that it ought to be just as difficult to raise taxes as it is to cut them? We will have the opportunity to vote on the principle of requiring a supermajority in Congress to raise taxes. And I certainly hope that my colleagues will support us in that vote.

I thank the Senator from Wyoming for this time.

Mr. THOMAS. Mr. President, I am pleased now to yield to my friend, the Senator from Oklahoma, who has actually been chairman of our 1994 group. The Senator from Oklahoma.

Mr. INHOFE. I thank the Senator from Wyoming for having this time devoted to such a significant issue.

Mr. President, I ask unanimous consent that the time which has been allotted to Senator THOMAS be extended until the hour of 11:15.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

Mr. INHOFE. I think something that is very significant that has not yet been said was touched upon by the distinguished Senator from Arizona [Mr. KYL], when he approached the economics of this issue. Unfortunately, when we talk about tax reductions, there is a mindset that if you reduce taxes, you reduce revenues. History has shown us very clearly that is not the case.

In fact, it was a Democrat who first came up with the idea that you could actually increase revenues by reducing taxes, and that was President Kennedy back in the early 1970's when he said we have a problem in this country; we have to increase revenues, but we also are overtaxed, so the best way to increase revenues is to reduce the tax rates.

Now, today, the Democrats do not think that way. The liberals in Congress think that it is a static situation, and that if you raise taxes nothing else happens.

That, of course, is not true. I remind my colleagues that in 1980, the total amount of money used to run Government was $570 billion, the total revenue that came in in 1980. In 1990, the total revenue that came in to run Government was $1 trillion 30 billion. That is almost exactly double what it was in 1980.

Well, what happened during that decade? During that decade, we had the largest tax reductions we have ever had in this country's history. So the same thing that happened back during the Kennedy administration when he had the wisdom to say we have to increase revenues and the best way to do this is to reduce taxes happened again in the 1980's. Unfortunately, we have an administration in the White House that does not understand this.

In fact, I was amazed early in this administration when Laura Tyson, who is the chief economic adviser to the President of the United States, President Clinton, back in 1992 said—and this is nearly a direct quote—there is no relationship between the level of taxes a nation pays and the amount of economic productivity of that nation.

That is saying they believe if you tax everybody 100 percent, they are going to work as hard as if you taxed them 10 percent. This is what Senator KYL was getting to, that there is a relationship between the level of taxation and the productivity of a nation. In fact, to be specific, for each 1-percent increase in economic activity of a country it increases new revenue $24 billion.

So those of us who are conservative, those of us who believe that what history has taught us is very factual are standing here saying we want to lower taxes, we want to do as Senator KYL suggested and make it more difficult for people to raise taxes. I suggest, if you go back and look at the votes that took place to raise taxes, at least in the 10 years I have been here, it has always passed by maybe 1 or 2 percent. If you put a supermajority on that, I believe we can accomplish a lot.

And so as the speakers before me have indicated, there are a lot of advantages here to get this machine working and to become more productive, and if for no other reason than the distinguished Senator from Minnesota said—we who are elected to the Senate, that is, those of us in the Chamber right now, in 1994 committed and promised that we would vote for a balanced budget and reduce taxes, and we are going to do that.

I yield the floor.

Mr. THOMAS. Mr. President, let me just sort of wind up on our tax thing and say that if you are like me—a weekend from now it will be April 15 and all of us I hope are beginning to think about preparing our tax returns. It is a headache, of course, and so we tend to procrastinate. We are taxed too high, I am sure. And I am sure also that people out there look at Washington and wonder if all that talk about tax relief is just talk.

We are here to say that it is not. Tax relief for families in America, for small business, is alive and well and one of the good ideas that is coming out of Washington, I hope soon. By next year, it is our hope that as we begin to think about compiling tax returns we will have accomplished what Americans deserve and expect from Washington as a matter of fact—reforms that let families keep more of their money. Republicans want to lower the tax burden and provide some common sense to the tax system.

Currently, according to the Census Bureau, a typical family of four spends more than 3 hours of every 8-hour day working for dollars that are dedicated to Federal, State and local taxes. That is an average of almost 40 percent of income—40 percent of our income to continue to grow a central government. You get big government and you get a bloated bureaucracy. Instead, we ought to be able to use those dollars to increase our businesses, to feed our kids, to send them to school. So we need reform, smart reform, smart tax reform. That has a nice ring to it, doesn't it?

I hear also in town meetings more and more about the IRS. Let me tell you that at least to some extent you cannot do much about the IRS until you change the system and make it simpler. Which taxes to reform? Where should we start? The inheritance tax for one. We have already talked about that. Here is one that makes no sense at all. We spend more time avoiding inheritance taxes than we do paying them. People who have spent time in business and farms cannot pass it on to their own families. The current tax penalizes the development of wealth and business. That is wrong. It is really a matter of freedom. Citizens own their property and families should not be compelled to sell it if the head of the household passes away. In the West it is an environmental problem. The view of the West, the mountains will be subdivided unless we act.

How about capital gains reduction? Entrepreneurs and small business investors take substantial risks when they open or invest in businesses. Cutting capital gains will increase economic growth. Add to that tax credits for our families with children. Grant a $500-per-child tax credit and give families the opportunity to do some things.

When it is all wrapped up, tax reform should have to pass a simple commonsense test. Does it impose the lowest possible compliance and enforcement? Does it encourage growth? Does it work to help strengthen families? By anyone's measure, our current system does not pass this test. So we deserve a Saturday in April with our family instead of sitting with a stack of receipts and the Tax Code. We want tax simplicity. We want tax relief.

The President's proposed budget, according to the Joint Committee on Taxation, the President's fiscal year 1998 budget contains a net tax increase of $23 billion over 10 years. That is not tax relief. That is more burden. That is not what we need in the future. The President needs to come to the snubbing post and join with us on taxes and reform in balancing the budget. We can do that, and our opportunity is now.

Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I would like to yield myself time that is allocated to the minority leader.

The PRESIDING OFFICER. The Senator is recognized for 15 minutes.

DISASTER IN THE DAKOTAS

Mr. DORGAN. Mr. President, I came to the floor to visit about a very important issue, the issue of the chemical weapons treaty and the requirement the Senate vote on that treaty. But before I do that, I want to tell my colleagues of a circumstance that exists in our part of the country that they have no doubt seen and heard on the television and radio and that is the worst blizzard we have seen in some 50 years in North Dakota on top of a flooding condition that was already existing that looks to be a 100-year flood.

Last evening, I and my colleagues from North and South Dakota went to see President Clinton in the White House along with the head of the Federal Emergency Management Agency to discuss the emergency that exists in our part of the country.

The President has made a disaster declaration. He has signed it. There is now a team of people from FEMA in the Dakotas beginning to work, beginning to marshal equipment from around the country—generators, snow removal equipment, and a whole range of things that will be necessary to deal with this crisis.

I want to tell my colleagues of the kind of crisis that exists. Again, we had a blizzard that in many parts of North Dakota gave us 15, 18, and 20 inches of snowfall on top of a circumstance that already existed that would have provided us and will provide us with a flood that is a 100-year event. So this is an enormously difficult time for North Dakotans. We have had the spectacle of people actually sandbagging in the middle of a blizzard, which is a very unusual event. Normally you fight a flood or normally you fight to survive a blizzard, but we have had the confluence of two events that is enormously difficult. We have substantial livestock death. We have reports of people missing entire livestock herds. The stories of people helping one another in coping this past weekend are compelling and gripping, of courage, neighbor helping neighbor. It is a very tough time in the Dakotas.

My colleagues and I will likely be going back out—we just came back—with the senior team which the President will send. He intends James Lee Witt and I believe at least one other Cabinet Secretary and some others as part of a senior team from the administration to go out and to survey the damage and to begin the active work of supervising the people who are already on the ground.

This is as tough a time as anything I have ever seen in the Dakotas. Most North Dakotans tell me it is the toughest winter they have ever seen. The blizzard this weekend, as I indicated, is the toughest we have had in 50 years in North Dakota, and it came on top of five or six successive blizzards in North Dakota that essentially shut down our State on five or six occasions previously. As of Saturday evening, this past Saturday evening, in North Dakota traffic was stopped in virtually every direction on every road. It was a very difficult time and remains a very difficult time with thousands of North Dakotans still without electricity after many days. This is a crisis which will continue to exist because of the flooding which has not yet crested in many parts, especially of the Red River.

I thank President Clinton; I thank James Lee Witt, the head of FEMA; I thank our colleagues, Republicans and Democrats, who join together in times like this to extend a helping hand to people who need help and who are fighting their way through a crisis that is very difficult to deal with.

THE BUDGET

Mr. DORGAN. Mr. President, I would like to mention two additional items very quickly. One is an issue that has just been discussed at some length on the floor about a budget and tax relief. My hope is that we will find a way to have a bipartisan compromise on a budget. The law requires that by April 15 a budget be enacted by this Congress. It is clear now that the Congress will miss that date. But the date is less important than the result. The result ought to be a budget that achieves balance so we are not spending our children's money, often on things we do not need.

We ought to decide that there is as much energy in this Chamber to balance the budget as there was to change the Constitution of the United States. I said during the debate on the constitutional provision that was offered here that you could change the Constitution now, and 2 minutes from now you would not have altered the deficit by one penny. What will alter the budget deficit and eventually eliminate the budget deficit will be individual spending and taxing decisions inside the budget by Members of the U.S. Senate and U.S. House. I think it is past the time in which the President and Members of Congress, Republicans and Democrats, join together to say here is where we ought to head and here is the road map by which we get there, to establish balance.

I have cast hard votes and tough votes. In 1993 I cast an awfully tough vote. We have reduced the budget deficit by 60 percent in the last 4 years. If we continue down that road, we can eliminate the Federal budget deficit, and we should. I am willing to cast more tough votes, and I hope very much we can decide this is not a partisan issue but rather a shared issue for Republicans and Democrats who decide that there is merit and virtue in balancing this Federal budget and not charging what we are now spending to our kids and grandkids.

CHEMICAL WEAPONS TREATY

Mr. DORGAN. Mr. President, I came to the floor to speak about another issue that is very important this week as well. This week the Senate comes back from a 2-week break and turns to the question of nuclear waste. That is an important issue and one I hope this Congress and the President will address seriously and solve. But there is another issue that is very important that has a deadline that we must address, and that is the issue of the chemical weapons treaty.

We now have a circumstance in which this country, with 160 other countries, has signed a convention in which a chemical weapons treaty to the Geneva Disarmament Conference in 1994 was negotiated and completed. It was initiated by President Bush, supported by President Reagan, it was continued under President Clinton and submitted to the U.S. Senate for ratification.

The chemical weapons treaty will restrain the proliferation and will reduce the threat of the use of chemical weapons in our lifetime. It is the first ever treaty to try to ban an entire class of weapons of mass destruction. Never again should men and women in our lifetime face a weapon of mass destruction called a chemical weapon or poison gas. We have a treaty that has now been signed by 70 nations, more than the 65 that is needed to ratify the treaty, so it will go into effect on April 29 of this year. This country has not yet ratified it. Our key allies, Australia, Britain, Canada, France, Germany, Italy, and others, have already ratified this treaty, and we need to do so and we need to do so by April 29.

There are opponents of this who say, ''No, this is not a perfect treaty.'' And it is not. Opponents say, ''If we adopt this treaty, Saddam Hussein is not going to adopt the treaty, so what are we doing here?'' Because some will commit murder, do we not want to make murder a crime in America? We understand there are some who may not want to abide by this treaty. This country has already made a decision, in the mid-1980's, that we are going to destroy our stockpile of chemical weapons. We have already made that decision. We made a decision under President Bush and continued it under President Clinton to negotiate a chemical weapons treaty. That treaty was negotiated. Seventy nations have now ratified it, and we have not yet done so, and we should. Ratifying it will strengthen this country, not weaken this country. Those who allege that ratifying the chemical weapons treaty will somehow weaken this country's hand, in my judgment, are wrong. I respect their opinion, but they are wrong. It is urgent and necessary that we, by April 29, ratify this treaty. We are able, with our allies, to provide leadership to destroy an entire class of weapons of mass destruction in our society. If we do not take this opportunity to do it, we will have made a very grave mistake.

I was not here when we were testing nuclear weapons in massive quantity, but I know when it was proposed that

we cease testing nuclear weapons and have a test ban on nuclear weapons, there were some who stood up and said we cannot do that because it will weaken our country. Yet we had a ban on testing nuclear weapons, and it was the right thing to do. History tells us it was the right thing to do.

This is the right thing to do as well. It is very important that we understand this must be part of the Senate's business this month. If we do not take the opportunity to provide leadership in banning the use of chemical weapons, a weapon of mass destruction in our society, if we do not take the opportunity to establish that leadership, we will have made a very grave error.

This is not a case of one side of a debate being soft headed and fuzzy and the other side being the real prodefense folks. The people who support this—former National Security Adviser Brent Scowcroft, former Secretaries of State James Baker, Larry Eagleburger, former Arms Control and Disarmament Agency head Ron Lehman—all urge the Senate to ratify the chemical weapons treaty, none of whom can be alleged to have been soft on defense issues. These are people very prodefense, people who are very concerned about making certain that we do not lose advantage, that we are a strong country, that we can defend ourselves. But these are people who also believe, as did President Bush, that this treaty makes sense for our country, to provide leadership on the abolition of chemical weapons. Leadership on the abolition of poison gas as a weapon in war makes great sense for our country and great sense for humanity.

The reason I raise the question today is this. We have a limited time, and a deadline of April 29, to ratify this treaty in order for us to be part of the regime that begins to develop the methods by which this treaty is enforced. Yet, we have no agreement even to bring the treaty to the floor of the Senate for a vote or discussion. Some of us believe very strongly that, with the exception of the emergency supplemental appropriations bill, for example, or with the exception, perhaps, of a budget bill to balance the Federal budget—which we should do—with the exception of those things we ought to make sure this is first in line. Until we have assurance this is first in line, we ought not be doing other business. This ought to be brought to the floor of the Senate, and we ought to have agreement to do that soon.

I hope we will have an aggressive and significant discussion about this treaty. My understanding is the distinguished Senator from Oklahoma may intend to speak some about this treaty and some of his concerns about it. But my hope is, perhaps this afternoon—I intend to come back to the floor—some of us can have a discussion back and forth. I have great respect for people who take an opposite view on this and on other issues. We do not have to call each other names because we disagree with each other. Debate ought to be to evaluate what are the merits of a position, what are the facts, and what conclusions can one develop from those facts.

My position is to say I think we ought to do this. It is an easier position, I must say, to oppose it. It is an easier position. That is not to say opposing it is necessarily wrong, and there are cases where the opposition might be the right position on some issues. But Mark Twain once said, when he was asked to debate, ''Of course, but I need to take the opposing side.'' They said, ''But we have not even told you what the topic is.'' He said, ''That doesn't mean anything to me. That doesn't matter. I only need to take the opposing side because that doesn't require any preparation.''

The point he was making is it is always easier to take the opposing side. I say to my friend from Oklahoma, that doesn't mean the opposing side in every debate is wrong. But in this case, the need to ratify the chemical weapons treaty, the affirmative side is the right side for this country. It is urgent and has a time deadline, and we ought to do it. I hope this afternoon, perhaps, we can have some thoughtful discussion about what are the merits of this, why do we have such a large group of Republicans and Democrats from the Bush administration and the Clinton administration and many others who believe this is a priority for this country and believe it is something that this country ought to take a lead on.

My hope is that at end of the day today, or this week, we will have an agreement by which we can at least bring this to the floor, even though some might want to vote against it. I think those who want to do that should give us the opportunity to have a debate and a vote on the chemical weapons treaty. We very much owe that to this country. If and when we get to the decision to give us a debate and a vote on the chemical weapons treaty, I will be happy with that. We have to make our best case and we have to make an affirmative case for this treaty. We have that responsibility. But we cannot do that if we are prevented from seeing it brought to the floor of the Senate for a debate and a vote.

Mr. President, with that I yield the floor.

Does the Senator from Oklahoma intend to speak?

Mr. INHOFE. Yes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that I may speak as in morning business.

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

CHEMICAL WEAPONS CONVENTION

Mr. INHOFE. Mr. President, I have the utmost respect for my distinguished colleague from North Dakota, Senator DORGAN. I have to admit, however, I seem to disagree with him more than agree with him. Let me just cover a couple of things that he said that I feel quite strongly—I am sure he believes them, but they are certainly not true.

First of all, as far as the deadline is concerned, it seems like every time you want to get something done you impose a deadline and say we have to do it by—in this case, the 29th of April. There is no deadline on this. Once this thing goes, the vote takes place, we can become a part of it if we want to wait until June or July or August. There is no deadline.

I am reminded a little bit of the deadline they had when we had, I believe it was, the GATT Treaty. We had a special session of the U.S. Senate that was held in November, before the new Senate came in—this was in 1994—that would allow those individuals who were defeated or who retired to vote on something and not the new person who was elected. My daddy taught me a long time ago if the train is coming fast, slow it down. That is what we need to do with the Chemical Weapons Convention. We had a debate on this last fall. I think the debate was a very fruitful one, and a lot of things came out. So let us not talk about a deadline of the 29th. I look forward to debating this and discussing this with the Senator from North Dakota this afternoon.

The next thing that he said that I take issue with is the idea that it is easier to oppose than to support the Chemical Weapons Convention. He is saying it is easier. Maybe it was easier for Mark Twain. This is not easier, because I will tell you I have been very outspoken in opposition to this Chemical Weapons Convention, and all I hear from people is, ''You mean you are for chemical weapons?'' That is not the issue at all. It is a lot easier to demagog this thing and say, ''Let's sign this and do away with chemical weapons.'' We are not going to do away with chemical weapons, and we all know that.

As far as this is not a matter, as he stated, between the fuzzies and those in favor of a strong national defense, let us wait until the vote takes place and make that determination. I will wager that when the vote takes place, we will find out that those individuals with the highest American security ratings would be the ones who will oppose the Chemical Weapons Convention. That is a very easy thing to do. Just take the ratings and look and see how the vote comes out. Those individuals who consistently vote against such things as the National Missile Defense System, Theater Missile Defense System, vote for all of these disarmaments. A lot of the motive there is to put that money into social programs. I think we all know that.

Let me just cover a couple of things in this brief period of time. First of all, this is not global. The Senator from North Dakota talked about Spain and about France and about all these countries. We don't have a problem with

these countries. Let us look and see who is not a part of this. Iraq is not a part of this.

North Korea is not a part of this. Libya is not a part of this. Syria is not a part of this. If you ask any ''in'' person, in a logical manner, ''Who do you think would be the greatest threat to the United States,'' and you name the top 15, those countries would be there. It is not global. Those countries that involve themselves in terrorist activities are countries that are not a part of this. Of course, I think we all understand it does not cover terrorist activities anyway.

Let's look at the countries that are a part. Iran is now a signatory here, and yet Iran, if anyone here believes that they will keep their word in destroying all of their chemical arsenal, then I have a bridge I would like to sell them, because that is not going to happen. We know it is not verifiable, and there is no better evidence of that than after the Persian Gulf war when the United Nations was given incredible power to go out and examine and inspect and try to determine whether or not Iraq, who we had just defeated, had chemical weapons, then we find out through our intelligence community, that even with those very stringent inspection abilities that the United Nations had, that Iraq, still, was developing various weapons of mass destruction, including chemical weapons.

I think it is important to show that it is not effective, that it will not banish poison gas or shield our soldiers, as Clinton claims. Jane's Defense Weekly came out last week and reported that Russia has developed three new nerve agents without using any of the precursor chemicals banned by the Chemical Weapons Convention. What does that mean, Mr. President? It means that they are already out there trying to figure out and trying to develop chemical weapons that can be used that are not using the precursor chemicals that would be banned. In other words, let's assume everybody is honest and everybody is complying, it is all verifiable, and all the countries belong to it. When it gets down to it, the bottom line is, you can still come out with chemicals that do not use these precursor chemicals. So, it would not be effective in that respect.

I think we should also look at the constitutionality of this. I know a lot of times things are passed around here over the fact that it is a violation of the Constitution. I happen to be the chairman of the Clean Air and Private Property and Wetlands Subcommittee of the Environment and Public Works Committee. It is almost a daily thing that the Government takes land away from people without due compensation. So we know that there are things happening that violate constitutional rights. But in this case, it would permit searches and seizures without warrants or probable cause. I think this is a very serious thing.

And as far as trade secrets, we would be giving up something here. We all hear we are going to all destroy our chemical weapons. We have not stopped to realize what we are giving up in order to have this utopia that we seem to think is going to appear. One is, we have to open up and allow countries, like Iran, to inspect our chemical companies and our fertilizer companies and our cosmetic companies to see if there is anything in there that they are using and they would be able to get a lot of technology from this. This is something with which we have to be concerned.

Then we have more regulations on American business. This is something that we deal with. I have often said there are three reasons we are not globally competitive in this country. One is we are overtaxed; the other is our tort laws; and the other is we are overregulated. How can we compete with other countries when we are overregulated? This is one more regulation, one more set of forms that all these companies—cosmetic companies and others—will have to fill out.

Then, of course, we have the thing that is talked about quite often, and that is, this is going to make us much more comfortable in terms of our defense against any type of chemical weapons.

I have an editorial, that I will be asking in a minute to be printed in the RECORD at the conclusion of my remarks, from the Wall Street Journal. I hope my friend from North Dakota, the distinguished Senator who spoke before me, will listen to this. I will read the last couple of sentences in this editorial from the Wall Street Journal, which is dated February 19, 1997:

> The biggest danger of ratification is that it would similarly lull the U.S. and other responsible nations into the false belief that they are taking effective action against the threat of chemical weapons. The case for this treaty strains belief too far.

Lastly, let me suggest that a lot of the people, who are very fine people, who have signed on and said, ''Yes, we want the United States to be a part of the Chemical Weapons Convention,'' have not really taken the time to study and see what we are giving up. I will share with you just a couple of things that came from a meeting of February 27, 1997, when General Schwarzkopf, who is supportive of ratification of the Chemical Weapons Convention, was before our Senate Armed Services Committee, and I asked him a few questions.

I asked him questions concerning how it would affect terrorists. Of course, he agreed it would not have any effect.

Then I said:

> Do you think it wise to share with countries like Iran our most advanced chemical defensive equipment and technologies?
>
> General SCHWARZKOPF. Our defensive capabilities?
>
> Senator INHOFE. Yes.
>
> General SCHWARZKOPF. Absolutely not.
>
> Senator INHOFE. Well, I'm talking about sharing our advanced chemical defensive equipment and technologies, which I believe under Article X [they] would be allow[ed] . . . Do you disagree?

Then he said:

> I'm not familiar with all the details . . ..

One of the problems we have is, so many people who are supporting the ratification of this Chemical Weapons Convention have not read all the details, have not read what we are giving up, I say to the distinguished Senator from North Dakota, and we are giving up many things that would normally be considered private.

Lastly, I will say, in conclusion, that there are a lot of people who are opposed to this. They are very prominent in the defense community. Certainly, four of our past Secretaries of Defense are opposed to the ratification of the Chemical Weapons Convention. Rumsfeld, Schlesinger, who, incidentally was in a Democrat administration, Weinberger, and Dick Cheney have all taken positions and said this is not in the best interest of the United States.

So, I hope we will have a lengthy debate on this, and I am hoping, quite frankly, that we are not going to be able to bring this up until we have had a chance for a thorough debate.

Mr. President, I ask unanimous consent that the testimony from the Senate Armed Services Committee hearing of February 27, 1997, be printed in the RECORD, and immediately following that, the Wall Street Journal editorial dated February 19, 1997, be printed in the RECORD, in that order.

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

EXCERPT FROM THE SENATE ARMED SERVICES COMMITTEE HEARING, FEBRUARY 27, 1997

Senator INHOFE. If the Chemical Weapons Convention were in effect, would we still face a danger of chemical attack from such places as Iraq [which has not signed the CWC]—or Iran [which] actually signed onto it?

General SCHWARZKOPF. Senator, I think that the answer is probably yes. But, I think the chances of that happening could be diminished by the treaty only because it would then be these people clearly standing up and thumbing their noses at international law—and it would also help us build coalitions against them if that were to happen.

Senator INHOFE. Aren't they still thumbing their noses right now in Iraq?

General SCHWARZKOPF. There's no question about it, Senator—I mean the fact that they used it in the first place against their own people but, I still feel—we have renounced the use of them and I am very uncomfortable placing ourselves in the company with Iraq and Libya and countries such as North Korea that have refused to sign that Convention. The problem with those kinds of things is that verification is very difficult and enforcement is very difficult. . . .

Senator INHOFE. General Shali[kashvili] I think in August of 1994 said that ''even one ton of chemical agent may have a military impact.'' I would ask the question: Do you believe that an intrusive, on-site inspection—as would be allowed by the Chemical Weapons convention—would be able to detect a single ton or could tell us conclusively that there isn't a single ton?

General SCHWARZKOPF. No, no as I said earlier, we can't possibly know what's happening on every single inch of every single territory out there where this would apply.

Senator INHOFE. And as far as terrorists are concerned, they would not be under this?

General SCHWARZKOPF. Of course not.

Senator INHOFE. Like any treaty, we have to give some things up, and in this case, of course we do and there are a couple of things that I'd like to [explore]—the interpretation from the White House changed—they said that if the Chemical Weapons Convention were agreed to, that it would affect such things as riot control agents like tear gas in search-and-rescue operations and circumstances like we faced on Somalia—where they were using women and children at that time as shields. Do you agree that we should be restricted from using such things as tear gas?

General SCHWARZKOPF. I don't believe that is the case but I will confess to you that I have not read every single detail of that Convention so, therefore, I really can't give you an expert opinion. I think you could get a better opinion here.

Secretary WHITE. I am going to hesitate to give a definitive answer because there has been, in the administration, a very precise and careful discussion about what exactly, and in what situations, this would apply and when this wouldn't apply. . . .

Senator INHOFE. Do you think it wise to share with countries like Iran our most advanced chemical defensive equipment and technologies?

General SCHWARZKOPF. Our defensive capabilities?

Senator INHOFE. Yes.

General SCHWARZKOPF. Absolutely not.

Senator INHOFE. Well, I'm talking about sharing our advanced chemical defensive equipment and technologies, which I believe under Article X [they] would be allow[ed] to [get]. Do you disagree?

General SCHWARZKOPF. As I said Senator, I'm not familiar with all the details—I—you know, a country, particularly like Iran, I think we should share as little as possible with them in the way of our military capabilities.

[From the Wall Street Journal, Feb. 19, 1997]

A DANGEROUS TREATY

Among the many good reasons why the Senate should not ratify the Chemical Weapons Convetion is a substance known as A–232. This highly lethal nerve agent was concocted by a Russian scientific team precisely for the purpose of circumventing the terms of the CWC, which both the U.S. and Russia have signed but not yet ratified. A–232 would escape scrutiny under the treaty because it is made from agricultural and industrial chemicals that aren't deadly until they are mixed and therefore don't appear on the CWC's schedule of banned chemicals.

The world has known about A–232 since the May 1994 publication on this page of an article by a Russian scientist, who warned how his colleagues were attempting to camouflage their true mission. It is now the subject of a classified Pentagon paper, reported in the Washington Times earlier this month, on the eve of what is shaping up to be an escalation of the battle joined in September over ratification of the Chemical Weapons Convention.

The Administration was forced to sound the retreat then, pulling the treaty from consideration when it became clear that the Senate was preparing to vote it down. Now it's trying again, this time in full cry about the urgency for U.S. ratification before April 29, the date it goes into effect. For now, Senator Jesse Helms has kept the treaty tied up in the Foreign Relations Committee, making the sensible argument that the new Senate ought first to focus on matters of higher priority then ramroding through a controversial treaty that merits careful deliberation.

The Administration, meanwhile, is mounting a full-court press, with the President offering a plea for ratification in his State of the Union address ''so that at last we can begin to outlaw poison gas from the earth.'' This is an admirable sentiment—who isn't against marking the world safe from the horrors of poison gas?—but it's far from the reality. In fact, ratification would more likely bring the opposite results.

Article XI is one of the key danger areas. It would obligate U.S. companies to provide fellow signatories with full access to their latest chemical technologies, notwithstanding American trade or foreign policy. One country delighted at the prospect of upgrading its chemical industry is China, which, upon signing the CWC, issued a declaration saying, ''All export controls inconsistent with the Convention should be abolished.'' No doubt Cuba and Iran, to name two other signatories, share the same sentiment. That Russian team that came up with A–232 no doubt could accomplish much more with the help of the most up-to-date technology from the U.S.

Verification is an insurmountable problem, and no one—not even the treaty's most ardent supporters—will promise that the treaty can be enforced. In the Administration's obfuscating phrase, the CWC can be ''effectively verified.'' Yet if chemical weapons are easy to hide, as A–232 proves, they are also easy to make. The sarin used in the poison-gas attack on the Tokyo subway was created not in a fancy lab but in a small, ordinary room used by Aum Shinri Kyo's amateur chemists. The treaty provides for snap inspections of companies that make chemicals, not of religious cults that decide to cook up some sarin in the back office. The CWC wouldn't make a whit of difference.

Those snap inspections, by the way, could turn into a huge burden on American businesses, which would have to fork out millions of dollars in compliance costs (through the biggest companies no doubt would watch the heaviest burden fall on their smaller competitors).

More than 65 countries have already ratified the CWC, including most U.S. allies. But somehow we don't think the world is more secure with Australia and Hungary committed to ridding the world of chemical weapons when such real threats as Libya, Iraq, Syria and North Korea won't have anything to do with the CWC. How can a treaty that professes to address the problem of chemical weapons be credible unless it addresses the threat from the very countries, such as Syria and Iraq, that have actually deployed these weapons?

With or without the CWC, the U.S. is already committed to destroying its chemical weapons by 2004. That doesn't mean the rest of the world shares any such commitment; what possible peaceful purpose does Russia have in the clandestine production of A–232? Instead of pushing a treaty that can't accomplish its impossible goals, the Administration would be better advised to use its clout, rather than that of some planned U.N.-style bureaucracy, in getting the Russians to stop making nerve gas.

It's hard to find a wholehearted advocate of the treaty. The gist of the messages from most of its so-called champions is that it's a poor deal, but it's the best on offer. But their cases have acknowledged so many caveats that it's hard to see how they've reached such optimistic conclusions. The biggest danger of ratification is that it would similarly lull the U.S. and other responsible nations into the false belief that they are taking effective action against the threat of chemical weapons. The case for this treaty strains belief too far.

Mr. INHOFE. I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for 10 minutes.

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

CHEMICAL WEAPONS CONVENTION

Mr. BINGAMAN. Mr. President, I want to add my voice to the statement that the Senator from North Dakota made a little earlier in the proceedings about the importance of us getting on to a vote on the Chemical Weapons Convention. I believe very firmly that this is an issue which has been hanging around the Senate for too long. We have had many—in fact, years of consideration. We have had, I believe, 14 hearings now on the Chemical Weapons Convention.

The convention was supported, of course, by the previous administration. President Bush signed the agreement. We need now in this administration, the second Clinton administration, to go ahead and ratify it. There is an important date coming up which is the 29th of April, which is the date by which we need to take action. Let me address that issue first, because I know the Senator from Oklahoma did speak to the fact that, in his opinion, April 29 was not a date of any consequence and it did not matter whether we did anything this month or not on the treaty. This is sort of a recent argument that has been made and one I think needs to be responded to.

A failure to ratify by April 29 will have significant adverse consequences for our security and for U.S. businesses as well. Our ability to oversee the first critical days and months of implementation of the treaty will be lost. We now have Americans who are heading up the various divisions that monitor the treaty's budget and security measures and industry inspections, and those individuals, those Americans who now are involved in that will be replaced by individuals from countries that have ratified the treaty if we do not take action by the 29th of April.

Moreover, Americans will not be able to be hired as inspectors with these international teams if we do not ratify the treaty. Hundreds of millions of dollars in sales of American chemical companies and many jobs in many of our States will be at risk as a result of mandatory trade restrictions which were originally designed to pressure rogue states to join in the treaty. Those will be applied to us, Mr. President, if we do not go ahead and vote and ratify this treaty.

Failure to ratify, of course, relegates us to the so-called international pariahs that we give a lot of speeches about here on the Senate floor, countries like Libya and North Korea. We would be squandering U.S. international leadership in the fight against chemical

weapons and other weapons of mass destruction.

There have been many speeches given on the floor and by our President about how the United States, at this particular point in history, is the indispensable Nation. We are the one remaining superpower in the world, both militarily and economically and, as such, we have a particular responsibility to lead. Our failure to take action on this treaty on the Senate floor is an abrogation or default of that responsibility and one I think that I do not want to be any party to.

Another issue that has been raised, which I think needs to be addressed, is this issue which involves the question of whether or not the Chemical Weapons Convention could be interpreted as providing rogue states with the ability to acquire advanced U.S. technologies if we enter into this treaty. The issue was raised at the Armed Services Committee hearing that we had a couple of weeks ago. In fact, the Senator from Oklahoma was there and requested that we get some kind of statement from our Department of Defense in writing about their view of this.

Mr. President, I ask unanimous consent that a letter dated April 2 to Senator ROBERT SMITH and signed by Franklin Miller, who is the Acting Assistant Secretary of Defense for International Security Policy be printed in the RECORD.

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

ASSISTANT SECRETARY OF DEFENSE,
DEFENSE PENTAGON,
Washington, DC, April 2, 1997.

Hon. ROBERT C. SMITH,
Senate Dirken Office Building,
Washington, DC.

DEAR SENATOR SMITH: During my 5 March 1997 testimony before the Subcommittee on Strategic Forces of the Senate Armed Services Committee, several questions were raised regarding the impact of the Chemical Weapons Convention on the ability of rogue nations to acquire advanced U.S. technologies and the impact of the Convention on U.S. industry. I am pleased to provide the Administration's official response on these matters.

Article X: Assistance and Protection Against Chemical Weapons. One concern expressed during the hearing was whether Article X of the CWC might force us to share with nations like Iran our most advanced chemical defense technologies and equipment. I am pleased to reconfirm that Article X, which establishes procedures for State Party requests and possible responses to requests for assistance against chemical weapons, does not require the U.S. to share its advanced chemical weapons defenses and defensive technologies with countries such as Iran. Assistance is defined in the treaty as including items ranging from protective equipment to medical antidotes and treatments.

States Parties obligations under Article X may be met in one of three ways—by contributing to the voluntary fund (managed by the Organization); by concluding agreements with the Organization concerning the procurement, on demand, of specific types of assistance; or by declaring (within 180 days after the CWC's entry-into-force) the kind of assistance it might provide in response to an appeal by the Organization. To meet its obligations under Article X therefore, the U.S. can choose from a variety of options and forms of assistance none of which require sharing our most advanced chemical defense or equipment.

Senator Inhofe raised a particular concern regarding Paragraph 3 of Article X. This paragraph states that ''Each Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning the means of protection against chemical weapons.'' The inclusion of the words ''facilitate'' and ''possible'' underscores that no specific exchange is required and that any exchange which does occur is limited to that which we determine would be appropriate and permitted under the Convention.

A specific concern also was raised regarding whether paragraph 5 of Article X would require the release of advanced and classified information about defensive capabilities and technologies. Paragraph 5 requires the international Technical Secretariat that administers the Convention to establish and maintain ''for the use of any requesting State Party, a data bank containing freely available information concerning various means of protection against chemical weapons as well as such information as may be provided by States Parties.'' As stated in the Article-by-Article Analysis submitted to the Senate on November 23, 1993, ''freely available'' means ''from open public sources.'' Further, the CWC imposes no obligation on states parties to contribute to this database. Hence, the provision will not require the release of classified or otherwise sensitive information about U.S. chemical defenses.

Article XI: Economic and Technological Development. A second area of concern raised in the hearing was whether Article XI of the CWC, which relates to cooperation in the field of chemical activities for purposes not prohibited by the CWC, might force our industry to share dual-use technologies and manufacturing secrets with other nations. Article XI does not require private businesses to release such proprietary or otherwise confidential business information, nor does it require the U.S. Government to force private businesses to undertake such actions.

Access to Information During Inspections. A final area of concern raised during the hearing was whether the CWC might permit nations, such as Iran, to have access to some of our most critical technologies and manufacturing secrets during inspections. In this context, a question was raised as to whether the CWC required modification to preclude rogue nations from getting access to our technologies during inspections.

The CWC will not provide nations, such as Iran, with access to our most critical technologies and manufacturing secrets. The CWC, which was written with the help of U.S. chemical industry representatives, already contains important protections for industry, including provisions relating to routine and challenge inspections that were designed to protect against the loss of confidential business information.

The Convention stipulates that States Parties have the right to prohibit inspectors of any nationality from conducting inspections within their territory or any other place under their jurisdiction or control. Additionally, in the case of challenge inspections, the Convention stipulates that the inspected State Party has the right to reject inclusion on the inspection team of an observer from the country requesting the challenge. The Convention stipulates that these teams are composed of international civil servants ''who meet the highest standards of efficiency, competence and integrity.'' If they violate their obligations to hold all information confidential they will be subject to severe penalties, including the possible loss of immunity from prosecution by the inspected State Party.

The Confidentiality Annex to the Convention provides further protection for confidential information at facilities undergoing inspections. Paragraph 13, for example, specifies that ''States Parties may take such measures as they deem necessary to protect confidentiality, provided they fulfill their obligations to demonstrate compliance. . . .'' Paragraph 16 requires ''due regard . . . to the requirement of protecting confidential information,'' while paragraph 17 limits the information in the international inspectorate reports to ''only . . . facts relevant to compliance.''

With regard to the question of access, in neither routine inspections nor challenge inspections does the Convention require any facility to allow inspectors unlimited access. For routine inspections, the United States has the right to negotiate a facility agreement for each facility, which will define the degree of access that inspectors would have, including ''specific and detailed arrangements with regard to the determination of those areas of the facility to which inspectors are granted access'' (Paragraph 16 of Confidentiality Annex). This facility agreement would provide the facility with the opportunity to protect sensitive information. Moreover, since advance notice would be given for routine inspections, the facility would have ample time to prepare for the inspection.

In the case of challenge inspections, the CWC also provides for ''managed access'' that will be conducted in accordance with constitutional obligations with regard to proprietary rights or searches and seizures. Moreover, the facility that is challenged will participate in the negotiations on the degree of permissible access. While the U.S. and the facility shall make every reasonable effort to provide the inspection team an alternative means to satisfy the stated concerns about the facility's compliance, the facility is not obligated to allow inspectors to have unfettered access within the facility.

I hope this information clarifies the matters that were raised during the 5 March 1997 hearing. As I stated in my opening remarks, the Department of Defense firmly believes that the Chemical Weapons Convention is in the national security interests of the United States. We strongly support its prompt ratification by the United States and approval of its accompanying implementing legislation. If I may be of further assistance to you and to the members of your Subcommittee, please do not hesitate to contact me.

Sincerely,

FRANKLIN C. MILLER (Acting).

Mr. BINGAMAN. Mr. President, this letter goes into great detail about why there is no provision in the treaty and there is nothing in the treaty that our Department of Defense would interpret as putting an obligation on us to provide sensitive technologies to rogue states:

Senator Inhofe raised a particular concern regarding Paragraph 3 of Article X. This paragraph states that ''Each Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning the means of protection against chemical weapons.''

The letter goes on to say:

The inclusion of the words ''facilitate'' and ''possible'' underscores that no specific exchange is required and that any exchange which does occur is limited to that which we determine would be appropriate and permitted under the Convention.

I think it is clear from this analysis that our own Department of Defense feels very comfortable with the provisions of this Chemical Weapons Convention. The overriding context that this convention is presented to us in has to be considered, Mr. President, whenever you are debating the chemical weapons treaty or the Chemical Weapons Convention.

Sometime over a decade ago, the United States made a decision to terminate the use of chemical weapons and, in fact, to destroy our stockpile of chemical weapons. President Reagan signed the law to do just that. In accordance with that, President Bush came along, after President Reagan, and went ahead and carried out that policy and entered into the Chemical Weapons Convention on behalf of the country and sent the treaty to the Senate for consideration. It has been languishing here ever since President Bush sent it here for consideration.

I think that we would have a very different debate and you would have a very different lineup of people on different sides of this issue—and, frankly, you would have many more people in opposition to this treaty—if, in fact, we had not made a decision and put in our own law a provision to renounce the use of chemical weapons. But we did. We made that decision. President Reagan signed that law.

And now for people to come to the floor and say, no, no, we are going to be putting ourselves at some kind of disadvantage if we enter into a treaty with 161 other countries which would subject them to the same kind of policy decision which we already made some decade ago, just has no logic to it.

Clearly, there are problems in verifying this treaty. There are problems in verifying any treaty. They are probably complicated when it comes to verifying a treaty to ban chemical weapons because it takes such a small amount of technology and such a small amount of space to produce chemical weapons. But that does not mean that we should just give up on any and all efforts to verify and any and all efforts to inspect.

I think Madeleine Albright, our Secretary of State, made the point very well in a statement she made yesterday where she said, just because there may be people—and there are people—who will continue to murder and pillage and sell drugs, does not mean we should not pass laws to prohibit that. We should pass those laws. We should do our very best to enforce those laws and implement them. That is true with chemical weapons as well.

There may be people—and there undoubtedly will be—some rogue states and some individual groups, terrorist groups, that try to violate this treaty. All I can say is, we need to redouble our efforts to enforce the treaty once we ratify it. We need to work with other countries to gain their assistance in doing that enforcement.

Clearly, it is in the best interest of the people of this country that we take every action we possibly can to reduce the likelihood that chemical weapons will ever be used against Americans in future conflicts or in a nonconflict situation. Perhaps the biggest threat that we face is not in the use of chemical weapons in a conflict. The biggest threat may be the kind of an incident that occurred in Japan in a subway where a terrorist group decides that for some perverted reason they are going to engage in the use of chemical weapons. This treaty will help us to ferret out those kinds of incidents, those kinds of risks and to deal with them ahead of time. I think it is clearly in our best interest to do so.

Mr. President, let me just say that I have confidence that the Senate, if allowed to vote on this issue, will vote by the necessary supermajority to go ahead and pass the treaty and ratify the treaty. What we are up against now is an inability to get the treaty to the floor for a vote. And that, I think, is a very sad procedural circumstance that we have. We have a committee chair who has announced that he may or may not allow this issue to be reported from the committee so that the full Senate can express its will on the subject.

Mr. President, I hope very much that my colleagues will join me in seeing to it that we do get this issue to the floor, and that we go ahead and vote on the treaty. If a Senator wants to vote against the Chemical Weapons Convention and go home and explain to his or her constituents why they voted against the Chemical Weapons Convention, then fine. That is the way the system is supposed to work.

But for us to deny Members the right to vote is really indefensible, in my view, on an issue of this importance. This is tremendously important. I have urged, as several Members know, the Democratic leader, and indicated to the majority leader that I thought it was irresponsible for the Senate to continue doing business as usual while this issue continues to languish in committee.

The deadline is approaching. This is time sensitive. We need to go ahead and get the issue to the floor and allow a good debate, allow amendments, and allow a vote on the Chemical Weapons Convention.

I think that needs to be our top priority this April. And we are still early enough in the month that we can bring this to the floor, debate it, vote on it, and let the Senate do its will. The American people have a right to expect that from us. And clearly we need to go ahead and follow that course of action.

I think for us to continue with discussions about: Well, it does not really matter whether we sign up now or sign up in June or maybe July or maybe this fall some time, that is not accurate, Mr. President. It does matter. And we will be giving up a leadership role that we should have on arms control issues. We will be giving up a leadership role we should have on the banning of chemical weapons. Clearly, I think that is contrary to the best interests of the people I represent and contrary to the best interests of the American people generally.

Mr. President, I urge the majority leader and my colleagues on both sides of the aisle to put aside other business, and bring this issue to the floor. Let us vote on it. Let us have a debate. Anyone who wants to offer an amendment should be able to do that. Anyone who wants to offer implementing legislation should be able to do that. The Senate should vote on it, and then get about other business. So I hope that is the course we follow.

Mr. President, I know there will be additional chances this afternoon and later on to debate this issue in more depth. I look forward to those. I believe very firmly that this is one of the most important issues this Congress, this 105th Congress, will address. I hope very much that we will clear the other procedural matters and the other substantive matters that are on the agenda and get on to a vote on the Chemical Weapons Convention.

Mr. President, with that I yield the floor and suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

MEDICARE REFORM

Mr. WYDEN. Mr. President, as I indicated yesterday, I intend to come to the Senate floor each day this week as part of an effort to build bipartisan support in the Senate for Medicare reform. It is very clear to me that there is a rare window of opportunity now for the Senate to act on this issue, a window, an opportunity I think would be a serious mistake to not exploit.

We know that the Federal deficit is a bit lower than was anticipated this year, in the vicinity of $108 billion. We are seeing that there is a fairly benign economic environment. Certainly, there are still folks hurting in our country, but, overall, the economy has been positive. We know that we are a few years away from what I believe is sure to be a demographic earthquake, with many more older people in our country, and older people who need and deserve good quality health care.

Yesterday, I tried to outline what I thought were the central principles of comprehensive Medicare reform. Beginning today, Mr. President, I intend to

try to outline some of the specific aspects of what Medicare reform ought to consist of and how to get this program on track for the 21st century so that it operates in a fashion that is good for both older people and for taxpayers.

Right now, in much of the United States, the Medicare Program is a 30-year-old, ''Tin Lizzy''-style operation that rewards waste and penalizes frugality. This is particularly unfortunate since the end result is that in communities like my own in Portland, OR, that hold down costs, the end result for all the heavy lifting is simply a smaller reimbursement check. I believe what we have today under the Medicare Program is a situation where because of the reimbursement of formula, a sleep-inducing, eye-glazing concept known as the average adjusted per capita cost, you have a situation where in much of the United States there are few, if any, choices for older people under Medicare because health plans are reluctant to come to those markets, or you have a situation where it is almost impossible for an older person to navigate the system simply because they cannot obtain understandable, coherent information about their Medicare choices.

Mr. President, it would be impossible for you to be able to see this chart, but I intend in the days ahead to blow this up because it makes my point with respect to how Medicare has made it difficult to have true competition like the competition that exists in the private sector for health care. This chart, which obviously is going to be difficult for you, Mr. President, and those who may be watching to see, involves a wall that has been set up in Los Angeles with all of the information that an older person has to go through in Los Angeles to make choices about choosing a health plan. It clearly illustrates, in my view, what we have seen with the Medicare Program over the last few years.

Because the reimbursement formula encourages waste and penalizes frugality, we will have, in many areas, few choices for Medicare, discouraging competition, or, as I have shown through this chart and picture developed by the General Accounting Office, you will have just a blizzard of information that older people find it very difficult to navigate and make sense out of, thereby making it hard for them to have real choice in their health system.

The irony, of course, is that every Member of the U.S. Senate knows what a competitive health system could look like, and a competitive health system that avoids the kind of problems I have just demonstrated with this chart from the General Accounting Office. Mr. President, 21st century Medicare could really be modeled around the very program that Members of the U.S. Senate participate in, known as the Federal employee health benefits plan. The Federal employee health benefits plan offers enrollees a portfolio of plans, each one with somewhat different service offerings. Consumers are helped to make appropriate, independent choices because the managers of the Federal employee plan pay attention to the details, including the way plans develop written explanations presenting what individual policies will or will not do.

So for Members of the U.S. Senate, it is possible to get understandable, coherent information about what is available for Senators and their families. But if you are an older person who wants to compare and shop for health care, you have to try to figure out how to make sense of this incomprehensible picture that I just showed, demonstrated by the General Accounting Office.

In addition, in the Federal employee health system, policies are inspected and reviewed on performance, and Federal employee plan participants are then given what amounts to report card grades on many of the important care provisions so that average consumers can sit down at their kitchen table and make plan-against-plan comparisons when they choose their coverage.

Again, the difference between what is available to older people in many parts of the United States for Medicare and what is available to those Federal employees and Members of the U.S. Senate is striking in its contrast. Members of the Senate and Federal employees are going to be in a position where they can make plan-against-plan comparisons so as to inject some competition in the system. Again, the General Accounting Office tells us that no such features exist in much of Medicare.

Finally, the Federal employee benefits managers look for high-quality service at competitive rates for employees. They work on a competitive basis to upgrade the quality and prices for the plan, while keeping premium rates at the lowest possible level. At the same time, these managers work to diminish risk selection by the plans, so that the older individuals who are part of the Federal employee plan, or persons with disabilities or chronic conditions, will not be eliminated from coverage when they want to enroll.

Again, we see an effort to deal with the central questions that face health care reform in America, making sure that people are in a position to compare their plans so that there is real competition, and to make sure that nobody is left behind just because they are older or they suffer from a chronic condition.

So, in addition to these very positive features, in recent years, average Federal employee health plan premium increases have stayed below 3 percent per year per enrollee, while the Medicare Program has seen average annual increases of almost 9 percent during the same period.

So, Mr. President, what we are seeing is that well-structured competition, like in the system that Members of the Senate belong to, can work. It can work for patients and consumers in making sure they have good quality care. It can work for taxpayers in that it holds costs down, and it, for all practical purposes, is very similar to the system that we have in my hometown of Portland, OR.

In my hometown, Portland, we have the highest percentage of older people in the Nation now participating in managed care. It is about 60 percent. Certainly, while not perfect, it avoids much of the set of problems that we have seen in other parts of the country. You don't see the gag clauses, for example, in our plan. And, hopefully, the U.S. Senate will pass the legislation this session that Senators KYL, KENNEDY and myself have introduced to make sure that, as we go to the 21st century, all patients understand their options and all of them know about the various services that are available. But we don't have those gag clauses in Portland, and we do have high-quality managed care, and we are able to do it for substantially less than much of the rest of the Medicare system. The per capita rate in my hometown, the per person rate for Medicare participants, is still $60 to $80 below the national average for Medicare.

One of the things that I hope the Senate will do, on a bipartisan basis, is lift these penalties against towns like my home community that have done the heavy lifting and have ended up being penalized for it. I think, on a bipartisan basis, the U.S. Senate should make changes in Medicare to lift the reimbursement for low-cost counties, particularly in rural communities, and by doing so, benefit both seniors and taxpayers. Seniors will benefit from having the opportunity to get good-quality health plans in their areas, and it will also bring real choice and real competition for the first time to those areas. The fact of the matter is, many of those communities haven't been able to unleash entrepreneurial and competitive forces into their health systems such as we have in the private sector, because Medicare isn't paying those low-cost communities a fair rate. I have made changes in that discriminatory reimbursement proposal in my Medicare reform plan, and I hope the U.S. Senate will accept that in this session.

I was pleased to see that, in the last week or so, the head of the Health Care Financing Administration, Dr. Vladeck, has indicated that there is a significant backlog of needed changes required to bring Medicare up to date. I hope that we will see more discussion of that in the days ahead. I felt that it was positive news to see those comments from the head of the Health Care Financing Administration.

Mr. President, finally, let me say that I think, in addition to promoting competition, using the model of the Federal employee health plan, it's time for Medicare to look to the Federal employee health plan and the private sector for ways to improve quality in our health system. Again, there is nothing

partisan about the agenda to improve health care quality, but this is an area where Medicare has also lagged, both in relation to Federal employees and the private sector. In other parts of our health system, it's possible, for example, to get good statistics on disenrollment, people leaving because they are not satisfied with the plan. It is possible to get information about providers who leave a system because they, too, feel it doesn't adequately address the needs of patients in providing good-quality health care.

In other parts of the health system, there are grievance procedures, and we know, for example, how long it takes people to get through a grievance procedure, or how long it takes to get a referral, or what happens when you are denied benefits. In each of these areas so central to providing quality health care in America, Medicare is lagging behind the Federal employee health system, and Medicare is lagging behind much of the private sector. In my legislation, we would change that. We would require that these critical measures of quality be made available through report cards and other measures. I emphasize that today, Mr. President, because I think that, as we look to the 21st century of Medicare, we have an opportunity over the next few years to redesign the system and try to get it on track for the next century when we will have many more older people depending on Medicare.

So the alternative is very clear: A bipartisan effort to bring competition and choice and a new focus on quality in the Medicare Program, or to continue business as usual and face what the General Accounting Office has told us will be a program that has simply run out of money when we hit the next century. I believe that, after years of bickering and partisanship on this issue, there is an opportunity now to address Medicare reform in a bipartisan way. Democrats have been right in the Senate to call on making sure that benefits are defined, that older people have guaranteed, secure benefits. Republicans have been correct, in my view, in calling for more competition and more choice in the system. Today, I have tried to talk about how that competition and choice exists in the program that Members of the Senate belong to and is also available in much of the private sector.

Mr. President, this issue is so important that in the next century I believe that the public is going to ask every Member of the U.S. Senate, ''What were you doing to try to get Medicare on track?'' This program isn't just an important part of the Federal budget. It is going to be the Federal budget for the next 15 or 20 years. So now is the time to act to get the program on track. I believe that this can be done in a bipartisan way.

Mr. WYDEN. Mr. President, as I have said, I intend to come to the Senate floor each day this week part of an effort to help build bipartisan support in this body for Medicare reform.

Not via an independent commission. Not in the next Congress. But now, and by us, the Members of the 105th Congress.

I think we have an historic opportunity to transform Medicare from a 30-year-old, tin-Lizzie style social welfare program into a 21st century, comprehensive seniors health care system that is humane, cost-efficient and sustainable.

The reformed Medicare Program I envision, and which I think is within our grasp, is a health plan that is about choice, quality and access, and also about the efficiencies that characterize much of the Nation's private health care marketplace.

But changing Medicare will require tough decisions, tough votes and, as in turning a battleship in mid-ocean, a good deal of time and patience on the part of beneficiaries and health care providers.

We must start by making the right moves, the right changes, today, before some 75 million baby boom generation retirees begin swamping the Medicare Program in 2013.

In my private conversations with colleagues, I've been arguing that this is the classic pay-me-now, or pay-me-later situation. Structural changes enacted in the next year or two will not be easy. But in the face of what Congress would have to overcome beginning early in the next century, these changes will seem like child's play.

Medicare's problems are a snowball rolling down hill, picking up speed and mass on almost a daily basis. Now is the time to slow-down that snowball, if not stop it because in a few more years the program will be crushed by its weight.

Each year without structural reform makes the task that much harder, and the risk to balanced Federal budgets that much more significant.

And assigning the task to a bipartisan commission without first doing our best to solve Medicare's problems is a retreat not just from our responsibility, but from opportunity as well. I think there's a fervent desire among my colleagues to try to fix Medicare in the current Congress.

I think we gain little by assigning that job in the first instance to a bipartisan committee, only to have to try to make tough votes on their recommendations in 1998, an election year for those who need to be reminded.

The path to reform is not easy. Fortunately, however, there are sign posts and trail markers along the way, offering meaningful models for changes and reform.

I think we see these possibilities for a 21st century Medicare program in systems as diverse as the Federal Employee Health Benefits Program, which serves many Members of this body, to the Medicaid Program which now operates in my home state of Oregon under a special Federal waiver.

The Federal Employees Health Benefits Program offers its enrollees a portfolio of plans, each one with somewhat different services offerings. Consumers are helped to make appropriate, independent choices because the managers of FEHBP pay attention to the details, including the way plans develop written explanations presenting what individual policies will or won't do.

Further, those policies are then inspected and reviewed on performance, and FEHBP beneficiaries are then given what amounts to report card grades on many of the important care provisions so that average consumers can sit down at their kitchen tables and make plan-against-plan comparisons when they choose their coverage.

Finally, FEHBP smart-shopper managers negotiate high-quality service at competitive rates for enrollees. These government managers work with their plans on a continuous basis to upgrade the quality and range of services offered by the plans while keeping premium rates at lowest possible levels. At the same time, these managers work to diminish risk selection by the plans, so that older FEHBP members, or persons with disabilities or chronic conditions aren't eliminated from coverage when they want to enroll.

In recent years, average FEHBP plan premium increases have stayed below 3 percent per year, per enrollee, while the Medicare Program has ballooned to average annual increases of almost 9 percent during the same period.

Oregon's ground-breaking Medicaid plan also helps mark our way toward an improved national Medicare system.

In Oregon, we've expanded the traditional Medicaid Program to cover not only the federally qualified participants but also tens of thousands of working poor Oregonians who can't afford private insurance, but whose incomes would disqualify them for traditional Medicaid.

The result has been a tremendous reduction across the State in unreimbursed hospital charity care, more preventative medicine for youngsters and young mothers, and a per capita Medicaid cost rate that is 10 percent below the national average.

More care.

Less cost.

Efficient, preventative services that keep children and adults out of the hospital.

Managed care has played a dominant role in this success story, as it has in Oregon's Medicare experience.

Oregon's Medicare-qualified seniors have the highest penetration rate in the Nation in coordinated care. In Portland, nearly 60 percent of the Medicare beneficiaries are in managed care.

And in this, the State's highest reimbursed city for Medicare beneficiaries, the per capita rate is still 60 to 80 dollars below the national average for Medicare.

I suggest that we may be doing some things right, out West and in the FEHBP program. And sad to say, these good things we see happening in Medicaid and Medicare are almost in spite of

a Federal regulatory structure that hamstrings Medicare and Medicaid in terms of increasing both efficiency and quality, and expanding enrollment to the uninsured and under-insured.

This is a problem that is recognized even within the bowels of the Medicare management structure.

Mr. President, I was heartened to see the comments of my good friend Dr. Bruce Vladeck in the trade press last week. Specifically, Bruce acknowledged that there is a tremendous backlog of needed statutory changes required to bring Medicare up-to-date.

Gail Wilensky of Project Hope, puts it even more succinctly:

In sum, the present structure of Medicare hardly makes it surprising that it is facing financial problems. The elderly have limited options in the health care plans available to them. Medicare pays most of the costs for services it covers and almost all of the elderly have coverage that is supplemental to Medicare, either privately purchased Medigap or Medicaid.

That means there is little reason for an elderly person to seek out cost-effective physicians or hospitals, or to use lower cost durable medical equipment, laboratories or outpatient hospitals.

Dr. Wilensky goes on to say that there is little reason for practitioners to provide cost effective care ''if there is any medical gain to be had from providing services and some reason to fear legal repercussions if they do less than they might have done and the patient has an adverse outcome.'':

And because payments to capitated plans now follow payments for local fee-for-service Medicare, Medicare HMO's in many high-cost counties are extravagantly over-paid, while in low-pay counties plans and HMO enrollment languish because of under-reimbursement.

We throw money at fat health plans in big counties, while we starve the system of both choice and access—and I would argue quite probably quality as well—in counties where the payments are below the national average.

This current state-of-affairs is precisely antagonistic to our goal.

Let me postulate that it is nuts to reimburse Medicare HMO's in high-cost counties at the same level, more or less, of the highest-cost fee-for-service practitioners in those counties. That fact alone is one of the big reasons why, quite rightly, the administration has argued that we have a general HMO over-payment problem.

But the administration's argument that every HMO should be cut, however, to cure that problem is like saying amputation is an appropriate treatment for bunions.

Holy Dr. Kildare. In any other economic model or sector, a proposition like our current average adjusted per capita cost [AAPCC] formula would seem nuts. But that's the way it works in our creaking, inefficient and decidedly consumer unfriendly Medicare system.

Clearly, we must provide incentives for beneficiaries to choose just the cost-effective health care they need, and to demand that physicians, hospitals and other providers limit practice to cost-effective medicine.

This can be done while preserving the Medicare guarantee of a basic, good quality package of health services to every eligible senior, no matter what their health status or income level.

Here are components of a new Medicare system that provides both choice and quality, with cost efficiency:

First, radically reform the formula by which we determine how Medicare managed care programs are paid so that reimbursements are geared to the actual costs of managed care among elderly populations in a particular county, or region, rather than the local cost of fee-for-service medicine.

At the same time, scale-back payment increases in our high-reimbursement counties, and accelerate payments in the low-reimbursement counties where, because payments have been too thin, beneficiaries have only fee-for-service Medicare to choose from.

In other words, give millions of disenfranchised Medicare beneficiaries a real choice.

Second, require Medicare managers organize open bidding between plans in high-pay counties where profit margins are exorbitantly high.

Make the plans that are currently, hugely over-paid bid against one another, on price, for Medicare beneficiaries in those counties.

I believe such competitions should take place in every county where the average adjusted per capita cost—the AAPCC—is 120 percent of the national average.

In sum, make adjustments in the HMO payment formula that decrease reimbursements in counties that we know are substantially over-compensated; increase payments in counties that are so under-compensated as to discourage HMO entry and competition; and resist proposals to reduce all county payments, alike, from 95 percent to 90 percent of the local AAPCC rate—a crude tool that will hurt the cost-efficient counties much more than the ''fat'' counties.

Mr. President, I believe that accelerating the growth of good quality managed care, such as we have in Oregon, can be a major factor in curing Medicare's financial ills. Changing this AAPCC formula in a way that makes sense—in a fashion that does not kill our efforts to bring Medicare into vast areas of this country where no choice but fee-for-service medicine exists for beneficiaries—must be a high priority piece of the solution.

Third, put our two fastest growing portions of Medicare—home health care and skilled nursing facility care—on a financial management diet.

That regimen is called prospective payment, and it means that in much the same way we control hospital costs we would create a schedule of daily maximum service costs for different aspects of care in each of these important areas.

In my bill, S. 386, the Medicare Modernization and Patient Protection Act, prospective payment provisions for home health and skilled nursing facilities would, together, save approximately $20 billion over 5 years, according to the Congressional Budget Office.

Eventually, but quickly, I think we ought to impose these kinds of financial management tools on other aspects of fee-for-service Medicare.

I see no reason why, as a matter of global budgeting, that practitioners in this field ought not be held to the same kind of case management that HMO's require as part of their plans.

One method might be to require all Medicare fee-for-service practitioners to join a Medicare-sponsored provider network, which has at its core a case management system that ensures all participating beneficiaries get the care and quality they need, but that practitioners and other providers don't overbill or overprescribe.

This kind of PPO management would bring case gate-keeping into fee-for-service Medicare, ultimately producing reasonable price and cost controls in the system.

Fourth, require competitive bidding for durable medical equipment purchases and eliminate what Dr. Vladeck has termed the ''current silly inherent reasonableness'' process.

I know many of my colleagues may not have looked hard at this bit of Medicare arcana. But let me say that this is all about getting medical equipment paid for by the program at the lowest possible cost as determined by the market.

At the same time, we need to know more about what procedures and services work, and which don't, so that we can save money for the program and ensure that beneficiaries are getting optimum care.

The Health Care Financing Administration must be required to collect, analyze, and act on more of the available data, in this regard, and that admonition needs to be part of comprehensive Medicare reform.

Fifth, require HCFA to do local service-provider report cards for beneficiaries. This sort of qualitative analysis should extend both to HMO's and their practitioners, and to local fee-for-service doctors and other providers.

This needed reform would include authorizing the program to demand and collect all relevant data from Medicare participants.

Sixth, the program must move much more aggressively in establishing special plans and services for the sickest, frailest enrollees; these are the Medicare beneficiaries who are usually qualified for both health and income reasons to receive benefits from Medicaid as well.

These enrollees are the fastest growing group of Medicare beneficiaries, and the most expensive with costs to both programs amounting to about $100 billion per year.

Lack of systems to deal with the huge comprehensive care problems these folks face has resulted in the worst possible scenario; much money is wasted while many folks don't receive the type or quality of care they need.

Fortunately, there are a number of highly specialized programs called social HMO's or PACE programs, that provide coordinated care—using both Medicare and Medicaid bucks—for populations of these beneficiaries in less than two dozen communities. One of those programs, ElderCare at Providence Hospital in Portland, is up and running in my hometown, and it is serving these frail elderly at well below the national average cost for the so-called dual-eligibles.

Why don't we have more? HCFA currently requires each of these programs to apply on a waiver basis every time an individual community wants to start a social HMO or PACE program. This is expensive and time consuming, and it limits the reach of a very good, cost-effective system.

And again, something that takes about 5 minutes to start up in the private sector, takes about 5 years through the Federal Government.

For this group we must create greater access for highly specialized, dual-eligible programs by giving organizers clear and certain and uniform rules of entry through the Medicare Program; eliminate the so-called 50–50 rule, requiring 50 percent non-Medicare enrollment for any HMO serving Medicare beneficiaries, based on enhanced performance and quality standards; develop tougher restrictions on adverse risk selection making it harder for plans to deny enrollment to sicker, frailer beneficiaries; and set up a so-called outlier fund within Medicare, a special pool of cash fueled by reimbursement withholds from overpaid HMO's, to appropriately compensate plans that demonstrate they are serving sicker, more costly beneficiaries.

Seventh, reform our Medicare supplemental insurance laws—the Medigap regulations—to guarantee that every Medicare beneficiary can enroll in a Medigap program at any time. I believe this change is crucial to encouraging more seniors to try HMO's, knowing that if they decide they must return to fee-for-service medicine they will be able to get back into Medigap coverage.

About a dozen States, including my home State of Oregon, already require guaranteed-issue. The Medigap market has not been destroyed in those States. There must be a universal Federal standard protecting beneficiaries.

Eighth, ensure better treatment and more appropriate treatment for Medicare beneficiaries by capturing the service and efficiency offered by telecommunications technology.

An important aspect of this is expanding the terms and conditions under which Medicare will pay for services via the fiber-optic lifeline, and working with both the Federal Government and the States to knock down anticompetitive licensure practices and restrictions that hamper the ability of physicians and other practitioners to practice via this new technology.

I can tell my colleagues that Oregon, like much of the west, is looking hard at telemedicine as a way of getting better quality medicine to folks who live way out in the country; and there are lots of places falling under that definition, west of the Mississippi.

Medicare needs to help in that effort, not build walls against 21st-century medicine.

Ninth, Medicare must unleash the quality and efficiency promised by a rapidly growing cadre of alternative health care providers.

The program can save money and deliver to beneficiaries better, more targeted services by identifying and incorporating appropriate assignments for nurse practitioners, PA's, druggists, chiropractors, and other licensed professionals within the health care network.

Mr. President, these nine items are not the whole solution to modernizing Medicare. But I do believe that together, they represent an appropriate jumping off position for real Medicare reform that can be accomplished in this Congress.

I know colleagues from both sides of the aisle will be talking about their own ideas in the weeks and months to come. I urge them, I urge all of us, to move these issues through the congressional process beginning this year rather than expect a bipartisan commission to cure Medicare's problems for us.

Mr. President, tomorrow, I will go on to talk about other fundamental principles of Medicare reform.

I yield the floor.

Mr. CONRAD addressed the Chair.

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

DISASTER SUPPLEMENTAL, THE BUDGET, AND THE CHEMICAL WEAPONS TREATY

Mr. CONRAD. Mr. President, my State has been hit by a massive disaster over this last weekend. North Dakota has been hit with the strongest storm in over 50 years. This is a storm of staggering proportions. Mr. President, North Dakota this last weekend got hit by a combination of an ice storm and blizzard that is unprecedented in the last 50 years.

In North Dakota, we are used to harsh winters, but, frankly, we have never seen anything quite like this one. This most recent storm not only involved ice, it involved 70-mile-an-hour winds. That combination has knocked down power poles all across the eastern part of our State. As of yesterday, we had 80,000 people still without power in the State of North Dakota, many of them with no power since Saturday morning. The temperatures have been 40 degrees below zero wind chill since the heat went out.

Mr. President, we have story after story of people who are huddled in homes around stoves trying to keep warm. My scheduling director, who is from the small town of Warsaw, ND, has talked to her mother, who is over 80 years old. She has had no heat since Saturday.

Mr. President, this is a disaster of truly staggering proportions. In this storm, there were whiteout conditions for 10 hours straight—10 hours straight—where the snow was so heavy and the wind so strong, you literally could not see 5 inches in front of your vehicle. As I have indicated, all of this led to, first of all, a massive snowfall. In some parts of our State, it was as much as 24 inches. In much of the State, it was 17 and 18 inches. That is on top of record snowfall that we had already received. This is a headline from before this most recent disaster: ''106 Inches of Snow and Rising.'' This is the Fargo Forum newspaper, the biggest newspaper in the State of North Dakota, and this was before the most recent disaster. Now we can put another 17 inches on top of that in the Fargo area. This was a record at 106 inches.

Mr. President, we have extreme hardship now across the State of North Dakota—no power, extremely cold temperatures, and facing us is the worst flooding in 150 years. The National Weather Service has now told us that we can anticipate the worst flooding in 150 years. That is on the heels of the most powerful winter storm in 50 years. It makes you wonder precisely what is happening with these weather patterns.

We have had an entire community ask to be moved to an emergency shelter—1,500 people. In one of the small towns in North Dakota, they asked to have the whole town put in an emergency shelter because there is no heat and has not been any heat since Saturday. We had a local rancher call in to the radio station, and he said, ''My entire herd is out because the fences went down with this incredible ice storm and these extraordinary winds.'' He asked people who were listening to the radio, ''If you see my herd roaming around, give me a call.'' I had another rancher call in from a town out in the western part of North Dakota, and he had a hundred cows and he had a calve crop coming in. Understand, this is the part of the season when you are calving. The calves are being born and being born in these disastrous conditions. They had a hundred cows, and they had a calve crop coming in, and they believe all of them are dead. They brought 10 into their own home—10 calves into their home to try to save them. All of them died. What was happening was, as the calves were being born, the wind is so strong, the snow is being forced up into their nostrils and the cows were suffocating. Now, if they didn't suffocate, they froze to death. Now, that is the extraordinarily brutal conditions that we are facing.

Mr. President, we had a disaster supplemental sent up by the White House before we had this 2-week break. I hope very much that the first order of business here will be that disaster supplemental. We ought to move that legislation and move it now. There is assistance in that legislation for some areas that have already been hard hit. There is further assistance for those that have been hard hit since that disaster bill was sent up here.

So I would ask respectfully of the leadership to get that disaster supplemental to the floor as quickly as possible. These are situations that cannot wait. These people need help. They need it now. North Dakota has been first in line to help out others when they faced disasters, and we have been happy to do so.

Mr. President, we are now faced with a staggering disaster and we need help. We are asking for it now.

Mr. President, I see there are other Senators wishing to speak. Will we be able to continue?

The PRESIDING OFFICER. The Senator's time has expired, and it would take unanimous consent for the Senate to continue.

Mr. CONRAD. Mr. President, I ask for 1 minute more.

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

Mr. CONRAD. Mr. President, in addition to the disaster supplemental, I think we should also ask, ''Where is the budget?'' Because the budget contains items that are going to be critically important to dealing with these disasters as well. The budget was supposed to have come out of the Budget Committee by April 1. That deadline has been missed. The full Senate is supposed to act by April 15. I hope we don't miss that deadline as well, because this Congress is developing a reputation of failing to act.

Mr. President, finally, there is a third matter. That is the chemical weapons treaty. We have a deadline of April 29. That is when it goes into effect. Where is that piece of legislation?

Mr. President, I say to my colleagues that there are three pieces of business that we ought to do and do quickly.

The disaster supplemental ought to be first in line.

Second, the budget: We have a deadline of April 15.

Third, the chemical weapons treaty: We have a deadline of April 29.

All three of those ought to be taken up, taken up quickly, and passed so the people of this country know that this Congress is doing its business.

I thank the Chair. I yield the floor.

Mr. JOHNSON addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. JOHNSON. Thank you, Mr. President.

The PRESIDING OFFICER. If the Chair could interrupt the Senator, the Senator has an order to go into recess at 12:30. It would take unanimous consent for the Senate to extend that.

Mr. JOHNSON. I ask unanimous consent to extend morning business, Mr. President.

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

THE DEVASTATION IN SOUTH DAKOTA

Mr. JOHNSON. Mr. President, I come to the Senate floor today to commend and recognize the strength and tenacity of the residents of my State of South Dakota, and also to further emphasize the importance of this body in expediting the President's request for supplemental appropriations for disasters occurring in the Great Plains and other parts of our country.

I returned to Washington yesterday after spending 6 days touring the devastation occurring in virtually every corner of my State. South Dakotans are a hearty stock and during my years serving the citizens of South Dakota I have repeatedly witnessed South Dakotans' ability to overcome any obstacle Mother Nature has given us. However, I don't believe I have ever seen South Dakotans rise to the occasion in quite the manner they are doing right now under extraordinary circumstances.

I traveled to South Dakota last week expecting to see widespread residual damage from the severe winter weather the State experienced over the past several months and subsequent high water from the ongoing snowpack melt. Relentless sub-zero temperatures and continual snowfall in January forced South Dakota Governor William Janklow to request a major disaster declaration from President Clinton to ensure roads could remain clear for emergency services and basic travel and access to livestock. President Clinton responded positively to the Governor's request and granted the declaration which gave the State additional tools to help meet its basic transportation needs.

Farmers and ranchers began facing hard times last fall with normally available grazing and unharvested row crops being buried with snow. The subsequent extreme cold increased the nutritional requirements of livestock and depleted winter feed supplies. This already tough situation became a crisis when the early January blizzards literally killed livestock and put most producers' livestock at risk because of access to feed being cut off. No one yet knows how many livestock were killed, but estimates top at least 100,000. In addition, many livestock suffered frostbite and were significantly weakened.

During this time, ordinary activities became extremely and increasingly difficult because of the excess snow. Wintertime expenses likely tripled as just getting livestock feed became a Herculean task. The continued stress on livestock, especially cattle, meant that the most important time of the year for ranchers—calving season—was approached with trepidation if not outright fear. Nutritional stress during late gestation makes for weak and dead calves.

I toured the State during this winter storm disaster and was struck by the dramatic impact, particularly in the northeastern region of the State, of the winter weather. Snowdrifts as high as buildings, roads with only one lane cleared with snow piled high on either side, homes without heat for days in the bitter cold, tens of thousands of dead livestock, schools closed for a week at a time, and the depletion of our indigenous wildlife populations were commonplace. I vividly remember watching a cow climb to the top of a snowdrift as high as the roof of the barn so that he could eat the shingles from the roof. And, I also remember the positive, stubborn attitude of the residents of South Dakota in the face of this disaster. South Dakotans knew that what they were facing was tough, but they also knew that they were tougher.

As if surviving the severe winter cold of December, January, and February was not challenge enough, residents and State and local officials knew they could not rest from fighting the forces of Mother Nature. Once all of the roads were cleared, emergency services were no longer threatened, and it appeared that the worst of the winter weather was over, focus turned to the next challenge: potential flooding problems the State could experience once the snowpack began to melt.

Governor William Janklow provided exceptional leadership with his comprehensive and aggressive efforts to get every community as ready as it could possibly be for the impending floods. Governor Janklow set up a state task force to monitor the flows of the rivers and to work with local governments in their preparations. State and local governments worked with the Corps of Engineers and the National Weather Service to predict precipitation and runoff levels, identify areas where additional flood protection measures should be undertaken, and design and implement additional flood control measures. The efforts made by communities were considerable. For example:

In Sioux Falls, the largest city in South Dakota, the Big Sioux River flood protection system was temporarily bolstered to hold up to 41,000 cubic feet of water per second. It was designed in the 1950's and 1960's to hold 24,000 cubic feet—5,600 in the main river channel in western Sioux Falls and 18,400 in the diversion channel in the northeast corner of the city. Sioux Falls also aggressively sandbagged and used over 60,000 sandbags in its efforts.

The small community of Davis filled and placed over 8,000 sandbags. Residents of the town of Hecla, population 400, built two dikes at the west and north ends of town to hold back the James River. In Aberdeen, the city built a levee about 2 feet high around the northern edge of the city in just 6 days.

These are just a few examples of the mitigation efforts undertaken by communities all over South Dakota. Because of these efforts, from all reports, South Dakota communities could not have been better prepared for the anticipated flooding. I traveled to South Dakota early last week expecting to see high water fairly well controlled by these mitigation efforts with some areas faring worse than others.

Unfortunately, the situation was worse than I anticipated because Mother Nature, as only she can do, had changed the rules of the game and given the residents of the State of South Dakota more water than initially anticipated and additional severe winter weather. The devastation I witnessed and subsequent destruction in the short time since my touring ended is heart-rending in its thoroughness and in its indiscriminate taking of property and possessions.

Let me give just a few examples of the ways in which our communities have pulled together:

In a relatively small community near Huron, 150 students, volunteers, and State inmates joined together to save the James Valley Christian School from the waters of the James River. Their efforts were absolutely inspiring. These individuals labored for days to stem the rushing James River with a sandbagged dike and sandbags all over the area to protect the school. Unfortunately, the James Valley Christian School lost its fight just days after I toured it. It now sits in 6 feet of water.

I visited the farm of Gary and Diane Foster near Bruce, SD, where 30 head of cattle were calving on a small island surrounded by flood water. I will not soon forget this tragic sight.

It was evident that our farmers will once again face a financially devastating problem in regard to springtime planting. Flooded fields prevent any field preparation, let alone planting. And there probably is not enough time for drying before it will simply become too late to plant this years' crops. In 1995, another very wet year, less than 40 percent of my State's crops were planted on time.

The current flooding means that we probably will not even match 1995's slow performance. This is going to deal a tough blow to the agricultural economy of my State—and, in the end, it will deal a blow to consumers and businesses on Main Street.

I was amazed by the reality that many South Dakotans who normally travel 10–15 miles to work, now have to drive 50–90 miles to work to avoid washed out or water covered roads, which often times are our major highways. The Sioux Falls Argus Leader reported that Janice Mellema, a nurse who lives west of Platte but works at the Gregory County Hospital, is forced to leave her home at 3:30 in the morning to arrive at work by 6. She now has a 90-mile commute.

Some 100 people in north central South Dakota have already spent 30 days in a motel after they were evacuated from their homes because of rising water. This last weekend 5,000 people in Watertown, SD, have had to leave their homes.

Essential services in many communities such as wastewater treatment plants are threatened. Many communities' systems have been overwhelmed and have been forced to release untreated water.

Vital infrastructure has been dramatically impacted. During my tour, we drove on roads covered with water and saw many, many county roads completely washed away by a deluge of water. In McCook County every road that goes into the county from both the east to the west and from the north to the south are closed at some point.

Just as South Dakotans were accepting and successfully fighting the increased flows of water, Mother Nature hit the State with yet another blizzard over the weekend. Some areas received 34 inches of snow accompanied by 60-mile-per-hour winds. This winter storm resulted in sub-zero wind chill temperatures and zero visibility in much of the State for an extended period of time. A 100-mile stretch of Interstate 90 was closed and many communities were forced to prohibit all travel. I was stranded in Wall, SD for over 24 hours because of this winter storm.

This winter storm would have been a lot to handle as an isolated incident but coupled with the flooding already experienced all over the State, the impact of the winter weather has been unprecedented. The added precipitation and severe weather has led to unparalleled devastation.

Last weekend's blizzard is truly salt in the wound for producers in my State. Our producers are in the middle of calving season now and trying to prepare for springtime field preparations. The blast of cold and more snow on top of already treacherous conditions will surely mean that the number of dead livestock will continue to rise. This may well put many producers over the edge financially—after all, they only get one chance per year to successfully complete calving season.

This storm severely impacted the city of Watertown, causing the situation to escalate from a 100-year flood event to a 500-year flood event. Earlier this week, Mayor Brenda Barger, who I must commend for her effective leadership during this crisis, poignantly observed that, ''It's a humbling thing when you see people out sandbagging in 60-mile-per-hour winds, in a blizzard, knee-deep in water.'' I think her statement sums up a lot of what everyone has felt over the last few weeks and, in particular, the last few days. Everyone banded together to save and minimize damage to both public and private property regardless of the weather conditions.

In a State that covers 80,000 square miles, it is both rare and unfortunate to have a situation where regions across the entire State are so disastrously affected by severe weather. The widespread nature of this disaster has devastated the agribusiness economy of our entire State and assistance in the coming months is absolutely critical to ensuring the future existence of many small businesses in South Dakota. The combined impact of the weather disasters over the last 5 months on agriculture is the gravest threat South Dakota farmers and ranchers have faced from nature in probably 100 years. Additionally, the damage done by the prolonged flooding has jeopardized the long-term viability of parts of South Dakota's infrastructure. Prior to the extensive damage done from this year's severe weather to South Dakota's roads, the State of South Dakota had an excess of $500 million in backlog needs on its State Highway System alone. And, the damage to personal property is as yet uncalculated in monetary or sentimental value.

Our State has been fortunate enough to receive an outstanding response from President Clinton and FEMA in the past. I am grateful that, once again, the President has responded expeditiously with much needed assistance for South Dakota. Yesterday, the President made a major disaster declaration for the entire State which will supplement the efforts of the State and local governments during this difficult time.

As I mentioned previously, the spirit of South Dakotans, even in this incredibly difficult time, never ceases to amaze me and this weekend's trip reemphasized that impression in my mind. I am committed to doing everything I can do to assist the State and communities as much as possible to ensure South Dakotans can get back to living their normal lives at the earliest possible time. I look forward to continuing to work with Senator DASCHLE, Representative THUNE, Governor Janklow, and local communities in the coming weeks and months as we clean up from this disaster. After all South Dakotans have endured over the past few months, they need all we can give. We need expeditious action on this floor on the supplemental appropriations requests.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent morning business be extended long enough for me to give my statement, which I believe will be less than 10 minutes.

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

PRIVILEGE OF THE FLOOR

Mr. LAUTENBERG. Mr. President, I also ask unanimous consent that the privilege of the floor be accorded to Mr. Dan Katz from my staff, who should be admitted to the floor because he worked so hard.

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

The Senator from New Jersey is recognized.

Mr. LAUTENBERG. I thank the Chair.

(The remarks of Mr. LAUTENBERG pertaining to the introduction of S. 527 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

RECESS

The PRESIDING OFFICER. The Senate will stand in recess until 2:15 today.

Thereupon, at 12:54 p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

NUCLEAR WASTE POLICY ACT AMENDMENTS—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the time between 2:15 p.m. and 5:15 p.m. shall be for debate equally divided on the motion to proceed to the consideration of S. 104, which the clerk will now report.

The legislative clerk read as follows:

A motion to proceed to the bill (S. 104) to amend the Nuclear Policy Act of 1982.

The Senate resumed consideration of the motion to proceed.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have been requested by Senator KENNEDY—and it is my understanding Mr. HATCH has requested of Senator MURKOWSKI—to give 15 minutes of our time to Senator KENNEDY and Senator MURKOWSKI will give 15 minutes to Senator HATCH. I ask unanimous consent for that at this stage.

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

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would like to express appreciation to Senator MURKOWSKI and Senator REID for their willingness to give Senator HATCH and myself an opportunity to introduce our children's health bill. I see my colleague, Senator HATCH, on the floor now. So, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank the Chair.

(The remarks of Mr. HATCH, Mr. KENNEDY, Mr. DODD and Mr. KERRY pertaining to the introduction of S. 525 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Nevada.

Mr. REID. Would the Chair report the matter that is now on the floor?

The PRESIDING OFFICER. The matter pending before the Senate is a motion to proceed on S. 104, the Nuclear Waste Policy Act.

Mr. MURKOWSKI. Mr. President, if I could make an inquiry relative to the time we will have on the bill this afternoon.

Mr. REID. It is my understanding that the proponents and opponents have an hour and 15 minutes each, and I say to the chairman of the committee, I was going to speak for about 20 minutes.

The PRESIDING OFFICER. The Chair announces that under the previous agreement, an hour and a half is divided. However, 15 minutes from each side has been allocated to the previous speaker, so there is an hour and 15 minutes remaining for each side.

Mr. REID. We both understand that.

Mr. MURKOWSKI. I thank the Chair.

Mr. REID. If the chairman of the committee desires to go first, I have no problem.

Mr. MURKOWSKI. The Senator from Nevada should proceed. I went first yesterday. I suspect we will be taking turns.

Mr. REID. I yield myself 20 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, as we indicated yesterday, this matter is on the floor for one reason and one reason only. That is the nuclear power industry. That is the reason we are here. There is no other reason. The fact of the matter is that the situation here is the same as it was last year.

What I indicated, Mr. President, yesterday, and it was confirmed by the chairman of the committee, we are not here because of science. We are here because of politics. We underline and we underscore that.

What I said I would do yesterday I want to do today. That is, indicate to the Members of the U.S. Senate that there are approximately 200—I repeat, 200—environmental groups opposed to this legislation. I am not going to read the names of the environmental groups, but I ask unanimous consent the entire number and names of the environmental groups be printed in the RECORD.

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

ENVIRONMENTAL AND CITIZENS GROUPS AGAINST THE BILLS THAT WOULD REPLACE THE CURRENT ACT

Nuclear Information and Resource Service, Greenpeace, League of Conservation Voters, Public Citizen, U.S. Public Interest Research Group, Physicians for Social Responsibility, Sierra Club, Military Production Network, Natural Resources Defense Council, Office for Church in Society, United Church of Christ, Project on Government Oversight, League of Women Voters of the United States, Union of American Hebrew Congregations, United Methodist General Board of Church and Society, Nuclear Free America, National Ministries of the Presbyterian Church (USA), Nuclear Waste Citizens' Coalition, Safe Energy Communication Council, Friends of the Earth, Citizens Awareness Network, Missouri Coalition for the Environment, 20/20 Vision, Prairie Island Coalition, Environmental Action.

Native Youth Alliance, Nuclear Control Institute, Clearwater, Citizens for Alternatives to Chemical Contamination, Rocky Mountain Peace Center, Snake River Alliance, Citizen Alert, Redwood Alliance, National Environmental Coalition of Native Americans, Campaign for Nevada's Future, Southwest Research and Information Center, Clean Water Action, Free the Planet, Blue Ridge Environmental Defense League, Kansas Sierra Club, Envirovideo, Kansas Natural Resources Council, Greens/Green Party USA, Fellowship of Reconciliation, Good Money, Inc., Wyoming Outdoor Council, Nuclear Resister, Three Mile Island Alert, Western North Carolina Alliance, GE Stockholders Alliance, The Peace Farm, Tennessee Valley Energy Reform Coalition, C–10 Research and Education Foundation, Northwest Environmental Advocates, Oyster Creek Nuclear Watch, Green Party of Ohio, Grass Roots Environmental Organization, Physicians for Social Responsibility, Los Angeles, Alliance to Close Indian Point, Sierra Club Legal Defense Fund, Louisiana, Toledo Coalition for Safe Energy, Wilmington College Peace Resource Center, Grandmothers for Peace, Student Environmental Action Coalition, U. of Wisconsin, Milwaukee, Orange County Greens, U. of Florida Environmental Action Group, Eco-Action, Penn State U., Austin Greens, Student Environmental Action Coalition, U. of Northern Iowa, Los Gatos Unitarian Fellowship.

Alliance for Survival, Nuclear Democracy Network, Stop the Organizations Raping Mankind, Pennsylvania Environmental Network, Heart of America Northwest, Desert Citizens Against Pollution, Eco Sense, American U, California Communities Against Toxics, Nuclear Energy Information Service, Nuclear Age Peace Foundation, People's Action for Clean Energy, Iowans for Nuclear Safety, New England Coalition on Nuclear Pollution, Physicians for Social Responsibility, Kansas, Student Environmental Action Coalition, U. of Delaware, St. Joseph Valley Greens, Economists Allied for Arms Reduction, Kwanitewk Native Resource Network, Physicians for Social Responsibility, Atlanta, Los Alamos Study Group, Abalone Alliance, Fernald Residents for Environment, Safety & Health, Womens Action for New Directions, STAND, Center for Energy Research, Humans Against Nuclear Waste Dumps, Mescalero, Physicians for Social Responsibility, Colorado, American Friends Service Committee, Denver, North American Water Office, Students for Social Responsibility, CalPoly, War & Peace Foundation, North Carolina Waste Awareness & Reduction Network, Ohio Sierra Club Nuclear Issues Committee, Downwinders, Women's Environment & Development Organization, Mississippi River Basin Alliance, Ygdrasil Institute, Nukewatch, WESPAC (Westchester People's Action Coalition), Oregon Peace Works, San Luis Obispo Mothers for Peace, International Institute of Concern for Public Health, Save Ward Valley, GRACE Public Fund (Global Resource Action Center for the Environment), Environmental Defense Institute, Citizens Regulatory Commission, The ZHABA Collective, Northweast Ohio Greens, Arizona Safe Energy Coalition, Indian Point Project, No Escape, Citizens at Risk: Cape Cod, E–3, Wesleyan University, Wolf Creek Citizens Watchdog Group, Indigenous Environmental Network, Pax Christi USA, University of Maine Student Government.

The cities of Los Angeles, Denver, St. Louis, Philadelphia, Decatur, GA, Mt. Rainier, Takoma Park & Greenbelt, MD, Beacon NY, Falls Township, PA, Amherst, MA, Wadesboro, NC and Ventura, San Luis Obispo, Santa Barbara (CA), Marshall, Anson (NC), and Bucks (PA) counties.

And, according to a December 1995 poll, 70% of the American people.

These bills override environmental laws, pre-empts state environmental laws and regulations, weakens radiation protection standards, makes taxpayers liable for nuclear waste accidents, and threatens 50 million Americans with a Mobile Chernobyl.

It's a disaster for the environment.

Mr. REID. Among those that are opposing this legislation are the Physicians for Social Responsibility, Clean Water Action, the Students Environmental Action Coalition of the University of Northern Iowa, Eco-Action of Penn State University, Southwest Research and Information Center, Snake River Alliance, Alliance for Survival, San Luis Obispo Mothers for Peace, Los Alamos Study Group, Desert Citizens Against Pollution. These are only a few, Mr. President, of the organizations that oppose this legislation. There is not a single environmental group in the United States of America that supports this legislation.

We heard yesterday and we have heard time and time again, Mr. President, that the State of Nevada had nuclear testing, therefore, why do we not have open-armed acceptance of storage of nuclear waste? I say, Mr. President, some have said that since the Nevada desert has already been degraded from nuclear weapons testing, it is a logical place to store nuclear waste.

Somehow, this logic seems to contradict the old saying that two wrongs do not make a right. The suggestion assumes that these two activities have something in common. The only thing they have in common is posing danger to Nevada citizens and its environment.

We have just recently finished 50 years of the most dangerous period in America's history. During this period of time, the Soviet Union and the United States had tens of thousands of nuclear warheads pointed against each other.

Mr. President, as I said, just a few years ago, tens of thousands of nuclear warheads were pointed toward the Soviet Union and toward the United States. This dangerous era was ended successfully, I believe, Mr. President, in large part, because of what was done at the Nevada test site. That is, we tested the new weapons, the safety and reliability of those that were in existence. This, Mr. President, was a time of national crisis. All were called upon to do what they must in order to protect our country's security. The urgency of this national mission required things to be done in ways that, under less stressing conditions, would never have been permitted.

Well, just like the promises made by advocates for waste storage in Nevada, that was then and this is now. Then was a period of national crisis and danger. Now is one of peace and prosperity. Now is a time when we can surely do things right. There is no danger presently that would drive us to endanger our environment or our public by reckless and ill-conceived actions.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The bill clerk proceeded to call the roll.

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

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

Mr. MURKOWSKI. Mr. President, with respect to disposal of high-level nuclear waste, this Nation is today at a crossroads. The job and the responsibility of addressing the disposal of spent nuclear fuel from our Nation's powerplants—is an obligation of this body. The time for fixing the problem is now.

There has been a lot of progress made. We have selected a permanent repository at Yucca Mountain. That is already done. It is underway. We have expended about $6 billion, and that 5-mile exploratory tunnel will soon be completed. This is a positive commitment by the Congress to proceed with a permanent repository. We can build on this process.

This bill, Senate bill 104, continues the site characterization activities for a permanent repository. Make no mistake about it. But this is an ongoing process. In the meantime, we have an obligation to take this waste next year, in 1998. Well, this Senator from Alaska and the majority of my committee are of the opinion that a contract is a binding commitment.

The Federal Government, 16 years ago, entered into a contract with the nuclear industry to take this waste in 1998. We have no place to put this waste because Yucca Mountain isn't completed. We face penalties; we face litigation. It is estimated that the damages associated with the inability to fulfill the contractual commitment will run somewhere between $40 billion and $80 billion. That is an additional load on the taxpayers of this country. We need a temporary storage facility or we will continue to be storing this waste across the Nation for decades to come.

Where is the waste? Well, let's look at this chart. We have commercial reactors represented on the chart. We have shut down reactors with spent fuel on sites represented on the chart. We have 110 of the commercial reactors, 110 reactors in about 41 States. We have 10 shut down reactors, represented on the chart. We have one existing site for spent commercial nuclear fuel storage on the chart, is in the State of Illinois. Non-DOE research reactors—we have 38 shown on the chart. We have naval reactor fuel up in Idaho, up in Washington, and in Georgia. There are 10 of those sites. Department of Energy-owned spent nuclear fuel sites, about 12, are indicated on the chart.

So there is where we are. We have this stuff scattered all over the United States. We can choose now whether the Nation needs these 80 sites, or just 1—1 in the arid remote Nevada test site, where we exploded a series of nuclear bombs during the cold war, a site that has been determined to be safe. It is a remote location. It has been well monitored by an experienced work force and a security force as well.

Now, if Yucca is licensed for a permanent repository, it will simply be a very easy task to move the spent fuel to the permanent repository from the interim facility this bill would authorize. Now, the problem is that Yucca isn't going to be ready until the year 2015. Some suggest, well, what happens if Yucca is not licensed or is found to be unsuitable? Will we need a centralized interim site anyway so that we will be way ahead of the game? The answer is, yes, regardless of what happens at Yucca, this is a step we should take and take now.

Critics have claimed that we can't store waste safely, that we don't have the technology. Nature itself suggests that a geologic repository, which this bill supports, is the best long-term answer. Let me refer again to a natural geological nuclear waste repository that has been in existence for a long time. Such a repository is in Gabon, in Africa. There, approximately 1.8 billion years ago, at a place called Oklo, scientists have proven that naturally occurring, highly enriched uranium began a spontaneous nuclear reaction producing almost a ton of plutonium, as well as all of the other fission byproducts that occur in spent fuel from modern nuclear power plants. That is the history. That is a fact. It actually happened, under the watch of Mother Nature. Now, Mr. President, when it happened, it happened just a few feet beneath the surface. No geologists studied the site before the waste was ''stored'' there. There was no engineering barriers around the so-called spent fuel. However, scientists have proven that the plutonium and the other fission products did not migrate away from that site. There is nothing unique, Mr. President, about the geology of Oklo. This ''experiment'' shows that radioactive waste can be successfully contained within a geologic repository. Mother Nature did it 1.8 billion years ago. Now we are talking about the science, the technology, and the application of mankind in the process. Well, it certainly seems to be taking equally as long.

When I said that we had designated Yucca as a permanent repository and that we spent some $6 billion in the process, and will probably expend as much as $30 billion, it is important to recognize what comes next. First, it has to be deemed viable. That means the scientific information gathered by 1998 will show that nothing is there that would disqualify Yucca Mountain for a permanent repository. That is done next year, in 1998. What are the odds on that? They tell us about 90 percent.

The second factor is the suitability. Yucca Mountain must be suitable. It must be a suitable site for a permanent repository under the guidelines issued by the Department of Energy. When is

that supposed to be completed? In the year 2001. What are the odds on that? They tell us about 80 percent. Then, of course, it has to be licensed, licensed by the NRC, who issues the license for a permanent repository. Well, for the date of that we can only rely on the former Secretary of Energy O'Leary, who indicated that would be about the year 2015.

Talking about this waste brings us to the reality that we are going to have to transport it. You simply can't leave it at these sites. So let's talk a little bit about the transportation issue, because this is on the minds of many Members. This map accurately shows, from 1979 to 1995, the movement and transportation routes of 2,400 individual shipments of waste around the country. The interesting thing, Mr. President, is that they go through every single State of the 48, with the exception of South Dakota and Florida. All the States are represented here. That is the harsh reality. We have been moving this waste for 16 years. Why hasn't it been on the front pages of the papers? Because it has been a nonevent. It has moved safely. It has moved from reactors. It has moved from Navy facilities and from Army facilities, and it has been on railroads and on highways, and it has been under the auspices of the Department of Energy, and it has been safe.

We have heard in this debate, primarily from my good friends from Nevada, that somehow this waste is a new threat that America has never faced before. That is just poppycock. Emotional statements have been made time and time again, suggesting that somehow the health and safety of 50 million Americans will be threatened. And there have been references to the unfortunate Chernobyl accident. That accident, as everybody knows, involved a graphite reactor without a containment building. Electricians were in there doing an operation they weren't supposed to be doing. They didn't have the training. They bypassed the safety procedures, took the reactor critical, and the results were very unfortunate. But it was human error, Mr. President. The graphite reactors are not the type that we have in the United States. Yet, this effort to try to address an obligation to our Nation's waste has been referred to as a ''mobile Chernobyl.''

Here is what we have been moving, Mr. President. Again, do we want to move it to one site in the Nevada desert now, as we wait for the development of our permanent repository? Or do we want to leave it for another 15, 16, or 17 years, actually, in the 80 sites in 41 States? No fatality, injury, or environmental damage has ever occurred in the United States because of radioactive cargo movement. That is just a fact. We have taken steps to ensure that the risk is as negligible as possible.

Some of our friends would imply that if this bill doesn't pass, then nuclear waste won't be shipped on our Nation's roads. Well, that is simply not true, Mr. President. Let's take a look at the routes used—the routes used for 15 years, again, for the thousands of fuel shipments. Some say they didn't know the fuel shipments took place. Again, as I have said, that is because they are uneventful. Trucks carrying the casks have been in accidents, but the casks that contain the nuclear material have performed as designed. They have not broken open. The nuclear disasters that the Senators from Nevada have referred to, Mr. President, simply haven't happened.

Now, we have heard claims that the number of shipments that would occur under Senate bill 104 is an unprecedented amount. Well, that is simply not true. We have our storage in our reactors in the cells adjacent to the reactors and the pools, and those are filling up. We need to relieve that congestion, and that is the whole purpose of the interim retrievable storage. We currently have about 30,000 metric tons of spent fuel in this country. But the French alone have shipped that amount of spent fuel all over Europe—for that matter, all over the world. This is not just history. It is happening today. It is happening all over the world.

The Department of Energy, as a matter of fact, is transporting spent nuclear fuel all over the country and all over the world as we speak. Here it is in the country. Let's take a look at a chart of the world. Here we have it, Mr. President. There seems to be a double standard here when the Department of Energy claims that it cannot possibly fulfill its obligation to the U.S. electric ratepayers to take spent fuel. Why is it doing so in foreign countries? Well, here they are. In Europe, there is Austria, Belgium, Denmark, Turkey, Iran, Pakistan, Australia, throughout South America, and Peru and Canada. We are taking this now under agreements that have been made. Where is it going? It is going to the Savannah River in South Carolina. This chart shows the actual times of delivery from 1996 to 2009. These are the countries to which we have committed taking their waste. So it is a double standard, Mr. President. Why are we doing it for foreign countries? We are not doing it for our own nuclear industry.

You may ask why the taxpayers are paying for the Department of Energy to transport and store nuclear waste in foreign countries while American ratepayers are left out. All the countries in color on this chart ship fuel to the United States for storage at the Department of Energy facilities. It doesn't seem to be a mystery to some. But it is a mystery to me. Another mystery is why many of the same groups that most actively oppose resolving our domestic fuel storage problems were most supportive of taking nuclear waste from foreign countries. Think about it. We are taking waste from Russia—military waste—because we deem that lessens the proliferation threat. If they support taking nuclear waste from overseas, can the safety of transportation be an issue? One wonders why it is now. How can it be safe for the Department of Energy to ship spent fuel halfway across the world but not across a few States? They don't explain that very well, do they?

Actually, if you look closer, you see that the Department of Energy transports nuclear waste across the United States. Let's take a look at a map of the United States. It goes into Hanford. It goes into Savannah; Hanford in the State of Washington. This shows the American research reactors at our universities. They ship fuel for storage at DOE facilities. They are scattered all across the country. The various universities are Ohio State, MIT, the University of Virginia, and Oak Ridge. We could go on and on. They are all across the country. That is why I contend that we have a double standard.

Why does the Department of Energy pay to transport and store nuclear waste from foreign countries but won't do its own duty to the U.S. power reactors that have paid for the service? They have paid for the service. The ratepayers that depend on nuclear energy paid $13 billion to the Federal Government. Where is the money? It has gone into the general fund. It is not an escrow account. But there is a contract signed for next year. The Department of Energy will say that they take foreign fuel to help with the nonproliferation. That is all well and good. But spent nuclear fuel is spent nuclear fuel regardless of where it is. If transportation and storage is safe for some, why isn't it safe for all?

I think this just proves the point that the obstacles to moving our Nation's spent fuel are political. They are not technical. We have moved it. We move it from our research reactors all over the country. We move it from other countries in the world and bring it to the United States to Savannah, and have been doing it for some time.

My bill, and the committee bill, S. 104 of Senator CRAIG and others, provides the authority to coordinate a systematic safe transportation network to move spent fuel to a storage facility under Senate bill 104. The Department of Energy is required to use—''required''; it is not optional—to use NRC-certified transportation containers to transport fuel along special routes chosen by DOT radioactivity transport regulations and considerations set out in the bill.

Let's take a look at how that is shipped because I think it is important to recognize the care that goes into this. This is a truck that is moving over the highways of the Nation probably today; moving some kind of fuel in a cask probably to the Savannah River site in South Carolina. It is moving safely. It is moving in a special container. These are probably spent fuel rods. They are radioactive. But by the same token, care and engineering technology has gone into this. I find it

surprising to note that—and the comment was made in the debate that the environmental groups don't support this legislation. I find it further perplexing that these groups on the one hand are opposed as we all are to the increase in greenhouse gases yet the only current technology available to reduce it dramatically is nuclear energy. Our use of nuclear energy reduces more than 140 million metric tons of carbon dioxide emissions each year, not to mention sulfur dioxide and various other pollutants. This is the contribution that nuclear energy contributes to air quality in this country. Some suggest that the opposition by the environmental groups is simply to shut down the reactors because they do not believe in or don't approve of nuclear energy or nuclear power.

But they don't want to recognize that about 22 percent of our Nation's power is generated by nuclear reactors, and, if you reduce or eliminate the nuclear power industry in this country, you will have to replace it with something. It will probably be replaced with carbon fuels. And there is an emission concern there.

So I say to those that are opposed to this legislation that they have an obligation to come up with something that answers the question of what we do with our spent fuel. I think that is what this bill does.

Further safeguards have been taken in this legislation to provide that transportation cannot occur until the Department of Energy has provided specific technical assistance and funding to States affected by the transportation route, Indian tribes, and for emergency response planning along the transportation routes. That isn't what is done now. But that is what is required in the bill to make it that much safer. The language builds on what is an already safe system for transporting spent fuel in this country. As I have said before, the public has never been exposed to radiation from spent fuel cargo even in accidents. Between 1971 and 1989 the Department of Transportation tells us that there were seven minor accidents involving trucks carrying waste: Flat tires, and various other things. But no radioactivity was released in any of the accidents. That is because transportation canisters are designed to maintain their integrity during severe accidents. They have been used for thousands of safe shipments over the years. As a matter of fact, they were designing casks at one time when they contemplated flying the fuel. It was suggested that the technology existed for casks to be designed for a 30,000-foot free fall. And I am told that they could design it.

Nevertheless, the canisters that are depicted here in the picture, the design approved by the NRC for spent fuel transport have demonstrated a remarkable ability to withstand falls of 30-foot drops. And these are tests that were made into a national unyielding surface. There was no penetration from a drop of 40 inches onto a steel spike; no penetration being engulfed in 1,475-degree temperature fire for 30 minutes; no penetration, submerged under 3 feet of water for 8 hours; no penetration.

So, despite what you may hear, engineers at the national labs tell us that the test conditions that these casks are subjected to are much more rigorous than any that they would face in real, live accidents.

These casks have been tested in some more rigorous ways. Probably it would be interesting to watch because they have been run into by locomotives, and crashed into walls at 70 miles an hour. If any of the Senators or the staff want to see the video of these tests we would be happy to provide them with the tapes to view and to keep.

So I suggest that we face facts. The history of the nuclear waste shipments is that they are moving almost as we speak, continue to move, and will move tomorrow but they are not going to be carrying the waste that they were contracted for. They will be carrying other wastes from other countries from research reactors from our universities. And it fails me to know why we are excluding the waste that we contracted for 16–17 years ago to take next year, and we have no provision to take that waste. That is what this bill is all about. S. 104 provides safe transportation with a perfect record, and I think it makes it even safer.

So as a consequence, that tells the story of the transportation system.

Let's look very briefly at what we are proposing. This is the location for the waste storage at the Nevada test sites that we have used for the previous 800 nuclear weapons tests. That is what it looks like. It is a pretty barren area. You see some roads for access, and mounds where 800 nuclear weapons tests were made. Why was this area picked? Probably there are a lot of reasons. It is remote. That is certainly one. The weather is pretty stable out there. You can observe the testing very well. They had a trained work force. To some extent I suppose there was some economic reasons. But it is not my State, and it is not appropriate that I evaluate the rationale that went into it. But that is the site.

When we look at all other factors and recognize that nobody wants to store waste, the fact that we have it in 40 to 41 States, and the fact that we are going to have to move it regardless of whether it is being moved to a temporary repository or eventually to a permanent one, the transportation factor is a given.

So I hope that those that are concerned about transportation recognize a couple of things: One, they may have waste in their State already. It may be military waste. It may be naval waste. It may be waste from some other activity associated with their university, or they may have nuclear power. If you want it to stay there indefinitely with no action, then that is the status quo. And that is where we have been. But if you want to move it out of your State, you have to move it someplace. The question is where do you move it?

We have determined that this is the permanent site for a nuclear repository. When that was chosen, it was chosen over potential sites in the 50 States. Why was it chosen? Because it was deemed to be, of all the sites that were evaluated, the best site with the highest likelihood of this being named the permanent repository when we get through with the process now underway. That is the process of viability, suitability, and licensing. Then it goes in there permanently under our policy. But the idea of moving now to accept this area for a temporary repository until we can complete Yucca Mountain is what this legislation is all about because it suggests that it would move in those casks by transportation routes, either surface railroad or highway, in these casks out to a pad, out in the desert where it would be monitored. And those casks would be held there so we can fulfill our contractual agreement as we recognized that the storage at our nuclear power generator sites are filled up. They would be moved out to this pad and be monitored until such time as the permanent repository is completed.

On the chance that the permanent repository is not licensed and it doesn't get through this viability, suitability, or licensing, this bill provides that we still have an obligation to address a resolve. That would require the President then to find another site. We have gone through all the 50 States. If this one is not suitable for a permanent repository, it requires the President to find one. If he doesn't find one, he comes back and designates that this be the site.

Now, some suggest there should be some other consideration. Maybe we should do something like the base closing procedure, where we name a group of qualified people to determine a site. The problem we have with this legislation is nobody wants to face the reality of making the decision now. They want to put it off. The administration does not want to have it happen on their watch. They would just as soon have it happen on another's watch. We could easily put this off to another Congress, but we are cheating the taxpayers because the liability for nonperformance of the contract is going to face us next year. The longer we keep that waste in violation of the contractual terms, the greater the liability to the taxpayer for nonperformance, because Government simply passes that liability on to you and me, and we pay for it.

As I said, we have spent $6 billion here at Yucca. We are going to be spending about $30 billion by the time it is completed. We have been transporting waste fuel around this country for 16 years. We sit, today, with 80 sites in 41 States and we are even having some Members suggest that all they want from this legislation is the assurance that it will not be put in their

State. I suppose we could go back to a 6th grade mentality—and pursue a series of amendments from virtually everybody, in all the 50 States with the exception of one. I would hope that would not happen. I would hope we can recognize our obligation as parliamentarians and address this with a resolve that suggests the way to move on this thing, and move now, is as proposed under this legislation, which would provide, after the viability is determined on Yucca Mountain as being a permanent site, which is anticipated sometime next year, to then allow a temporary repository to occur in the Nevada desert at the Nevada test site.

If somebody else has a better suggestion for a response to the obligation we have now, why, I am certainly willing to consider amendments to the pending legislation.

Mr. President, recognizing the time element that we have, I ask how much time remains on the side of the proponents?

The PRESIDING OFFICER. The Senator from Alaska controls 40 minutes and 50 seconds.

Mr. MURKOWSKI. I thank the Chair. Mr. President, I yield to my colleague at this time.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Mr. President, I yield myself 20 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I want to return to what I think is the fundamental flaw in this legislation, and that is that it is unneeded, unwise, and unsafe. When you ask who wants this legislation, the only one that is really pushing it, the driving force, is the nuclear utilities. That is where this all comes from. Every environmental organization in the country has expressed its opposition. The scientific community—the Congress established the Nuclear Waste Technical Review Board. I will repeat for the benefit of my colleagues, in 1989 a commission was part of the review process. They said there was no safety advantage to interim storage. In 1996, we have a report from the Nuclear Waste Technical Review Board that said there is no urgent technical need for centralized storage of commercial spent fuel. There is no safety factor to consider. And the same technical review board, constituted with new members in 1997, has offered testimony to the effect that it would be a very unwise decision because it would interfere with the permanent siting process.

That was testimony that was given on February 5. So, if we are asking about science and the scientific community, they have expressed themselves. They said this is not a good idea. If you are asking about the environmental community, where they are coming from, they are saying it is not a good idea.

Yesterday, I spent a few moments talking about the specifics of the bill. Let me just very briefly retrace some of those issues for us. In effect, what this legislation does is to gut a process that was a bipartisan piece of legislation, the National Environmental Policy Act of 1969. If you look at page 47, and you go through a number of the specific provisions there—and we will debate this, I suspect, at greater length during the course of the week—but the act virtually emasculates the provisions of the National Environmental Policy Act. It says, yes, there will be an environmental impact statement, but the statement may not consider the need for interim storage, the time of initial availability, any alternatives to spent fuel storage, any alternatives to the site of the facility, any alternatives to the design, the environmental impact of the storage beyond the initial term of the license, which is 20 years. This makes an absolute mockery of any kind of profession that this follows NEPA, the National Environmental Policy Act, of 1969.

There are other provisions as well that refer to the preemption of all Federal environmental laws. That is section 501. We have talked about that extensively during the course of the debate. There are standards which are compromised in this provision. For example, there is a statutory provision that occurs on page 56 that indicates, rather than the Environmental Protection Agency having the ability, independent and unfettered, to make a judgment as to what the correct standard would be in terms of radioactive emission exposure, it sets a 100 millirem standard by statute and requires the EPA to affirmatively prove that the overall system performance standard would constitute an unreasonable risk to health and safety.

We did not do that anyplace else in terms of the WIPP facility which was debated last year. The two able Senators from New Mexico made forceful statements that they believed, because the WIPP facility was going to be operational in their State, they had the expectation that EPA would establish the highest possible standards to protect the health and safety of New Mexicans. Who among us could disagree with that? But that is not the standard for us here in Nevada. The EPA is constrained and limited, in terms of what it can do, and here is an example of 100 millirems of radiation, S. 104. There is safe drinking water, other low-level-waste facilities—the WIPP facility, which I just mentioned, has a standard of 15 millirems during the course of a year. So this thing is absolutely so phony in terms of any kind of protection for health and safety, it ought to be something of concern to any legislator, irrespective of where the final destination may be.

Let me say, the National Academy of Sciences—these are scientists, not people selected by the Governor of Nevada or the Nevada congressional delegation—go through a whole list of things they recommend. They recommend a risk-based standard rather than a 100 millirem standard. They have recommended the protective standard be defined by a critical group: a small, relatively homogeneous group be representative of those expected to receive the highest doses. That is not included.

They maintain that, in terms of the length of time, because nuclear waste is lethal for thousands and thousands of years, there should be no cutoff period of time, that there must be an ability to protect for thousands of years. What does S. 104 provide? That you can only consider the first 1,000 years. I suppose, whether you are an advocate for term limits or not, we would all agree that 1,000 years is not going to affect anybody in this Chamber. But, I mean for something that is deadly for 10,000 years and beyond, that is simply irresponsible to put those kinds of handcuffs on.

Human intrusion—all of the scientific community acknowledges there is no scientific basis for assuming there would be no human intrusion during these thousands and thousands of years. The statute we are dealing with, S. 104, directs just the contrary, to make an assumption that there is to be no human intrusion.

The National Academy of Sciences said that these raise complicated policy issues. There ought to be opportunity for wide-ranging input from all interested parties. These are set by statute, under S. 104—no public comment.

So, I must say that in terms of science, in terms of fairness, in terms of health and public safety, this piece of legislation is a disaster not only for my State but for America.

I want to speak for just a moment about the transportation issue and some of the film footage that has appeared. First, I think it is important for us to understand that, although Nevada, under this legislation, is the ultimate repository on an interim basis, there are some 43 States, 51 million Americans who live within a mile of each of these major corridors. The red depicts the highways, the blue depicts the rail.

You are going to have, wherever you may be looking on this map here, you are going to have roughly 16,000 shipments that would pass along these corridors—16,000. It has been suggested that the Department of Energy is experienced, but I think to put this in some context, Mr. Dreyfus, who was the head of the Radioactive Waste Management Office, an individual well known to my colleagues, having testified before the Energy Committee on a number of times, says this: ''Material like this,'' referring to nuclear waste, ''has been moving around for a long time. So that is not a technical challenge,'' he says. ''But compared to the kind of campaign what we are talking about, what the industry has been doing up to now is trivial. We are talking about a magnitude of many times greater. We are talking about 16,000 shipments.''

Since 1975, the Nuclear Regulatory Commission reported shipments that are sent by rail or by truck averaged approximately 900 miles or less. We are talking about thousands of miles. As the occupant of the Chair knows, our States are in the West and far removed from most of these reactor sites. So, I think it is important to make that point.

Let me add a couple of other things, if I may here. First of all, the casks that have been shown have no relevance to this debate—none. The casks that would be used for shipping have not been designed. They are not in existence. The casks that are used in the film prepared by the Nuclear Energy Institute refer to a previous generation of smaller casks. Those are not what is contemplated. Those are not what is contemplated. We are talking about a new generation of casks, casks that do not meet standards which we believe every such cask should meet.

For example, it requires a 30-minute exposure to a fire at 1,475 degrees. However, diesel fuel burns at an average of 1,800 degrees and can reach 3,200 degrees. So the 30-minute proposed standard for these yet-to-be-designed and produced casks does not address real world accidents, where train wrecks can burn for hours, if not for days. None of the tests would require that kind of protection.

The NRC has estimated that 6 out of every 1,000 rail accidents could cause fundamental damage that will cause the cask to fail. Given the 16,000 shipments that are contemplated, that comes to 96 accidents where the NRC-approved standard would fail. I submit that is not great comfort to those millions of Americans who are going to be along the route.

The NRC claims the cask design will prevent radioactive leakage in severe accidents. But the cask design has never—repeat, never—been tested in lifelike situations. In one computer simulation, the NRC chose four real-life severe transportation accidents and applied these conditions to a cask meeting NRC specs.

In one of those real-life accidents, which involved a 1982 train derailment and fire in Livingston, LA—this was an accident that occurred and a fire that resulted—the NRC publicly acknowledged that the high temperatures would cause an NRC-approved cask to fail. In their words, ''the radiological hazard would exceed compliance values by up to a factor of four.''

This is not some theoretical accident, a hypothetical. This is an accident that occurred in Livingston, LA, in 1982, and the NRC said the standards they propose would not have protected a cask under their proposed design from releasing radioactivity. That is not much comfort, that is not much assurance for those who are going to be along the highways and railways.

Let me address an issue that I think has not received the kind of attention that it should, and that is, this bill is a bailout for the nuclear power industry. Dating back to the time of the inception of the Nuclear Waste Policy Act, it was always agreed that the utilities themselves should pay for the storage and ultimate disposition of high-level nuclear waste, and the mechanism established was to establish a nuclear waste trust fund in which ratepayers would pay at the rate of 1 mill for each kilowatt hour generated into this trust fund. That is the current way.

Here is what this bill does. Rather than have the ratepayers pay for the ultimate cost, this bill very cleverly transfers the liability and responsibility to the American taxpayer. The year 2033 is the last year, under currently licensed nuclear reactors, that there will be reactors in operation. Currently, under General Accounting Office actuarial projections, the fund is from $4 billion to $8 billion underfunded in terms of what will be required, because as each reactor goes off line, it no longer contributes to the fund. The last reactor goes off line in the year 2033, and it is required that the expenditures, in terms of dealing with that waste, continue until the year 2071. So years after the last mill is deposited into the nuclear waste trust fund, expenses will continue. As I have indicated, right now the General Accounting Office says this fund is $4 billion to $8 billion underfunded.

It is contended that the ratepayers have not gotten what they bargained for. That is certainly not true now, and the surplus that is in the account is designed to take care of those years from 2033 to 2071, where nothing will come into the fund by way of a mill-tax levy because there will be no power generated from those reactors.

Here is a very, very clever way of shifting the liability to the American taxpayer. This bill, in its present form, caps the amount of contribution, even though the current fund is underfunded by $4 billion to $8 billion at 1 mill per kilowatt hour, and after the year 2003, it says that the only mill tax that can be collected would be the amount necessary to pay for the appropriation from the fund that year, providing no revenue for the outyears.

So this is corporate welfare, this is corporate pork, this is a new entitlement program which will cost the American taxpayers literally billions and billions of dollars in the outyears.

Everybody acknowledges that the 1998 deadline that was put into the act in 1982 cannot be met. I would say parenthetically, that was not a scientific date that was put in. Indeed, there was resistance in 1982 because it was felt that that time line was too short. This was a deadline that was pushed by our friends, once again, from the nuclear utilities. So it is unfair to blame the Department of Energy and the scientific community for 1998. This was a deadline pushed by the utilities.

I believe that there is equity and fairness to be provided to the ratepayers, because after 1998, they will not have permanent storage available. In each of the Congresses in which I have served, we have offered legislation that would entitle the utilities to an offset; that is, to the extent that the storage would not be available in 1998 and they would incur additional expense, as they will, that should be an offset or a reduction in the contribution that they pay into the nuclear waste fund so that the utility ratepayers do not pay twice. I think that is fair. I think there is a reasonable argument to be made there, and the administration believes that.

As recently as this past month, there were discussions to provide compensation to the utilities because permanent storage will not be available after 1998, and it was rejected by the utilities. They do not care a wit about that. That is not what they are interested in. They are interested in getting the taxpayer to bail them out for the money that will take beyond the year 2033, to the year 2071, to, in effect, take care of the expenses of the nuclear waste that they generated—that they generated—that they have made profits on over all these many years. So there is not an argument of equity we are addressing here, because not a single provision in S. 104 addresses the question of equity.

We have a piece of legislation which we have introduced, again, this Congress which we have previously introduced, which says, ''Look, after 1998, yes, you don't get the permanent storage that was contemplated, we understand that.'' There is no conceivable way that could occur. If this bill was passed tomorrow and signed into law, the 1998 deadline could not be met for at least probably to the year 2001.

The administration has offered to provide compensation to reimburse utilities for the additional costs incurred, and our legislation would specifically do so. So this has not one thing to do with ratepayers being charged twice. They are given an opportunity for relief, if they want it, in the legislation that my senior colleague from Nevada and I have introduced. So let's put that to rest.

The lawsuit. The lawsuit changes nothing. The lawsuit was finalized last year before we concluded our date on 1936, the predecessor to S. 104, and the lawsuit simply provides that there is a legal obligation on the part of the Department to take the waste at some point down the line. There is a legal obligation. It in no way suggests that the waste would be physically removed by 1998, and it could not.

So when you look at the contract, each of the utilities under the 1982 act entered into a contract with the Department of Energy, and that contract simply says that in case there is an avoidable delay, the utility is entitled to an offset in terms of what is being paid into the nuclear waste fund by the amount of additional expense they incur. That is the remedy, that is fair, that is the law.

The distinguished Presiding Officer is suggesting that my time has about run

out. I reserve the remainder of the time and yield the floor.

The PRESIDING OFFICER. Who yields time?

VISIT TO THE SENATE BY FRENCH PARLIAMENTARY DELEGATION

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes in order to allow the Senate to greet a French parliamentary delegation that is visiting us.

RECESS

There being no objection, the Senate, at 3:54 p.m., recessed until 4:01 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KEMPTHORNE).

NUCLEAR WASTE POLICY ACT AMENDMENTS—MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I yield myself 25 minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. REID. Mr. President, first of all, let me respond to a number of things brought up by my friend, the manager of this bill.

First of all, he is right about nuclear power. It produces a lot of electricity in the United States. But everyone recognizes those days are numbered. The average life expectancy of nuclear power in the United States is 15 years. After that it is going to be gone.

As I indicated yesterday, it might be 25 years with one of the reactors and it may 5 years with another. But nuclear power is all through in this country. It simply is too dangerous, and everyone knows that.

I will also speak to the question of what to do with spent fuel. That question has been raised. Senator BRYAN and I continually answer the question. It is very easy. We should leave it where it is—capsulated in the spent fuel rods kept in dry cask containers.

As Senator BRYAN mentioned today and I mentioned yesterday, there would be no fire that would damage the dry cask storage containers as would happen in a diesel truck or train. There would be no accident that would occur driving at speeds that would rupture the casks. It is safe and it is cheap. That is what should be done with nuclear waste for the foreseeable future.

I will also state, Mr. President, that the question still has never been answered: What about the environmental groups? Hundreds of them oppose this legislation—not two or three, not 20 or a couple score, but hundreds that are now a part of the record.

No question has ever been answered as to why these environmental groups oppose the legislation. They oppose the legislation because it is dangerous for the environment. It would be different if there was an equal balance, half of them supported it and half of them did not. Every one of them—it is exclusive—all environmental groups oppose this legislation.

Let me also say, Mr. President, one of the things being lost in this debate is the fact that as we speak hundreds of millions of dollars are being spent in characterizing the repository at Yucca Mountain to determine if in fact that site is going to be scientifically safe for storage of nuclear waste. I repeat, this past year hundreds of millions of dollars have been spent. Next year the same—hundreds of millions of dollars will be spent characterizing that site.

Let us not lose sight of the fact that this legislation is a way to avoid the permanent repository. The very powerful, greedy nuclear industry that is promulgated by the utilities, basically what they want to do is short-circuit the present system. They do not want to take their chances at Yucca Mountain in having a safe, scientifically characterized site. They want to circumvent the system. They want to do away with environmental laws. They want to void the present law that says you cannot have temporary storage in the same State where a permanent site is being considered.

Why have we not heard anything about Yucca Mountain? That used to be the big debate. Because the nuclear industry wants to avoid Yucca Mountain. They want to do it the cheap way.

We have heard raised continually the fact that Nevada used to be a place where they set off bombs, atmospheric tests and underground tests, and more than 900, almost 1,000 of those tests have been detonated.

As I stated, the State of Nevada has sacrificed significantly for that. We did it because there were hundreds, thousands, tens of thousands of nuclear warheads pointed at the State of Nevada and the United States. Conversely, the United States of America pointed their weapons at the Soviet Union. The cold war has terminated. I repeat, this ended a dangerous era. It was a time of national crisis. We were all called upon to do what was necessary to protect this country. The State of Nevada did its share. We did what was right at a time of crisis.

The time has come now, though, to understand that that was then and this is now. There is presently no danger that would drive us to endanger our environment or public by reckless and ill-conceived actions. That is what this legislation is.

There is no nuclear waste crisis that any objective and competent study has been able to uncover. The Nuclear Waste Technical Review Board has testified to the lack of urgency and crisis with respect to moving spent nuclear fuel from its generation sites. The chairman of the board, under the direction of this Congress, testified last year, and now the new chairman this year, that ''There is no urgent, technical or safety reason to move spent fuel to a centralized storage facility.'' So there is no emergency.

Moreover, existing contamination from early nuclear tests is not at all comparable to the potential contamination from premature and reckless storage of spent nuclear fuel in Nevada.

Mr. President, one transportation container of spent nuclear fuel contains about the same amount of radioactive waste as 200 nuclear tests. One transportation container that will travel through the State of Colorado and many other States in this country contains the same amount of radioactive waste as from 200 nuclear tests.

We are contemplating more than 15,000 shipments of spent nuclear fuel. Some of these shipments will have two containers. So more than 3,000 times the amount of contamination from the nuclear testing program—3,000 times as much would be stored in the repository.

Measured another way, each nuclear explosion generates 125 pounds of radioactive material per megaton of yield. The average yield of tests conducted in Nevada is much less than the maximum yield permitted under the limited test ban treaty. Assuming the average yield to be about 85 kilotons, the total testing program in Nevada would have generated only about 5 tons of radioactive waste.

They are trying to move, with this cheap legislation, 70,000 tons of nuclear waste to Nevada. So anyone who compares the nuclear tests in Nevada, which build up 5 tons of radioactive waste, are either exaggerating, deceiving the American public, or do not know what they are talking about.

And anyone who wants can make their choice of the three. The fact is, scientifically, we have 5 tons of radioactive waste compared to 70,000 tons that they are going to try to haul along the railways and highways of this Nation.

Is it any wonder, Mr. President, that entities—cities, municipalities, counties—throughout this country have passed resolutions saying: Do not bring it through our cities.

Complete and enduring isolation of this highly radioactive material is necessary if we are to avoid many times the danger and damage caused by the nuclear testing program.

Mr. President, there has also been a lot of debate on this floor about onsite storage of spent nuclear fuel: It is going to break the country. It is going to break the power generating companies.

Well, let me just say this. This is, for lack of a better description, a scare tactic. It has no foundation in fact. Those who are propounding this have dismissed any thought of risk to the environment or to public health and safety, and any mention of such risk is waved away as scare tactics.

The Nuclear Waste Technical Review Board—remember we keep referring to

this because it is a scientific body that we have deemed legislatively to tell us what to do with nuclear waste—the Nuclear Waste Technical Review Board agrees that new transportation containers deserve full-scale testing to assure that these are as durable as those designed, tested, and procured many, many years ago.

That has not been done. The Technical Review Board agrees that we are not ready to undertake this massive program of nuclear waste shipments. That is why they have said, do not ship them. The scientific body, I repeat, this Congress has designated to tell us how to deal with nuclear waste, has told us, do not ship it.

The board agrees that a lot of planning is necessary and that it is crucial for emergency response teams all along the planned routes to be provided with equipment and training for managing the accidents that will happen, even with the best of planning.

The Nuclear Waste Technical Review Board goes further. They agree with the Senators from Nevada that it is absolutely critical that the promise of objective characterization that we have been given in years gone by be completed before any nuclear waste is shipped to Nevada. The board agrees that the 105th Congress should honor those promises made in earlier legislation.

The board agrees that serious uncertainties remain with respect to Yucca Mountain's suitability. The board's chairman testified to these concerns during the S. 104 hearings.

But let us go forward with Yucca Mountain. Let us not short circuit the system and have this legislation which is being promulgated and propounded and pushed by the very powerful nuclear utilities in this country.

The board agrees about these uncertainties. The board agrees that this process must proceed objectively without a hint of prejudice of even the appearance of a premature decision. Without this promise of high quality, objective assessment, the American people will never believe that permanent disposal of spent nuclear fuel can be done safely.

So, Mr. President, we are not using scare tactics. We are merely standing up for the public health and safety of our country's environment and for protecting the public confidence in the final disposition of spent nuclear fuel.

Instead of doing their job, the nuclear power industry, this powerful, disingenuous industry, and its lobby are busy using scare tactics to try to saddle the American taxpayer with the costs of managing the consequences of all of its profits.

These profits are, for lack of a better description, Mr. President, obscene. The nuclear power industry is required to report its costs and revenues annually. All utilities must do this because they represent a virtual monopoly. The so-called retained earnings of power utilities, with at least 20-percent nuclear generation, average about 17 percent of total revenue.

Mr. President, this chart which I have here—these are in thousands of dollars, so this is a billion. Commonwealth Edison, $1.083 billion net profit. This is not gross profits; net profit, 17.25 percent. Not bad.

You can pick any one of them you want. Virginia Electrical, $731 million net profit, 17.54 percent.

Look at it. 20.5 percent, 18.9 percent. The average, Mr. President, as I have indicated, have profits of more than 17 percent.

I handled a case once. I sued Safeway Stores. The jury said I was entitled to punitive damages. I can remember going back trying to get discovery, getting information from Safeway Stores. I was astounded. Safeway Stores, with the tremendous volume they had, had made less than 2-percent profit. It was 1 percent-plus.

Our utilities who are crying, ''We're starving to death,'' are making revenues of $1 billion, 17.25 percent profit, an average of over 17 percent. Safeway Stores are making less than 2 percent, but our utilities, struggling as they are, are averaging 17 percent. These are only the nuclear utilities, because they are doing better than the rest.

So the so-called retained earnings of power utilities with at least 20 percent of the power they generate by nuclear energy averages about 17 percent. The simple interpretation of these numbers is that once the industry pays its operating costs and its capital mortgage obligations its profit is about 17 percent from all the revenues collected from the customers. Not bad.

A reduction of this obscene profit by just 1 percentage point, reducing the average profit from 17 to 16 percent, would completely cover the ratepayers' fees that are collected to pay for managing the waste, that was generated to the benefit of both the ratepayers and the industry.

So, Mr. President, these pious complaints from the nuclear industry and from the sponsors of S. 104 that the ratepayers are being gouged, are actually accurate. The problem is the gouger is the industry, not the Government. They, the industry, are the gouger. They are the gougers.

So for their next scare, their next fright, S. 104 advocates in the industry have developed their own views on how much more the storage costs of the nuclear waste would be until this permanent repository is operational. This is a dandy. Here is what they come up with here. They are saying that they will have to pay $80 billion, that is what it will cost the taxpayer. They might as well pick a figure of $400 billion. It has as much relevance. They could have picked $80 dollars with as much relevance. They do not know what they are talking about. It is ridiculous.

Sponsors of S. 104 have argued that only passage of this bill will relieve every American family of a $1,300 bill, payable to the nuclear power industry. If that is not scare tactics, I do not know what is. The actual incremental cost, until a permanent repository is operational, is clearly not that much, it is not even close. The cost is negligible compared to their profits.

The Department of Energy has done a study that predicts $8 million as the average fixed cost for onsite storage facility. They estimated the operational costs of onsite storage to be about $750,000 per year for operating reactors, and as much as $3 million for shutdown reactors.

Here is a monopoly that is gouging an obscene profit from customers at a 17-percent rate, claiming it should be awarded damages of $80 billion when the actual costs are less than $2 billion. How is that? The industry and their congressional supporters want the taxpayer to add to the industry's already obscene profits by awarding them billions of dollars that they did not earn, do not deserve, and did not spend. I am here to tell everyone within the sound of my voice that the nuclear industry will not get away with this nuclear extortion. That is what it is.

I wish words could describe my appreciation for the President of the United States saying he will veto this legislation. Mr. President, the Constitution of this country was not drafted to protect the majority. The Constitution of the United States was drawn to protect the minority. There is no better example of that, there is no better example of how this Constitution works than this legislation. Last year, 37 brave Democrats and Republicans said, ''We think this is bad legislation.'' They were following the constitutional dictates that said if there are enough votes to sustain a veto, that legislation is history. It was history last year. It will be this year. We are wasting the taxpayers' time because the Constitution protects the minority. That is what we are doing here.

Now, there has already been a day in court which affirmed that the contract between DOE and the generators of this waste calls for DOE to deal with this spent nuclear fuel beginning in 1998. The court specifically avoided discussion of a remedy, should DOE not honor the terms of the contract, since a deadline has not been reached. Moreover, the standard contract clearly contains language for remedies for failures to meet its terms. They are conditional. It is likely, should a court get involved in determining the remedies—which will probably never happen—the case will focus on conditions leading to the breach. They are very clear if it is the fault of DOE, they pick up the cost. We know that. But the deadline has not been passed yet. It is unlikely any court will rule on breach of contract remedy prior to contract violation.

DOE has made a good-faith effort to involve the industry in developing the solution to the real problems that no repository exists prior to 1998. That good-faith gesture has been rejected

and rejected and rejected by the industry and the sponsors of S. 104 to justify their efforts to rip off the taxpayers, to justify their threats to seek billions of dollars in compensation for a $2 billion incremental cost.

The industry does not want a resolution of this permanent repository dilemma. If one were found, they would not be able to unload all future costs to the taxpayer. Remember, Mr. President, this boils down to the fact that you can store nuclear waste onsite, as I indicated, for $750,000 at an operational site. So the costs are negligible, but they are not willing to do that.

They would be pleased to see S. 104 succeed since they know an interim storage facility in Nevada would become the permanent resting spot for all the waste. In this instance, ''interim,'' by the dictionary of those pushing S. 104, means forever. That needs to stop.

Again, I congratulate publicly the President of the United States for standing by something that is right. We know politically there are big utilities that are telling the President, Oh, do not do this. The President is standing for principle, and the people of this country should admire and respect that because this is going to prevent nuclear garbage from being hauled through the streets, highways, and railways of this country. I hope the President gets his due deserve for doing the right thing.

I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the cloture vote scheduled for 5:15 this afternoon, subject to the clearance from the ranking member of the Energy Committee, be contemplated to be vitiated, and further Senate action begin on Senate bill 104 for consideration at 1 o'clock on Wednesday, April 9.

I ask the Chair to withhold because I am just advised that there is one clarification needed.

Mr. CRAIG. If you are waiting for a clarification, I am more than happy to go ahead and speak and allow interruption at anytime necessary to clarify.

Mr. MURKOWSKI. I am happy to withdraw, if there is no objection, the unanimous-consent request.

Mr. BRYAN. I think the essence of what the chairman has proposed is agreeable to the Senators from Nevada, and I think implicit in what the chairman said is we will actually go on the bill at 1 o'clock tomorrow.

Mr. MURKOWSKI. That is the intent of the unanimous-consent agreement.

Mr. BRYAN. I just wanted to clarify. I thank the chairman.

Mr. MURKOWSKI. Mr. President, I will withhold the unanimous consent pending a clarification from the ranking member of the Energy and Natural Resources Committee.

I yield to my friend from Idaho, the cosponsor of the bill.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, thank you. I thank my chairman for yielding, and I am pleased to hear the news that we can move to this bill without cloture, starting tomorrow. It appears that agreement is very close at hand.

In fact, I understand it is fine now, so I yield back to the chairman.

UNANIMOUS-CONSENT AGREEMENT

Mr. MURKOWSKI. Mr. President, I renew my request at this time. I ask unanimous consent the cloture vote scheduled at 5:15 today be vitiated, and further the Senate begin consideration of Senate bill 104 at 1 p.m. on Wednesday, April 9.

The leader advises me, for the information of all Senators, there will be no rollcall votes during the balance of today's session of the Senate.

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

Mr. MURKOWSKI. I yield back to my colleague.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the unanimous consent that our chairman has just put before the Senate and has been accepted is good news. It is good news that we can move immediately to consideration of S. 104 starting tomorrow afternoon.

I think it also portends what we all know here, that S. 104 has a substantial majority support in this Senate and the Senators from Nevada recognize, and we appreciate their recognition of the fact, that this is an issue that is of national scope. While I understand and appreciate their strong defense of Nevada, I also can recognize the need to speak nationally about a national problem and the responsiveness of States, like yours and like mine, who wish to find safe, sound, environmentally recognized storage locations for both high-level waste and nuclear spent fuel, to seek that location in the Yucca Mountain facility that is currently under investigation.

What I wish to do this afternoon is address several points that have been raised by my colleagues from Nevada, some of them yesterday, and some of them today. Before I do that, however, I want to turn briefly to the subject of underground nuclear weapons testing. Yesterday, I addressed this body and discussed in general terms the Nevada test site. I referred to a photo which I have here again behind me which is the Nevada test site. I asked my assembled colleagues to consider whether an interim storage site for spent nuclear fuel and waste could really have a detrimental impact on this land. Every one of the pockmarks in the landscape is a product of underground explosions of nuclear devices. This is the most exploded area on the face of the Earth, maybe other than where the late Soviet Union once did its underground testing, once it had stopped its atmospheric testing.

What I am suggesting is that this is not a pristine environment. It is a place where it is reasonable and responsible, if the kinds of geologic testing that are now going on confirm the fact that we can build an underground deep geologic repository near this location, then we can put an interim storage facility here it would ultimately serve as a receiving and conditioning facility for transferring the waste to the deep underground geologic storage.

Weapons explosions have gone on here for decades. As I listened to my colleague, the senior Senator from Nevada yesterday, I got the sense that he is dead set against any nuclear materials in his State of Nevada. All I have to do is remind the Senators of Nevada, this is Nevada. This is where, for decades, our nuclear testing has gone on, on Federal properties, in that State. Is it not reasonable to assume that the Senate ought to have the right to look at and make consideration of this facility as an interim site?

I recall, however, that last year my colleague from Nevada did support the restart of underground nuclear testing at this very site. Now, Mr. President, I do not mention this to be critical to any Member who supported the testing program—the kind of program which is vital to both States and to our national interests. Defense missions are important, and we have to recognize and balance the issues. When I say that, of course, I defend the right of my colleagues to defend their interest. But it is time we look at national interests in the context and in the balance. Let us talk about what underground nuclear tests involve.

These pockmarks, as you see here, represent the drilling of a deep hole and the exploding of a nuclear device within that. These explosions leave all of these same nuclear components—the same ones that we talked about as being contained in the spent fuel and the high-level waste that we want to dispose of in an underground storage facility near the test site. I suggest, Mr. President, the kind of storage we are talking about is going to be quantum safer, quantum safer, than the kind of explosive activities that went on this terrain during the past decades. Nuclear testing was allowed at this site for decades. To our knowledge it has not caused serious concerns for the water table, or the types of standards we are requiring for a geologic repository at Yucca Mountain.

Now, I ask my colleagues to consider this. I want to quote from my former colleague, the Senator from Louisiana, Bennett Johnston, when we debated this matter last session. This is Senator Bennett Johnston speaking. ''If it is safe to conduct hundreds of nuclear tests, it is much more safe to store * * * nuclear waste under Yucca Mountain in containers which themselves pose quite a barrier to any contamination.''

Now, I wish to address several comments that I heard yesterday, because I believe some clarification, or even correction, is necessary. We heard from

our Nevada colleagues that the Nuclear Waste Technical Review Board has said that an interim storage facility is simply not needed. For the benefit of my colleagues who were not present at the committee hearing on February 5, I am compelled to quote directly from the Chairman of the Nuclear Waste Technical Review Board, Dr. Cohon, in his testimony before the Energy and Natural Resources Committee. Under the heading of ''Key Conclusions,'' Dr. Cohon said: ''A centralized storage facility will be needed.''

Let me repeat that. Dr. Cohon, Chairman of the Nuclear Waste Technical Review Board, said: ''A centralized storage facility will be needed. Planning for it should begin immediately.''

However, he did go on to state: ''There are no compelling technical or safety reasons to move spent fuel to a centralized storage facility for the next few years.''

''Technical or safety reasons * * *.''

Mr. President, you will notice that Dr. Cohon is silent on the other reasons—contractual obligations, lawsuits, failure to implement the 1998 deadline of the current waste act, financial liabilities.

Furthermore, as we all know and the DOE has acknowledged, it will take more than a few years to license and construct an interim storage facility. Even if we were to begin today, right now, immediately, it is still going to take time to make it happen and to make it happen through all of the Federal laws and with an environmentally safe, sound, and acceptable design.

Dr. Cohon testified that steps leading to centralized storage ''should begin immediately.'' That is exactly what Dr. Cohon was speaking of. S. 104 directs that the steps leading to that interim storage be initiated.

Let me quote from the board's second key conclusion on the interim storage: ''Significant advantages can be derived from siting a storage facility adjacent to the repository.''

That is what the board has said. That is exactly what S. 104 does. For some reason, it is very difficult, if not absolutely incorrect, to portray that S. 104 is somewhere out of step with the current Nuclear Waste Policy Act or with the board's finding—this board of technical and professional people who had been brought together for the purpose of establishing the findings necessary to build a permanent repository.

Dr. Cohon goes on to recommend that an interim storage facility be located at the Nevada Test Site only after site viability is determined.

Mr. President, let me dismiss another allegation from our opponents—that S. 104 short-circuits the viability process. It flat doesn't happen, and the bill doesn't proceed in that manner. S. 104 sites an interim storage facility at the Nevada Test Site after site viability is complete—not before viability, not instead of viability, but after viability. That is what the language of the proposed law says.

I am growing weary of a variety of charges that relate to S. 104 short-circuiting the science of the waste program. That is the argument that has been placed by my opponents, that somehow the scientific progress gets short-circuited. That is unfounded. It is done to create fear among those who have not studied the issue thoroughly. It is always important on issues like nuclear waste and high-level nuclear radioactive materials that science be a major player. Therefore, it is always easy to wave the flag of ''no science'' and say it is an unsafe action or we should not be doing that. That simply is not the case here; it has never been the case. The scientists have been at the forefront of all of these actions, and they have led the development of the whole process to the point of where we are.

This brings me to another area that has been the subject of misinformation. My guess is that it is just going to be the subject of misinformation throughout the debate—the issue of transportation. During my remarks yesterday, I went through, in some detail, the tests that are required to be performed before the Nuclear Regulatory Commission will license the containers that are used to transport spent nuclear fuel over highways or railways. What I would like to do is repeat that this has never been an issue, and it isn't an issue now. That isn't to say it isn't a political issue; it is a political issue, but it cannot be argued on scientific grounds, on engineering grounds and, most important, after the 2,500 loads of nuclear material that have traveled across this country over the last several decades, it cannot even be argued after the fact that somehow there was an accident that resulted in human injury as a result of radiation. There were accidents, but the containers and the material were totally safe.

We did hear an allegation yesterday that it is so dangerous to transport these materials that we have never successfully licensed a shipping vessel for transportation of spent fuel. The fact is, not only have spent fuel shipping containers been successfully tested and licensed, the Nuclear Regulatory Commission currently has over 20 different types of shipping containers—not 20 different containers, but 20 different types of shipping containers—that it has successfully licensed. Let me repeat that. It has successfully licensed them for use over highways or railways. These are containers that have passed all of the tremendously rigorous tests that I outlined for you yesterday, such as the drop test, the puncture test, the fire test, the water immersion test; all of them have been licensed under those standards.

This brings me to another erroneous charge that I wish to dismiss. It is the charge that these testing requirements are not adequate to meet real-life accidents. Oh, my goodness. I can't imagine that even could be suggested. You don't drop a metal container 50 feet onto a hard, immovable concrete slab and have that container bounce and stay whole time after time and even suggest that the test itself wasn't real life. It is extraordinary. It is well beyond the norm.

We have heard that the fire test requires a temperature of only 1,475 degrees Fahrenheit and that gasoline fires can burn hotter than this. Well, we need to look at all of the parameters of the fire test to see if it is tough enough for real-life accident conditions.

In response to the gasoline concern, Lawrence Livermore National Laboratory was asked to investigate if the fire temperature required for testing was hot enough. They concluded that when you look at all of the fire parameters, not just temperature, but duration, insulation, how the container is positioned in the flame, look at all of these factors in combination, actual fires would not exceed in overall severity the fire test that the shipping containers must go through. Now, this is one of the best scientific labs in the world. This is the best test that you can create anywhere to check the integrity of the container. After doing so, they said that the container was adequate to meet the standards and the risks involved.

The overall point is that these issues and allegations have been investigated, tested, studied, and, in every case, they have been ultimately debunked. Again, my argument, my premise is that this debate has nothing to do with science, nothing to do with geology, to date, nothing to do with engineering facts. Those have all been established for decades. Those facts are unrefutable. It has everything to do with politics.

There are enough studies and papers on these issues to fill technical libraries at every national laboratory across the country, including the Idaho National Laboratory. It is time to move beyond the hyperbole and scare tactics.

S. 104, the Nuclear Waste Policy Act of 1997, will allow the Government to fulfill the contractual obligation it assumed, under the law passed by this body in 1982. The deadline for action on this obligation is just 9 months away.

S. 104 will resolve the question of what to do with spent nuclear fuel and high-level radioactive waste in a timely manner.

So I urge my colleagues, as we begin this debate tomorrow on S. 104, to recognize that there are facts and there are fictions, and, most important, as is quite typical on this floor, there are politics. The politics of this issue is, you don't want it to happen in your backyard, even if it's now in your backyard. You don't want it to be moved across the country, although we have moved it for years with no human risk from radiation ever having happened. We have the greatest record in the world for transportation. We have built the best science that national engineering can allow. So what is the problem?

Well, the problem is if you can argue the issue long enough and if you can drag your feet long enough, you can bring an industry that provides 20 percent of the electrical power of this country to its knees, because it is the logic of those who substantially oppose the nuclear industry that if you don't responsibly deal with the waste created by that industry, ultimately the American public will no longer tolerate the generation of that waste and the industry itself has to be shut down.

What we are trying to do now is not deal with what I have just said, but deal with the waste we have already created. We have, for four decades in this country, created waste, whether it be defense waste, Government waste, or whether it is commercial spent fuel coming from commercial reactors that generate 20 percent of the electrical output of this country. It is only responsible that we deal with the waste we have, making sure, as other Congresses have concluded, that it is in a single, safe, deep geologic repository where we can rest assured of the kinds of environmental integrity and safety the American public expects.

That is really what S. 104 is all about—Federal obligation, Federal responsibility, liability to taxpayers, sound environmental activity, and wanting to find that single safe repository to which all of the waste from 41 States and over 80 locations can go.

I think it is important that we move ahead in a timely fashion. I am pleased we can move to the debate tomorrow. I hope that we can deal with the necessary amendments that would come up and that by the end of the week, we can move to final passage on this important legislation.

I yield the floor.

Mr. ALLARD. Mr. President, I rise in support of the cloture vote on S. 104. The Nuclear Waste Policy Act of 1997 is a crucial piece of legislation that deserves the support of both sides of Capitol Hill and the administration. It is responsible legislation, necessary legislation, and legislation that when enacted will provide the utmost safety for our constituents.

S. 104 provides for the safe transport of nuclear waste from numerous sites around the Nation to one safe, central location in Yucca Mountain. The Department of Energy must, by November 30, 1998, be accepting waste on an interim basis at the facility. By December 31, 2002, the DOE would be required to apply for authorization to construct a permanent repository at the site.

To put this in context we should examine the alternative to this legislation. Absent this legislation, or action by the courts, costs will continue to be accrued on our constituents. For example, storage of used nuclear fuel at an operating nuclear reactor can cost $34 to $50 million. More importantly from Colorado's perspective it is estimated that keeping spent fuel on site where the reactor has shut down can cost $46 to $64 million. While Colorado currently has no operating nuclear reactors, they do have one commercial facility that has a shut down nuclear reactor, Ft. St. Vrain. Currently, the costs of storage at Ft. St. Vrain are being paid by DOE, if DOE is forced to pick up similar costs around the Nation, it will be a hefty bill that I'm not sure they can afford. Colorado also is home to Rocky Flats, a facility that formerly made nuclear triggers. That facility also has waste that will ultimately end up at Yucca Mountain.

What other alternatives are there? If the court is forced to decide the issue and they require the Federal Government to pay the cost of onsite storage, American taxpayers would pay $7.7 billion over the cost of one central temporary storage facility. Furthermore, additional costs from inaction could range from $40 to $80 billion. Where would this money come from?

Additionally, if this legislation isn't passed, the next opportunity Coloradans will have for removal of this material will be in 2015. I find this unacceptable currently, Colorado has waste stored near millions of people on the Front Range. It is a hazard that we should fix, and this legislation is part of fixing that problem.

Both of these sites have waste that will ultimately be shipped to Yucca Mountain. From Ft. St. Vrain there is about 16 metric tons of spent nuclear fuel and from Rocky Flats there is contaminated plutonium that, once it is vitrified, will be sent to Yucca Mountain. My State needs this legislation, and has paid for this legislation, since the inception of the waste fee Colorado has paid roughly $300,000 to the Nuclear Waste Management Program. We expect the Federal Government to honor its commitment.

Congress has the obligation to support this legislation with or without support from the administration. We have an obligation to act responsibly, even if the administration won't. Once again I thank Mr. CRAIG and Mr. MURKOWSKI for their leadership.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada [Mr. BRYAN] is recognized.

Mr. BRYAN. Mr. President, debate is winding down today. I know we will have an opportunity to debate this issue throughout the next few days. I thought it might be helpful to clarify a statement made by the Senator from Idaho with respect to the canister issue.

The Senator from Nevada has not said that there are not canisters that have been approved, licensed, and used. There are indeed such canisters. The difference is the kind of canisters that are contemplated in the shipments that will be involved in sending some 75,000 metric tons of nuclear waste to a site in Nevada that have not yet been designed and have not yet been produced. So all of the film footage that the Nuclear Energy Institute and its supporters have used is footage with respect to canisters that would not be used in the kind of massive shipments that are contemplated here.

What is contemplated here is a canister by rail that would accommodate 20 to 24 fuel assemblies. That would be the equivalent weight of about 125 tons; it is a rail cask. And each truck cask would weigh at least 25 tons. So the standards are out there, but they have not yet been designed and built.

There was a reference, at least lately, that the concerns expressed by the Senators from Nevada with respect to the standards that have been proposed for the new enlarged canister are standards that are more than adequate to meet the task, and, indeed, that there may be some scare tactics on our part in referencing those.

Let me just simply indicate that the Livingston, LA, fire—I want to be very clear on this—involved a 1982 train derailment. That is a fact. The circumstances of that accident are not theoretical or hypothetical. They are real. The Nuclear Regulation Commission itself—not a group of Nevada legislators or the scientists that have been engaged by Nevada to argue the case here but the Nuclear Regulatory Commission itself—applied the conditions in the aftermath of the Livingston, LA, fire to the standards that are to be used in this new enlarged cask configuration and acknowledged that the high temperatures in that fire—not a theoretical fire—would cause an NRC-approved cask to fail. In their words, ''The radiological hazard would exceed compliance values by up to a factor of four.'' But the thing that needs to be emphasized—this is not some theoretical, unrealistic, utterly fantastic, farfetched, bizarre set of circumstances that have been conjured up. This relates to a real-life accident in 1982. In that accident, with the fire temperatures that were engendered as a consequence of that derailment applied to the standards which the NRC is proposing for this new canister configuration that would accommodate 20 to 24 fuel assemblies, it would fail. A radiological hazard would be created. That is a statement not by the Senator from Nevada but a statement by the NRC.

Let me make one additional point, if I may, with respect to the transportation issue. As an indication that we are not yet even ready to transport this volume of waste, I think the proponents of S. 104 would have us believe that if through some, in my judgment, irresponsible, reckless act on the part of the Congress to enact this legislation, if this were enacted today, indeed, if the storage facility were opened today, then immediately a mass migration of nuclear waste would occur from the repository sites currently; namely, at the nuclear reactors where they are located and where this flow of shipments began.

I think it is important to try to give some balance because this is not a panacea even if you buy into this corporate welfare program that the nuclear power utilities would have us embrace. I think the words of Dr. Jared Cohon, who is the chairman of the Nuclear Waste Technical Review Board—again, a body created by this Congress, not by some Nevada oversight group—points out:

> Developing a storage facility requires more than a siting decision. It also requires the development of a transportation system and developing a transportation infrastructure, including the transportation cap, and enhanced safety capabilities along the routes necessary to move significant amounts of waste will likely take years longer than would be needed to develop a centralized storage facility.

I need to make that point again. I mean, the thrust of this debate—and you will hear much more from our colleagues who are saying that somehow it is a panacea of S. 104, if enacted and signed into law, that immediately the waste will be removed from the reactor sites. That is simply not true. Even if theoretically a site could be opened in the next year or 18 months—and absolutely no one believes that—siting interim storage would require at least 3 or 4 years.

But assume for the sake of argument that the site was available, what Dr. Cohon is telling us is that because we do not have the casks currently in existence—the standards, yes, but not the casks—that it would take us a while to develop the transportation system that would be required; that it will require a few years to get that done.

So all of this talk about the casks that have been depicted on film and all of the discussion about the casks being dropped from 30 feet, 50 feet, 60 feet, or 100 feet, are totally irrelevant. We are talking about casks that will not be used for this purpose. We are talking about a new configuration cask that has not yet been developed, and I think that point needs to be emphasized.

Let me make one other point, if I may, with respect to the notion that somehow because Nevada, responding to a patriotic call during the height of the cold war in 1951, agreed to allow nuclear testing at the Nevada test site—I was in the eighth grade the year the nuclear testing began in Nevada. I have to tell you that it was a different age and a different time than it is today. We were all pretty naive about what that was about. Were we excited? Yes. We all thought it was a great thing. We were on the cutting edge in technology. In those days the nuclear power lobby convinced America that everything would be nuclear, that we would have little reactors in our back yards and planes would be powered by nuclear fuel; locomotives; and, indeed, as was often said, the nuclear power will be so cheap that it can't be measured. That goes back 46 years ago.

In my hometown of Las Vegas, businesses changed their names to atomic groceries, atomic this and that. There was an atomic hairdoo. Yes. Nevadans sensed that they were being asked to respond to a patriotic call of the Federal Government to respond to a confrontation that we had with a superpower, the Soviet Union. That frightened all of us. I hope that my friends would not suggest that because we responded to that, that there is somehow implicit a duty to accept civilian reactor wastes generated on site, a decision made by local utilities and local customers, and that that somehow be sent to us in Nevada.

I might just say parenthetically with respect to that rather naive world in which we lived in 1951, today every American pays as part of his or her tax dollars to the people who are downwind from those nuclear detonations that we were assured at the time that they were absolutely safe—''Don't worry about it. It is the most exciting thing in the world.'' We invited members of the fourth estate, the Department of Energy. Then it was called the Atomic Energy Commission. There was a little place. They built bleachers for them called News Nob. Come on up and see for yourselves. This is science. This is exciting stuff, folks.

We sent thousands of our military personnel to a place called Camp Desert Rock, and we dug trenches out there and showed them what the exposure would be like to atmospheric radiation.

Mr. President, if any responsible scientist suggested that that was absolutely safe today, I mean he or she would be hounded out of any kind of scientific academy that exists. We all know now that is dangerous stuff. It is very hazardous, and a lot of people downwind paid with their lives, and paid through genetic damage which they have experienced and suffered from cancers. As a consequence, each of us as taxpayers in America today compensate those victims.

Let me make a distinction, if I may. It has been suggested that somehow because the test sites were used for this purpose, it is an absolutely logical, inescapable conclusion that it should be the repository for this interim site. That is fallacious reasoning.

First of all, we are talking about two entirely different kinds of radioactivity. Remember what we are talking about here with high-level nuclear waste—stuff that by its very definition is deadly for thousands and thousands of years. Nobody quarrels with that in the debate—thousands and thousands of years. We all recall that in the aftermath of dropping two atomic bombs on Japan at the end of World War II—one at Hiroshima and one at Nagasaki—that those two cities did not remain isolated for decades or even a score of years. They were rebuilt immediately. The reason is that it is a different type of radiation. There is no question that there is a radiation hazard in the blinding seconds of the detonation. We have all seen that. But it is not the kind of residual radiation that requires isolation and protection for thousands of years.

Let me make a couple of points. I know the distinguished chairman of the Energy Committee has taken the floor. I can assure him I will be just a couple of minutes.

Here is the difference. Trinity was the first successful atomic detonation in the history of the world at Alamogordo in the New Mexico desert on July 16, 1945. That is the first one. That is when we knew we had a bomb that would work. In order to equate the radioactive equivalent of what is referred to as the fission product inventory that would be stored in Nevada as a result of all of these 75,000 to 85,000 metric tons, it would require the equivalent of 2.3 million nuclear detonations—let me repeat that again: 2.3 million detonations—of the Trinity-sized atomic bomb to create the equivalent of what is proposed to be stored at the Nevada test site.

Placed in another context, because Nevada did agree to host the testing programs, based upon the average yearly testing rate during the period that the Nuclear Weapons Program was operational at the Nevada test site that was approximately 20 nuclear weapons detonations per year, in order to equate to the fission product equivalent of what is being proposed to be shipped here, it required that rate of testing, namely 20 nuclear weapons tests a year, for a period of from 10,000 to 100,000 years. So we are not talking about some finite distinction. We are talking about something that is of a totally different magnitude, a totally different character.

I say to my friends who tried to equate the nuclear testing program during the days of the cold war with storage of high-level nuclear waste from civilian reactors, you are talking about apples and oranges in a literal sense. So we are not talking about the same thing. We are talking about waste that by its very nature is deadly for thousands and thousands of years. No one disagrees with that. We are talking about nuclear detonations which have a totally different type of radioactive footprint and which would require the equivalent of 2.3 million Trinity detonations to get the same equivalency being discussed, or a testing protocol that would call for 20 nuclear detonations a year that would have to last from between 10,000 and 100,000 years to equal what is being proposed to be sent to Nevada.

I just think those two points need to be made.

Mr. President, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, the parliamentary procedure relative to time on this, in view of the fact that the vote has been vitiated, suggests that we are still bound by our time agreement.

The PRESIDING OFFICER. The Senator may consume as much time as he wishes.

Mr. BRYAN. If the distinguished Senator would yield for a question, I do not intend to offer any more comments today. I don't know of anybody on our side of the aisle who will.

I withhold the comment. I am informed that Senator BUMPERS may take the floor at 5 o'clock. I am not sure whether he will be speaking on this issue, or not. He may very well be. But as long as we can accommodate him, I say to the distinguished chairman that it is not my purpose to hold either the chairman or any other person to a time limit this evening.

Mr. MURKOWSKI. Mr. President, as I understand it, we will be on the bill beginning at 1 o'clock tomorrow. So I assume any Member can come over and speak on this or as if in morning business. With that interpretation, I am going to proceed for a few minutes more. Then that will be my conclusion, at least for today, relative to the topic at hand.

Mr. President, I am very pleased that we have reached an agreement to proceed to the bill, and, as a consequence, starting tomorrow at 1 o'clock, we will have to continue our debate. Many Members on our side have indicated an interest in coming over and being heard.

There are a couple of points I want to make at this time that I think bear a little examination. The other side has indicated that his legislation, S. 104, is unneeded, that it is unwise, that it is unsafe. I just cannot accept that.

First of all, to suggest it is unneeded disregards the obligation we have in a contractual commitment to take this waste in 1998. What good is a Government contract, for Heaven's sakes, if there is no intention, no desire to fulfill that contract?

Mr. President, 16 years have passed. It is clear that the waste will not be taken in 1998 as promised. Yet, the Federal Government has taken from the ratepayers some $13 billion. And who has it been paid to? It has been paid to the Federal Government. And what has the Federal Government done with it? They have not held it in escrow. They have not held it in abeyance out there, ready to meet their obligation to take the waste in 1998. They put it in the general fund. Under the crazy bookkeeping procedures we have around here, it is going to take a significant appropriation to address this obligation. So, when the other side suggests that it is unneeded, I think we have to look a little bit deeper at the significance of a contractual commitment.

(Mr. HUTCHINSON assumed the chair.)

Mr. MURKOWSKI. There has been a lot of criticism of the nuclear industry out there. What has the nuclear industry done? They provided a reliable source of power. They are the second largest supplier of power generation next to coal, 22 percent of our Nation's power. They are a dedicated group, highly technical people for the most part, dedicated to providing a reliable, safe source of energy for this country, for 22 percent of our dependents. They entered into a contractual agreement back in 1982. And where have we been since 1982? We have been here. We have been talking about it. We have been discussing, Yes, we have an obligation, but it is not due. It is due now, Mr. President. It is due next year. And we are not ready.

So what are they supposed to do? The other side would suggest, do not do anything now. Put it off. Wait until some time in the future when we have a permanent repository. How much time do we have to wait? Where is the future? The Secretary of Energy says this repository is not going to be ready, a permanent one at Yucca Mountain, until the year 2015. What, do we have to wait another 18 years? That is what the other side would have you believe.

What are the damages associated with the inability of the Government to fulfill its contractual commitment? There is full exposure, full employment for the lawyers. What we have around here is too much speculation. What we need are some facts. And the facts are that we have this stuff all over the country. The chart here shows where it is. We have the stuff spread in 41 States at 80 sites. We are proposing to address it and put it in one safe site. Where is that site? It is where we have held nuclear tests, out in the desert, for 50 years. So, when they say it is unneeded, I have to dispute that. First of all, it is needed because we are in violation of a contractual commitment that the Federal Government entered into in good faith.

What did the court say about it? The court said the Government is liable. They said that last year. The Federal Government is liable to take that waste. If we do not take it, there are going to be damages. How much are the damages? Full employment for the lawyers, it is estimated at $59 billion.

Nevada is where we propose to put it. We are going to put it in temporary casks, on the surface, until such time as Yucca Mountain's permanent repository is done. We are going to remove it from all these sites around the country and put it in one place. If that is irresponsible, and America's environmental community is opposed to it, then they must be for this.

The other side makes an issue that no environmental group supports this legislation. What do they support? You and I know what they support. They support doing away with the nuclear industry in this country. That is their objective. And what do they propose, to make up that 21, 22 percent of our power generation? They do not want to address that. They say, ''Wind power.'' Fine, I am for wind power. Solar? Fine, I am for solar. You just cannot generate sufficient amounts with the technology we have. How about hydrogen? Let us go that route? Great. But you have to be in the real world. They want air conditioning, they want the lights to go on. And the nuclear power industry is contributing to this, almost 25 percent of our total energy.

So, when they say it is unneeded, they are absolutely wrong. Do we want to shut down those nuclear plants because they are running out of storage space? They were licensed for so much space. You have seen pictures of those pools. You have seen the spent rods being stored there. That was not permanent storage. It was not designed for permanent storage. Everybody knows that. It was temporary, until such time as the Government could fulfill its contract.

Did the environmental community and the folks who are down at the White House who are opposed to this legislation, who, I might add, have no position on this issue, do they want us to have blackouts on hot summer days? What do they propose in the future, if we do not address this problem of adequate storage on hand when our storage is filled in those pools? Do we want to default on our Federal obligation? I have already talked about that. And, remember, the courts have upheld the obligation of the Federal Government.

What kind of precedent are we setting in this country for those who observe the way Government does business, to ignore the commitment to the ratepayers who have contributed with the expectation that the waste would be taken?

The comment was made by the other side that interim storage in Nevada was unneeded and unsafe. Is it safe to continue to store this waste in the pools that were designed to hold that waste for a temporary timeframe?

One of the Senators from Nevada says that the 100 millirem standard is unsafe. Let us talk about that, because those kinds of speculative arguments excite a lot of people. Again, it is speculation.

The current EPA radiation protection guidance is 500 millirem, 500. EPA is considering making it 100 millirem, to even be more protective. So, the current EPA radiation protection guidance says 500, but we have it at 100 in our bill. Additionally, we provide EPA with the authority to proscribe a stricter standard if needed. As a consequence, to suggest our bill is unsafe defies reality. We are promoting the public health and safety with a higher standard, if indeed it is needed.

We have heard it said that transportation is unsafe. We have shown that nuclear fuel was safely transported across the country every single day of the year, year in and year out, 2,400 shipments for 16 years, from 1979 to 1995, through every State in the Nation except South Dakota and Florida. It has been moving. Why has it been moving? It has been moving from all these different sites. It has been moving from universities that have test reactors, research reactors. It has been moving

from military sites, from Navy sites. It has been moving, moving, moving, and we have not had any accidents.

We talk about what kind of container is going to be involved. Obviously, it is going to be a safe container, the same kind that has moved this material in 2,400 shipments. So that is a bogus argument, to say it is unsafe. We have shown that casks cannot be breached with real world accidents. We have shown there has never been an accident involving the release of radiation. Of course, in Europe, in Asia, they move this stuff all over, all over the world. So, if you want to buy fear tactics, this is probably a good environment to buy them in because there are lots of them around here.

A further statement was made relative to our bill being unwise. I have trouble with that. If it was wise enough, sometime ago, for us to decide that it made sense to develop a permanent repository in Nevada, at a cost of some $30 billion, which is not a sure thing, then why is it unwise to spend between $1.5 to $2 billion to build an interim that can handle the problem until the permanent is ready. If Yucca is not determined to be suitable, then we will have a place for the waste until another site is selected if we pass this bill. Either way, we will need an interim site. So this is a very wise, thoughtful approach.

Much has been made in this debate about the Nuclear Waste Technical Review Board, and what they have said. What the board has told us is that central storage is needed if Yucca comes on line, and that central storage is needed if it does not come on line. There may be disagreements about timing, but the end result is the same. We need interim storage, regardless of what happens with Yucca Mountain. We need it either way, Mr. President. Is it unwise to leave waste? Where are we going to leave the waste, with the status quo? That is what the other side proposes.

Is it wise to leave waste at 80 sites in 41 States in pools that were not designed for long-term storage and to leave it there? How long? Until Yucca's done, 2015 or longer. One State, Connecticut, has guards and fences around the pools of nuclear waste in one of our Senator's neighborhoods, a Senator in this body.

So when they say it is unneeded, unwise, unsafe, I suggest they look at reality and recognize there is, indeed, every reason to believe that it is safe to take it out of 80 sites in 41 States that we have safely transported across this country for over 16 years, and it is certainly needed because the pools are full and many of these reactors will not be able to be relicensed for additional storage, because they do not have any. They will have to shut down.

So I encourage the administration and the environmental community, if you do not like this bill, then come up with an answer. I encourage the environmental community to recognize that as they address the legitimate concerns we all have over greenhouse gases, increased carbon emissions, where do we look for relief?

We just had a significant portion of the French Parliament here. They were acknowledged. We had a 2-minute recess. They told me in the back they wished us well with our effort to bury our waste. In France, they do not allow you to bury your waste because it is valuable, because they have embarked on a technology called reprocessing where, through a MAX fuel process, they recover the waste associated with those rods that are stored in the pools and they recover the energy in a plutonium form and put it back in the reactor with enriched uranium. Who is addressing the proliferation threat? They are burning theirs. We are proposing to put ours underground. In the meantime we are like ostriches running around saying, ''We can't do this, we can't do that.''

What are the Japanese doing? The Japanese have taken the French technology which, incidentally, we developed initially when we had proposed to reprocess. We cannot reprocess because we have a policy against reprocessing. But the Japanese have expanded on an effort to be totally independent of imported energy in Japan. What does that do to their industrial economy? It makes it pretty secure. They are going to depend on nuclear energy. If there is any country that has had an experience with nuclear energy that is more sensitive, I do not know what it could be other than Japan.

The Japanese are committed to a $20 billion to $24 billion project. I was up there last December. They are building a refueling, reprocessing, state-of-the-art facility. Do you know what they are doing now? They are sending their waste from their nuclear reactors over to France, the French are reprocessing, and the waste goes back vitrified. But they are going to do it themselves in Japan. They are going to recover the plutonium, put it back in the reactors and reduce the proliferation threat, because plutonium has value.

I am not here arguing the case for that. I am simply stating what is happening in the real world with state of the art. France is 70 percent dependent on nuclear power. We cannot even figure out what to do with our waste. The last nuclear plant was built in this country in 1979, 1980. That is where we are. Nobody in his right mind would try and build one today, because the permitting process would simply make it unfeasible, if there is such a word, certainly noneconomic from the standpoint of generating a return.

I can stand here on the floor of the Senate and predict that within 10 years, we will be going to Japan and we will be going to France for the advanced technology associated with disposal of high-level waste. What this administration has done is to allow in nuclear waste from other countries, but it will not address its obligation to the nuclear power industry to take its waste that it has collected the money for the last 16 years, $13 billion.

So I hope some of the folks down at the White House reflect a little bit on the obligations that we have made commitments and the reality that we have not performed. It is easy to criticize the nuclear industry with regard to nuclear waste, but let's be realistic and let's recognize, again, that they have performed their obligation. Now they are asking the Federal Government to perform theirs.

I want to conclude my debate today with a little reference on a portion of the statement that was made regarding the Nuclear Waste Technical Review Board and the points made in that debate on the other side.

My distinguished friends and colleagues from Nevada have in their statements, I think, misinterpreted or perhaps misunderstood some of the conclusions associated with the Nuclear Waste Technical Review Board. There has been an assertion that the Nuclear Waste Technical Review Board—which, as has been stated, is a panel of scientists appointed to review the Department of Energy's nuclear waste program—opposes the construction of an interim storage facility. The suggestion is they oppose it. This simply is not true, Mr. President.

Following a February hearing on S. 104, I asked the chairman of the board the following question, and this is from the record:

> Those who oppose S. 104 have used the board's report as evidence that ''technical and scientific experts'' believe that a centralized temporary storage facility will not be needed. Is this the conclusion the board intended people to draw?

The chairman responded:

> On the contrary, the board believes that a centralized storage facility will be needed——

Will be needed, Mr. President——

> and the generic planning should begin immediately. Significant advantages can be derived from siting a storage facility adjacent to a repository.

OK, adjacent to Yucca Mountain is what S. 104 proposes. The board did state, however:

> However, there are no compelling technical or safety reasons to move spent fuel to a centralized facility for the next few years.

I think we have here some questions of timing. ''The next few years,'' the last time I checked, few meant two. In order to be able to move spent fuel in a few years—well, we started this process, and we have been, what, 16 to 17 years now trying to move this process along. We entered into a contract with the nuclear power industry to take it 16 years ago. Here we are today, 1 year away from a mandatory obligation to perform under a contract in 1998, and when is this one going to be ready? 2015. So we have 17, 18 years.

The other side said we should not start now, or they interpret the board's interpretation to mean there is no compelling or safety reason to move

spent fuel to a centralized storage facility in the next few years. If we started today in this process, which is what I hope we will do as soon as the Senate supports passage of this bill, we will not be able to start on this facility until we are into the year 2000. We all know that. So it is a question of timing.

It is only natural that the board begin this process. This is a technical body. They probably have no concept of the lead time legislation must have before it can become law and can result in planned action. Again, 17 years on this process already.

So as we move to the bill, I am willing to offer an amendment that would provide a new schedule for siting construction of the interim facility, recognizing 2 years is not going to do it. This is to take into account the passage of time since introduction of the original legislation. Mr. President, even before this amendment, in response to written questions, the chairman stated something else:

The difference in timing between the board's recommendations and the approach set forth in S. 104 are not substantial.

I think it is fair to say that my friends from Nevada have placed a good deal of faith in the board's judgment, but I would like to point out some of the board's statements that they won't tell you about. At the February hearing, Chairman Cohon stated that:

The board believes that the risks associated with transporting spent fuel are very low—

Very low——

and are likely to remain very low even when the number of shipments increases.

I hope that satisfies my friends from Nevada.

While my colleagues have asserted that nuclear waste can stay just where it is, and that is the position they have taken, the board has stated:

The board believes that one or more centralized spent fuel storage facilities will be needed somewhere if Yucca Mountain proves to be unsuitable for development as a repository.

Where is somewhere, Mr. President? Somewhere is out here at the Nevada site that was used previously for more than 800 nuclear weapons tests over 50 years. That is somewhere. It has to go somewhere. Nobody wants it. This is someplace, contrary to the claims we heard today that the Nuclear Waste Technical Review Board does believe that temporarily centralized storage of nuclear waste is needed and transportation of spent fuel is safe.

The last issue I would like to refute is a question of, well, why not wait until 1998? The administration says it objects to siting a temporary storage facility before 1998 when the viability assessment for Yucca Mountain will be completed. There have been those who asked, ''Why can't we just wait for 1998 and pass the legislation then?'' I think I have addressed that, but to anybody who has watched this process, the obvious answer is, it is going to take a few years, more than a few years. It has taken over 2 years since the first introduction of this legislation, and we are still debating on the Senate floor.

S. 104 takes into account the viability assessment. It provides a procedure for choosing an alternative site if it is negative, and S. 104 gives the Department of Energy the authority it needs to begin the year or so of nonsite-specific work necessary to build an interim storage facility. Anyone who believes that the viability assessment will make passing legislation easier is out of touch with reality. The reality is that no one wants nuclear waste stored in their State, whether it be Arkansas or Alaska or Nevada. But we have to put it somewhere.

And this was good enough for 800 nuclear weapons tests over 50 years out in the Nevada desert where they have an experienced work force. They have security. They have the know-how. And it was selected as the best site for a permanent repository. We have expended $6 billion in a process that ultimately is going to take an expenditure probably of $30 billion to finish it.

At the committee hearing on Senate bill 104 in February, all four members of the Nevada delegation stated that no level of scientific proof would basically lessen their opposition to this project. I commend them for that; they are doing what they have to do for their State. If it was not Nevada, it would be some other State here.

But we have an obligation to put it somewhere. And that is the bottom line of this whole debate. When we go round and round and round, nobody wants it. We will not reprocess it like Japan, like France, and take advantage of advanced technology to counter proliferation threats. We cannot get the environmental community to responsively address reprocessing. So we are hell-bent to bury it—as long as we do not bury it anywhere.

The ultimate reality is that the Federal Government has an obligation to start taking this waste next year. The obligation is to move nuclear waste, not to start thinking about how you might take waste in the future.

So, again, I would urge my colleagues to recognize that we have reached a crossroads. The job of fixing this program is ours. The time for fixing it is now. We have it at 80 sites in 41 States, and no one can convince me that is the best procedure to just leave it there.

We have made progress at Yucca. The 5-mile exploratory tunnel is soon going to be complete. And we can build on this progress. This bill continues the site characterization activities for that permanent repository. And do not believe anything else. But we cannot put all our eggs in the Yucca basket. We need this storage facility, this temporary facility now. Otherwise, Mr. President, what we are going to be doing—make no mistake about it; I want every Member to so note—we are going to be leaving it right where it is: in your State. If you are one of the 41 States, leave it right where it is for another generation to come along and debate it, talk about it.

In the meantime, we are leaving it in storage that was not designed for long-term storage. We can choose whether the Nation needs 80 interim storage sites or just one at the Nevada site where we exploded nuclear bombs during the cold war. It is safe. It is remote. It is monitored.

If Yucca is licensed, which I think it will be, it will be an easy task to move the material to the repository. And if Yucca is not licensed or found to be unsuitable, we will need a centralized interim site anyway. So we will be ahead of the game regardless of what happens at Yucca.

Mr. President, this is a step we should take. The time is now. And any attempt to escape this obligation would be unwise. It would be unsafe to fail to address the problem. And what is unneeded is further delay.

Mr. President, I thank you for the courtesy of recognizing me and wish you a good day and yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I came to the U.S. Senate in 1975. At that time, the nuclear debate was raging full blast. ''Shall we or shall we not build more nuclear-electrical-generating plants?'' I just finished 4 years as Governor of my State. And we had built two nuclear plants up on the Arkansas River. I believe the total cost of both of those plants was $400 million. It was represented to me at the time, as Governor, that that would be by far the cheapest power we would ever know anything about.

But after I came to the Senate and began to investigate the feasibility and the advisability of taking this country down the nuclear path, I quickly came to the conclusion that I would resist any additional nuclear plants. There was another highlight on the front burner called the Clinch River breeder reactor to be built on the Clinch River down in Tennessee.

I remember in 1981, the Republicans took over this place, and Howard Baker, the Senator from Tennessee, and one of the finest men ever to serve in this body, became majority leader. I was trying to keep any additional nuclear plants from being licensed—and it was not a tough chore. A lot of people had made up their minds at that point that the nuclear option was not a good one. I fought for about 4 years to kill the Clinch River breeder.

But I was up against the majority leader. And as everybody here knows, as the old revenuer said, when they announced United States versus Jones, he turned to his lawyer and said, ''Them don't sound like very fair odds to me.'' And it was not very fair odds to go up against the majority leader on the Clinch River breeder, which was going to be built in his beloved Tennessee.

Howard Baker could always just pull out that one extra vote he needed. The

vote was always close, but when you are majority leader, you know, you can just call somebody over and say, ''I need your vote,'' and you usually get it.

Finally, one year I was ahead by about six or seven votes as the votes were being cast, and I think Senator Baker decided that he was done for, and he turned everybody loose that had committed to him who did not really like the idea of the Clinch River breeder reactor and were only voting for it to accommodate him. He turned them loose, and I think we won that day by about 70 to 30. Happily, that was the end of the Clinch River breeder.

I had a group of people from France in my office this afternoon, some politicians and some deeply involved in the electrical industry. They wanted to talk about the new concept of restructuring the electricity industry in this country to go to retail competition. They are doing this in France. They are doing it in Germany and doing it all over Western Europe. And they wanted to talk to me about my bill.

One of them said, ''Senator, we understand that you are the Senator who killed the breeder reactor.''

''Mais oui.''

He said, ''If you had it to do over again, would you do it again?''

''You bet.''

France is heavily dependent on breeder reactors. But they are also in the business of reprocessing and using MOX to generate power, and so on. I guess I am digressing a little bit to say about the breeder reactor, it is dead, dead; and I am glad it is dead.

The reason I did not like the breeder reactor is the same reason I did not like nuclear power, period. It is wonderful. It is the cleanest power you can have. You see that nice, clear white smoke coming out of those smokestacks in Russellville, AR. And you know there is nothing polluting about that plant.

But if you look inside, if you look inside the plant and you see those fuel rods, you have to ask yourself, since these things are going to be radioactive for thousands of years, how do you dispose of them? That is the reason I turned against nuclear power. I could not figure out a way on Earth that we were going to environmentally, acceptably dispose of those fuel rods.

So now, Mr. President, we are here today debating that very proposition and 35,000 tons of spent nuclear fuel created by the electrical generating companies of this country and thousands of tons more by the Pentagon. It has to be disposed of. And we have been laboring with the question of how we are going to do it. As we lawyers say, ''Since the memory of man runneth not.'' We are doing our very best to keep faith with the people of this country and dispose of it in a way that they will be able to sleep at night.

Let me tell you one other thing. If we dispose of it the way the Senator from Alaska proposes right now, we may be transporting that stuff all over the country two or three times. And, you know, I live in a little town of 2,500 people, Charleston, AR. You are being addressed right now almost entirely by the South Franklin County Bar Association. I was about the only lawyer in town—it is so little. But if I were a lawyer in Charleston, I would be very apprehensive about all that nuclear power coming from Russellville, AR, right up Highway 22. And the Presiding Officer knows exactly the location I am talking about. Coming right up Highway 22 through Charleston, AR, headed for Yucca Mountain.

So, what did we do? In 1982, we passed a bill called the Nuclear Waste Policy Act. A good bill. We said to the electrical industry in this country, the nuclear electrical industry, that you pay a fee to the U.S. Government every year. We will use your money to find and develop a permanent repository for this nuclear fuel.

We passed the bill. The deal was cut. We started collecting the fees. Both sides operating in ultimate good faith. No shenanigans. You pay us a fee every year and we will use it to find a site. We found a site called Yucca Mountain in the home State of my good friend, the junior Senator from Nevada.

I am on the same side of the Senator from Nevada. And if it were Arkansas instead of Nevada that they were putting it in, I would be like him sitting in my seat on this floor 24 hours a day trying to keep faith with my constituents and saying, what have we done to deserve 35,000 tons of nuclear waste dumped in our backyard? And I am sad about that. It is one of those things. Somebody has to do it.

So we find Yucca Mountain and everybody says this is the best possible site—not the perfect site, may not be the site ultimately chosen—but it is the site we are choosing to start spending this fee the utilities are paying us.

So, what have we done since 1982? We have dug a 5-mile hole, a tunnel in Yucca Mountain in anticipation of it ultimately being decided that it is by far the best place to locate this spent fuel. We have spent $4.8 billion on that 5-mile hole. And we are going to spend a lot more before it is perfected.

But, Mr. President, the reason we stand here today debating this bill is this. We said to the utility industry, we will take your fuel—we being the U.S. Government, the Energy Department—we will take this 35,000 tons of spent fuel and we will start taking it in about January 1998. That is coming up. It will be here before you know it.

Now, the utilities have been operating in good faith, too. They have been paying their fees in anticipation of getting rid of this stuff which they are storing onsite at their nuclear plants.

Again, the Presiding Officer, I know, has been to those two nuclear sites in Arkansas.

Some of it is lying out in dry casks. Some of it is in water. But it is stored on site. We have 110 nuclear generating plants in this country and 76 storage sites. For example, we only have one storage site in Russellville, but two generators. That is not uncommon in this country.

So we have the 110 nuclear generating plants generating more and more spent fuel and storing it at a considerable cost to them. There is no denying this is very expensive to the utilities. So they say: A deal is a deal. In 1982 we said we would start paying you, and you said January 1998 you would start taking the fuel off our hands and we could quit building all the facilities and storing it.

It is kind of ominous. Most Senators, I suppose, have been to the nuclear plants and looked at those things. You look at the pool of water, it has a very strange color, and the nuclear rods are in that water. I have never seen a real dry cask they put it in. My legislative director has a small mock-up model of a cask they put it in. What they will be doing, if all goes through according to S. 104, they will take that fuel out of water and put in the steel casks. The casks are big, they are expensive. They will put those fuel rods inside those casks, those that are not already there, and they will start transporting them from all over the United States to Nevada. You lucky dog. They will be transporting them to Nevada in those casks.

What the Senator from Alaska says, ''We will pour a gigantic concrete slab and we will carry that stuff out there to Yucca Mountain.'' Not inside the mountain. This is somewhere around Yucca Mountain. I do not know where. We have the 5-mile tunnel built. We have a little more boring to do. But we will pour the concrete slab, transport the fuel out there, and just leave it out there in the open.

Now, this sounds simple, but it is a pretty expensive undertaking. What it means is if S. 104 passes and the President vetoes it and we override his veto, it will cost about $4 billion over the next 5 years instead of the $2 billion we are planning to spend on the permanent repository.

Mr. President, I tell you something interesting that has nothing to do with the debate. If, in August of next year—bear in mind there will be a determination made next August on whether or not Yucca Mountain is suitable. Incidentally, the reason we are here today is because the dates are at cross purposes. We have to start taking the fuel in January, but we do not know whether Yucca Mountain will be determined to be suitable until August of next year. So we are required to start taking the stuff 8 months before we know whether Yucca Mountain will be the ultimate repository. Now, if it is, if next August we find it suitable, there are still a lot of licensing procedures to go through, but basically we are in fat city. Everybody will be happy because Yucca Mountain has been determined to be suitable, and we will take all this waste that S. 104 wants to take out and

put on a concrete slab. In the year 2010 we will start taking it and putting it in that hole, that tunnel in the mountain, and we will seal that sucker up. You think about it. We will put 84,000 tons of spent nuclear fuel in this tunnel in Yucca Mountain and seal that thing. No guards and no monitors walking up and down hallways, putting a Geiger counter on it and see what the radiation is that is coming out of it. We will seal it up forever.

Now, before I get to the end of this tale, let me go back a moment and say this stuff is going to be in Yucca Mountain for thousands and thousands of years. And you know why? Because that is how long it is radioactive. You know what we are debating here today? Ten years. We are saying we cannot wait 10 years to make sensible decisions that affect the lives of every man, woman, and child in America. We have to do it right now because the utility industry is unhappy. They want us to take it now and transport it to Yucca Mountain and get it out of their back door. If they would have listened to me 20 years ago, they would not have a problem because they would not have all that waste. I was not that powerful then. I am not that powerful now either.

But think about this: We are talking about planting 84,000 tons of spent nuclear fuel in Yucca Mountain, to be reposed for thousands and thousands of years, and S. 104 says we cannot wait 10 years to find out. We cannot wait until August of next year to determine whether or not Yucca Mountain is a suitable repository. This is a monumental decision. We are not talking about the Kentucky Derby. We are talking about thousands of tons of lethal spent fuel and how we will dispose of it safely so the American people can sleep at night.

I share the concern of the Senator from Alaska about disposing of this stuff. I am not trying to drag my feet. Everybody knows we have to dispose of this stuff. We are talking about what is the best way to do it. What is in the national interest? What is sensible? What is the safest way to do it?

It is tragic that the Energy Department has to renege on its agreement, but it cannot help it. It was not their fault. It really was not anybody's fault that we did not get this all done by 1998. But the Energy Department says certainly if it is found suitable, we believe we can start taking this stuff by the year 2010 and doing it properly and in a way that everybody will find to be suitable and satisfying.

So what happens under this bill? If Yucca Mountain is found to be unsuitable next August, you have to go ahead and build this thing anyway, this interim storage site, unless the President of the United States finds an alternative site and Congress approves that alternative site all within 2 years. If anybody believes you can do that, hold up your hand. That is an absolutely impossible condition in S. 104. The President cannot find another site and get Congress to approve that site within 2 years. We have been working on Yucca Mountain forever, and now we are in a posture of finally concluding a happy end to this situation. But even if Yucca Mountain is found to be unsuitable, S. 104 of the Senator from Alaska will still require that every pound of nuclear waste in this country be transported to Yucca Mountain, even though that is not going to be the permanent repository site.

So what happens then? We find another permanent repository site. We will load it all up and bring it back through Charleston, AR, once again. That will make the citizens happy. They already had the daylights scared out of them bringing the fuel through their hometowns once. Now they will get it again. So why take it in the first place? Why not at least give the administration and the utility industry an opportunity to work out some kind of an arrangement whereby we will pay them—they are suing us now, and frankly they have a good lawsuit. I do not deny that. They have a good lawsuit. We agreed to take it in 1998, and we cannot do it. So we will have to pay.

So my question is why not pay them to leave it where it is for a few months until we can make a decision about the suitability of Yucca Mountain and proceed the way we have been proceeding?

Now, Mr. President, let me just close by making something of a confession. It is tempting to me to support this proposition. I would not vote for S. 104 under any circumstances, but the concept set out in S. 104 makes it very appealing and very attractive. As I say, I would not vote for an interim storage site right now because we are coming up on the time when we will know with some degree of certainty whether or not Yucca Mountain will be the place. Can we not wait? America, this is the central question. Can we not wait 10 years to determine that this is the safest place in the world and the best place in the world to store this stuff for thousands of years? What is 10 years in the scheme of the thousands of years that this stuff will be stored there?

The options are not good either way. I do not blame the utilities for wanting to get rid of the stuff, but I do not blame us for not wanting to take it. It is folly in the extreme for us to take that stuff out there and spend an extra $2 billion to put in a concrete slab when we know, or will know next August almost to a reasonable degree of certainty, a year from now we will know whether or not we will be able to use Yucca Mountain, and if we are, would it not be infinitely better to transport that fuel one time—not twice, not three times—one time, to put it in a site in which we will all feel comfortable?

Mr. President, I know there are plenty of votes in this place to pass this bill. I know the President will veto it when it is presented to him. We will see what happens after that. I am trying to call for a degree of sanity and reasonableness and saying I would like to get rid of it, too. Nobody has any stronger desire to get rid of this nuclear waste than I have.

The Senator from Nevada and I will probably be on opposite sides next time. If Yucca Mountain is found to be suitable, you can bet I will vote to put it there. I have not supported the Senators from Nevada because I like them, because they are friends; I supported them because I thought they were right. I have supported the Energy Department and the administration's position on this because I think they are right.

I am asking my colleagues, I know they are getting a lot of pressure on them both from the industry and the party and different people, but I tell you something, when you start playing politics with this issue, I plead for my colleagues to remember, people may disagree with you, but they like people who stand up for what they believe, even when it is not popular. People sometimes say to me, why do you guys not screw up your nerve and do something right, something courageous for a change? I hear that all the time. Do you know what they mean by courageous? Unpopular. If it is popular, it is not courageous.

Here is a bill that is very complicated, and the American people are not homed in on it. The people here know what they are doing. I am asking, for Pete's sake, listen to this debate and do what they think is sensible, in the best interests of the country.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein for up to 5 minutes each.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, April 7, 1997, the Federal debt stood at $5,385,190,477,419.92.

Five years ago, April 7, 1992, the Federal debt stood at $3,891,976,000,000.

Ten years ago, April 7, 1987, the Federal debt stood at $2,288,906,000,000.

Fifteen years ago, April 7, 1982, the Federal debt stood at $1,060,872,000,000.

Twenty-five years ago, April 7, 1972, the Federal debt stood at $429,202,000,000 which reflects a debt increase of nearly $5 trillion ($4,955,988,477,419.92) during the past 25 years.

THE GREAT FALLS OPTIMIST CLUB

Mr. BAUCUS. Mr. President, as a newly inducted member of the downtown Optimist Club of Great Falls, MT, I take great pride in telling my colleagues about the new Optimist International Child Safety Awareness Program.

In recent months, there have been numerous reports of serious and even fatal injuries to children as a result of incorrect positioning or improper restraint in vehicles. Often these injuries are preventable.

The Optimist International Child Safety Awareness Program operates under the premise that adults must assume the responsibility to see that their kids are safe while driving in a motor vehicle. The Optimist Club seeks to increase adult awareness of the hazards of incorrectly positioned children. I am very excited about this plan because I think we can make a real difference.

The Optimists have always been strong advocates for children's safety. I encourage all of my colleagues in Congress to become familiar with the Optimists program and give it their full support. Our children are depending on it.

Mr. President, I yield the floor.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

REPORT CONCERNING THE ANNUAL REPORT OF THE DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT—PM 25

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

To the Congress of the United States:

As required by section 308 of Public Law 97–449 (49 U.S.C. 308(a)), I transmit herewith the Annual Report of the Department of Transportation, which covers fiscal year 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 8, 1997.*

REPORT CONCERNING THE ANNUAL REPORT OF THE NATIONAL ENDOWMENT FOR DEMOCRACY—MESSAGE FROM THE PRESIDENT—PM 26

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

To the Congress of the United States:

Pursuant to the provisions of section 504(h) of Public Law 98–164, as amended (22 U.S.C. 4413(i)), I transmit herewith the 13th Annual Report of the National Endowment for Democracy, which covers fiscal year 1996.

The report demonstrates the National Endowment for Democracy's unique contribution to the task of promoting democracy worldwide. The Endowment has helped consolidate emerging democracies—from South Africa to the former Soviet Union—and has lent its hand to grass-roots activists in repressive countries—such as Cuba, Burma, or Nigeria. In each instance, it has been able to act in ways that government agencies could not.

Through its everyday efforts, the Endowment provides evidence of the universality of the democratic ideal and of the benefits to our Nation of our continued international engagement. The Endowment has received and should continue to receive strong bipartisan support.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 8, 1997.*

REPORT CONCERNING THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 27

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

To the Congress of the United States:

In accordance with section 540 of the Federal Food, Drug, and Cosmetic (FDC) Act (21 U.S.C. 360qq) (previously section 360D of the Public Health Service Act), I am submitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act of 1968 during calendar year 1995.

The report recommends the repeal of section 540 of the FDC Act, which requires the completion of this annual report. All the information found in this report is available to the Congress on a more immediate basis through the Center for Devices and Radiological Health technical reports, the Center's Home Page Internet Site, and other publicly available sources. Agency resources devoted to the preparation of this report should be put to other, better uses.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 8, 1997.*

MESSAGES FROM THE HOUSE

At 11:38 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 11. Concurrent resolution permitting the use of the rotunda of the Capitol for ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

MEASURE REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

S. 522. A bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes; ordered referred jointly to the Committee on Finance and Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ABRAHAM:

S. 518. A bill to control crime by requiring mandatory victim restitution; to the Committee on the Judiciary.

By Mr. ALLARD:

S. 519. A bill to terminate the authorities of the Overseas Private Investment Corporation; to the Committee on Foreign Relations.

By Mr. FEINGOLD:

S. 520. A bill to terminate the F/A-18 E/F aircraft program; to the Committee on Armed Services.

By Mr. COVERDELL (for himself, Mr. INHOFE, Mr. HUTCHINSON, Mr. HAGEL, and Mr. SHELBY):

S. 521. A bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes; to the Committee on Finance.

S. 522. A bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes; read the first time.

By Mr. GLENN:

S. 523. A bill to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information; to the Committee on Finance.

By Mr. DASCHLE (for himself and Mr. DORGAN):

S. 524. A bill to amend title XVIII of the Social Security Act to remove the requirement of an X-ray as a condition of coverage

of chiropractic services under the Medicare program; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. KENNEDY, Ms. SNOWE, Mr. KERRY, Mr. JEFFORDS, Mr. DODD, Mr. STEVENS, Mr. ROCKEFELLER, Mr. BENNETT, Mr. DASCHLE, Ms. COLLINS, Mr. WELLSTONE, Mr. SMITH of Oregon, Mr. BINGAMAN, Mr. CAMPBELL, Mrs. MURRAY, Mr. REED, Mrs. BOXER, Mr. LAUTENBERG, Mr. DURBIN, and Mr. REID):

S. 525. A bill to amend the Public Health Service Act to provide access to health care insurance coverage for children; to the Committee on Labor and Human Resources.

By Mr. HATCH (for himself, Mr. KENNEDY, Mr. BENNETT, Mr. BINGAMAN, Mrs. BOXER, Mr. DODD, Mr. DURBIN, Mr. JEFFORDS, Mr. KERRY, Mr. LAUTENBERG, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Ms. SNOWE, and Mr. WELLSTONE):

S. 526. A bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products for the purpose of offsetting the Federal budgetary costs associated with the Child Health Insurance and Lower Deficit Act; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. DURBIN, Mr. HARKIN, Mr. WELLSTONE, and Mr. KENNEDY):

S. 527. A bill to prescribe labels for packages and advertising for tobacco products, to provide for the disclosure of certain information relating to tobacco products, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABRAHAM:

S. 518. A bill to control crime by requiring mandatory victim restitution; to the Committee on the Judiciary.

THE VICTIM RESTITUTION ENFORCEMENT ACT

Mr. ABRAHAM. Mr. President, I rise today to introduce the Victim Restitution Enforcement Act of 1997. I have long supported restitution for crime victims, and have long been convinced that justice requires us to devise effective mechanisms through which victims can enforce restitution orders and make criminals pay for their crimes.

I was very pleased when we enacted mandatory victim restitution legislation last Congress as part of the Antiterrorism and Effective Death Penalty Act of 1996. I supported that legislation and very much appreciated the efforts of my colleagues, particularly Senators HATCH, BIDEN, NICKLES, GRASSLEY, and MCCAIN, to ensure that victim restitution provisions were included in the antiterrorism legislation.

Those victim restitution provisions—brought together as the Mandatory Victims Restitution Act of 1996—will significantly advance the cause of justice for victims in Federal criminal cases. The act requires Federal courts, when sentencing criminal defendants, to order these defendants to pay restitution to the victims of their crimes. It also establishes a single set of procedures for the issuance of restitution orders in Federal criminal cases to provide uniformity in the Federal system. Inclusion of mandatory victim restitution provisions in the Federal criminal code was long overdue, and I am pleased that Congress was able to accomplish that last year.

However, much more remains to be done to ensure that victims can actually collect those restitution payments and to provide victims with effective means to pursue whatever restitution payments are owed to them. Even if a defendant may not have the resources to pay off a restitution order fully, victims should still be entitled to go after whatever resources a defendant does have and to collect whatever they can. We should not effectively tell victims that it is not worth going after whatever payments they might get. That is what could happen under the current system, in which victims have to rely on Government attorneys—who may be busy with many other matters—to pursue restitution payments. Instead, we should give victims themselves the tools they need so that they can get what is rightfully theirs.

The victim restitution provisions enacted last Congress consolidated the procedures for the collection of unpaid restitution with existing procedures for the collection of unpaid fines. Unless more steps are taken to make enforcement of restitution orders more effective for victims, we risk allowing mandatory restitution to be mandatory in name only, with criminals able to evade ever paying their restitution and victims left without the ability to take action to enforce restitution orders.

Last Congress, I introduced the Victim Restitution Enforcement Act of 1995. Many components of my legislation were also included in the victim restitution legislation enacted as part of the Antiterrorism and Effective Death Penalty Act. The legislation I introduce today is similar to the legislation I introduced last Congress as Senate bill 1504, and is designed to build on what are now current provisions of law. All in all, I hope to ensure that restitution payments from criminals to victims become a reality, and that victims have a greater degree of control in going after criminals to obtain restitution payments.

Under my legislation, restitution orders would be enforceable as a civil debt, payable immediately. Most restitution is now collected entirely through the criminal justice system. It is frequently paid as directed by the probation officer, which means restitution payments cannot begin until the prisoner is released. This bill makes restitution orders payable immediately, as a civil debt, speeding recovery and impeding attempts by criminals to avoid repayment. This provision will not impose criminal penalties on those unable to pay, but will simply allow civil collection against those who have assets.

This will provide victims with new means of collecting restitution payments. If the debt is payable immediately, all normal civil collection procedures, including the Federal Debt Collection Act, can be used to collect the debt. The bill explicitly gives victims access to other civil procedures already in place for the collection of debts. This lightens the burden of collecting debt on our Federal courts and prosecutors.

My bill further provides that Federal courts will continue to have jurisdiction over criminal restitution judgments for 5 years, not including time that the defendant is incarcerated. The court is presently permitted to resentence or take several other actions against a criminal who willfully refuses to make restitution payments; the court may do so until the termination of the term of parole. Courts should have the ability to do more over a longer period of time, and to select those means that are more likely to prove successful. Under my bill, during the extended period, Federal courts will be permitted, where the defendant knowingly fails to make restitution payments, to modify the terms or conditions of a defendant's parole, extend the defendant's probation or supervised release, hold the defendant in contempt, increase the defendant's original sentence, or revoke probation or supervised release.

My legislation will also give the courts power to impose presentence restraints on defendants' uses of their assets in appropriate cases. This will prevent well-heeled defendants from dissipating assets prior to sentencing. Without such provisions, mandatory victim restitution provisions may well be useless in many cases. Even in those rare cases in which a defendant has the means to pay full restitution at once, if the court has no capacity to prevent the defendant from spending ill-gotten gains or other assets prior to the sentencing phase, there may be nothing left for the victim by the time the restitution order is entered.

The provisions permitting presentence restraints are similar to other provisions that already exist in the law for private civil actions and asset forfeiture cases, and they provide adequate protections for defendants. They require a court hearing, for example, and place the burden on the Government to show by a preponderance of the evidence that presentence restraints are warranted.

In short, I want to make criminals pay and to give victims the tools with which to make them pay. In enacting mandatory victim restitution legislation last Congress, we demonstrated our willingness to make some crimes subject to this process. I believe we must take additional steps to make those mandatorily issued orders easily enforceable.

This legislation is supported by the National Victim Center and by the Michigan Coalition Against Domestic and Sexual Violence. I ask unanimous consent to have placed in the RECORD letters of support from those victims' rights organizations.

I urge my colleagues to support my legislation, which will empower victims to collect on the debts that they

are owed by criminals and which will improve the enforceability of restitution orders.

I also ask unanimous consent that the text of the bill be placed in the RECORD.

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

S. 518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Victim Restitution Enforcement Act''.

SEC. 2. PROCEDURE FOR ISSUANCE AND ENFORCEMENT OF RESTITUTION ORDER.

Section 3664 of title 18, United States Code, is amended to read as follows:

''§ 3664. Procedure for issuance and enforcement of order of restitution

''(a) IN GENERAL.—

''(1) RELIANCE ON INFORMATION IN PRESENTENCE REPORT.—With respect to each order of restitution under this title, the court shall order the probation service of the court to obtain and include in its presentence report, or in a separate report, as the court directs, information sufficient for the court to exercise its discretion in fashioning a restitution order.

''(2) CONTENTS OF REPORT.—Each report described in paragraph (1) shall include, to the extent practicable, a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant. If the number or identity of victims cannot be reasonably ascertained, or other circumstances exist that make this requirement clearly impracticable, the probation service shall so inform the court.

''(b) DISCLOSURES.—The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a).

''(c) APPLICABILITY OF OTHER LAW.—This chapter, chapter 227, and Rule 32(c) of the Federal Rules of Criminal Procedure are the only laws and rules applicable to proceedings under this section.

''(d) ENSURING AVAILABILITY OF PROPERTY OR ASSETS.—

''(1) IN GENERAL.—

''(A) RESTRAINING ORDER, INJUNCTION, EXECUTION OF PERFORMANCE BOND.—Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property or assets necessary to satisfy a criminal restitution order under this subchapter. An order under this subparagraph may be entered in the following circumstances:

''(i) Prior to the filing of an indictment or information charging an offense that may result in a criminal restitution order, and upon the United States showing that—

''(I) there is a substantial probability that the United States will obtain a criminal restitution order;

''(II) the defendant has or is likely to take action to dissipate or hide the property or assets of the defendant; and

''(III) the need to preserve the availability of the property or assets through the requested order outweighs the hardship of any party against whom the order is entered.

''(ii) Upon the filing of an indictment or information charging an offense that may result in a criminal restitution order, and upon the United States showing that the defendant has or is likely to take action to dissipate or hide the property or assets of the defendant.

''(iii) Upon the conviction, or entry of a guilty plea, to an indictment or information charging an offense that may result in a criminal restitution order, and upon the United States showing that the defendant may take action to dissipate or hide the property or assets of the defendant or that an order is necessary to marshal and determine the property or assets of the defendant.

''(B) PERIOD OF EFFECTIVENESS.—An order entered under subparagraph (A) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A)(ii) has been filed.

''(2) NOTICE OF ORDER.—

''(A) IN GENERAL.—Except as provided in paragraph (3), an order entered under this subsection shall be after notice to persons appearing to have an interest in the property and opportunity for a hearing, and upon the United States carrying the burden of proof by a preponderance of the evidence.

''(B) ADMISSIBLE EVIDENCE.—The court may receive and consider, at a hearing held under this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

''(3) TEMPORARY RESTRAINING ORDER.—

''(A) IN GENERAL.—A temporary restraining order may be entered without notice or opportunity for a hearing if the United States demonstrates that—

''(i) there is probable cause to believe that the property or assets with respect to which the order is sought would be subject to execution upon the entry of a criminal restitution order;

''(ii) there is a substantial probability that the United States will obtain a criminal restitution order; and

''(iii) the provision of notice would jeopardize the availability of the property or assets for execution.

''(B) EXPIRATION OF ORDER.—A temporary order under this paragraph shall expire not later than 10 days after the date on which it is entered, unless—

''(i) the court grants an extension for good cause shown; or

''(ii) the party against whom the order is entered consents to an extension for a longer period.

''(C) HEARING.—A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time, and prior to the expiration of the temporary order.

''(4) DISCLOSURE OF CERTAIN INFORMATION.—

''(A) IN GENERAL.—Information concerning the net worth, financial affairs, transactions or interests of the defendant presented to the grand jury may be disclosed to an attorney for the Government assisting in the enforcement of criminal restitution orders, for use in the performance of the duties of that attorney.

''(B) USE OF CONSUMER CREDIT REPORTS.—

''(i) IN GENERAL.—An attorney for the Government responsible for the prosecution of criminal offenses, or responsible for the enforcement of criminal restitution orders, may obtain and use consumer credit reports to—

''(I) obtain an order under this section;

''(II) determine the amount of restitution that is appropriate; or

''(III) enforce a criminal restitution order.

''(ii) GRAND JURY SUBPOENA.—This subparagraph does not limit the availability of grand jury subpoenas to obtain a consumer credit report.

''(iii) PROBATION SERVICE.—Upon conviction, a consumer credit report used under this subparagraph may be furnished to the United States Probation Service.

''(e) INFORMATION TO PROBATION SERVICE.—

''(1) IN GENERAL.—

''(A) PROVISION OF INFORMATION BY GOVERNMENT.—Not later than 60 days after conviction, and in any event not later than 10 days prior to sentencing, the attorney for the Government after consulting with all victims (when practicable), shall promptly provide the probation service of the court all information readily available to the attorney, including matters occurring before the grand jury relating to the identity of the victim or victims, the amount of losses, and financial matters relating to the defendant.

''(B) PROVISION OF INFORMATION BY DEFENDANTS.—Each defendant shall prepare and file with the probation officer an affidavit fully describing the financial resources of the defendant, including a complete listing of all assets owned or controlled by the defendant as of the date on which the defendant was arrested, the financial needs and earning ability of the defendant and the defendant's dependents, and any other information that the court requires relating to such other factors as the court determines to be appropriate.

''(C) NOTICE TO VICTIMS.—The attorney for the Government shall, to the maximum extent practicable and as soon as practicable after the provision of information by the Government to the probation service under subparagraph (A), provide notice to all victims. The notice shall inform the victims of—

''(i) the offenses for which the defendant was convicted;

''(ii) the amounts subject to restitution and any other information that is relevant to restitution submitted to the probation service;

''(iii) the right of the victim to submit information to the probation service concerning the amount of the losses of the victim;

''(iv) the scheduled date, time, and place of the sentencing hearing;

''(v) the availability of a lien in favor of the victim under subsection (n)(1)(D); and

''(vi) the opportunity of the victim to file a separate affidavit with the court under subparagraph (E).

''(D) LIMITATIONS ON INFORMATION.—Upon ex parte application to the court, and a showing that the requirements of subparagraph (A) may cause harm to any victim, or jeopardize an ongoing investigation, the court may limit the information to be provided to or sought by the probation service of the court.

''(E) AFFIDAVIT OF OBJECTION.—If any victim objects to any of the information provided to the probation service by the attorney for the Government under this paragraph, the victim may file a separate affidavit with the court.

''(2) ADDITIONAL DOCUMENTATION OR TESTIMONY.—After reviewing the report of the probation service of the court, the court may require additional documentation or hear testimony. The privacy of any records filed, or testimony heard, under this section shall be maintained to the greatest extent possible and those records may be filed or testimony heard in camera.

''(3) ADDITIONAL TIME FOR DETERMINATION OF LOSSES.—If the losses to the victim are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or a designee of the United States Attorney) shall so inform the court, and the court shall set a date for the final determination of the losses of the victim, not to exceed 90 days after sentencing. If the losses to the victim cannot

reasonably be ascertained, the court shall determine an appropriate amount of restitution based on the available information. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses during which to petition the court for an amended restitution order. The order may be granted only upon a showing of good cause for the failure to include those losses in the initial claim for restitutionary relief.

''(4) REFERRAL TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

''(5) INSURANCE OF VICTIM NOT CONSIDERED.—In no case shall the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source be considered in determining the amount of restitution.

''(f) EVIDENTIARY STANDARD.—Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and the dependents of the defendant shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

''(g) FACTORS FOR CONSIDERATION.—

''(1) IN GENERAL.—

''(A) ECONOMIC CIRCUMSTANCES OF VICTIM NOT CONSIDERED.—In each order of restitution, the court shall order restitution to each victim in the full amount of the losses of each victim as determined by the court and without consideration of the economic circumstances of the defendant.

''(B) AWARD OF REASONABLY ASCERTAINABLE LOSSES.—The court shall order restitution in the amount of the total loss that is reasonably ascertainable, if—

''(i) the number of victims is too great;

''(ii) the actual identity of the victims cannot be ascertained; and

''(iii) or the full amount of the losses of each victim cannot be reasonably ascertained;

''(2) AMOUNT AND TIMING OF RESTITUTION.—The restitution order shall be for a sum certain and payable immediately.

''(3) NOMINAL PERIODIC PAYMENTS.—If the court finds from facts on the record that the economic circumstances of the defendant do not allow and are not likely to allow the defendant to make more than nominal payments under the restitution order, the court shall direct the defendant to make nominal periodic payments in the amount the defendant can reasonably be expected to pay by making a diligent and bona fide effort toward the restitution order entered under paragraph (1). Nothing in the paragraph shall impair the obligation of the defendant to make full restitution under this subsection.

''(4) STATUS OF DEBT.—Notwithstanding any payment schedule entered by the court under paragraph (2), each order of restitution shall be a civil debt, payable immediately, and subject to the enforcement procedures provided in subsection (n). In no event shall a defendant incur any criminal penalty for failure to make a restitution payment under the restitution order because of the indigency of the defendant.

''(h) VICTIM RIGHTS.—

''(1) NO PARTICIPATION REQUIRED.—No victim shall be required to participate in any phase of a restitution order. If a victim declines to receive restitution made mandatory by this title, the court shall order that the share of the victim of any restitution owed be deposited in the Crime Victims Fund in the Treasury.

''(2) ASSIGNMENT OF INTEREST.—A victim may at any time assign the interest of the victim in restitution payments to the Crime Victims Fund in the Treasury without in any way impairing the obligation of the defendant to make those payments.

''(3) VICTIMS NOT IDENTIFIED OR LOCATED.—If the victim cannot be located or identified, the court shall direct that the restitution payments be made to the Crime Victims Fund of the Treasury. This paragraph shall not be construed to impair the obligation of the defendant to make those payments.

''(i) JOINT AND SEVERAL LIABILITY OF MULTIPLE DEFENDANTS.—If the court finds that more than 1 defendant has contributed to the loss of a victim, the court may make each defendant jointly and severally liable for payment of the full amount of restitution or may apportion liability among the defendants to reflect the level of contribution to the loss of the victim and economic circumstances of each defendant.

''(j) PRIORITY OF PAYMENTS.—If the court finds that more than 1 victim has sustained a loss requiring restitution by a defendant, the court may issue an order of priority for restitution payments based on the type and amount of the loss of the victim accounting for the economic circumstances of each victim. In any case in which the United States is a victim, the court shall ensure that all individual victims receive full restitution before the United States receives any restitution.

''(k) INSURANCE.—

''(1) IN GENERAL.—If a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution shall be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to any such provider of compensation.

''(2) REDUCTION OF AMOUNT.—Any amount paid to a victim under an order of restitution shall be reduced by any amount later recovered as compensatory damages for the same loss by the victim in—

''(A) any Federal civil proceeding; and

''(B) any State civil proceeding, to the extent provided by the law of the State.

''(3) OTHER RESOURCES.—If a person obligated to provide restitution receives substantial resources from any source, including inheritance, settlement, or other judgment, that person shall be required to apply the value of those resources to any restitution still owed.

''(l) MATERIAL CHANGES IN ECONOMIC STATUS OF DEFENDANT.—The defendant shall notify the court and the Attorney General of any material change in the economic circumstances of the defendant that might affect the ability of the defendant to pay restitution. Upon receipt of the notification, the court may, on its own motion, or the motion of any party, including the victim, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.

''(m) JURISDICTION OF COURT.—

''(1) IN GENERAL.—The court shall retain jurisdiction over any criminal restitution judgment or amended criminal restitution judgment for a period of 5 years from the date the sentence was imposed. This limitation shall be tolled during any period of time that the defendant—

''(A) was incarcerated;

''(B) was a fugitive; or

''(C) was granted a stay that prevented the enforcement of the restitution order.

''(2) FAILURE TO PAY.—While within the jurisdiction of the court, if the defendant knowingly fails to make a bona fide effort to pay whatever amount of restitution is ordered by the court, or knowingly and willfully refuses to pay restitution, the court may—

''(A) modify the terms or conditions of the probation or supervised release of the defendant;

''(B) extend the probation or supervised release of the defendant until a date not later than 10 years from the date the sentence was imposed;

''(C) revoke the probation or supervised release of the defendant;

''(D) hold the defendant in contempt; or

''(E) increase the sentence of the defendant to any sentence that might originally have been imposed under the applicable statute, without regard to the sentencing guidelines.

''(n) ENFORCEMENT OF ORDER OF RESTITUTION.—

''(1) IN GENERAL.—An order of restitution may be enforced—

''(A) through civil or administrative methods during the period that the restitution lien provided for in section 3613 of title 18, United States Code, is enforceable;

''(B) by the United States in the manner provided for in subchapter C of chapter 227 and subchapter B of chapter 229;

''(C) by the United States regardless of whether for the benefit of the United States, in accordance with the procedures of chapter 176 of part VI of title 28, or in accordance with any other administrative or civil enforcement means available to the United States to enforce a debt due the United States; or

''(D) by any victim named in the restitution order as a lien under section 1962 of title 28.

''(2) ESTOPPEL.—A conviction of a defendant for an offense giving rise to restitution under this section shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, regardless of any State law precluding estoppel for a lack of mutuality. The victim, in the subsequent proceeding, shall not be precluded from establishing a loss that is greater than the loss determined by the court in the earlier criminal proceeding.''.

SEC. 3. CIVIL REMEDIES.

Section 3613 of title 18, United States Code, is amended—

(1) in the section heading, by inserting ''or restitution'' after ''fine''; and

(2) in subsection (a)—

(A) by striking ''The United States'' and inserting the following:

''(1) FINES.—The United States'';

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and indenting accordingly; and

(C) by adding at the end the following:

''(2) RESTITUTION.—

''(A) IN GENERAL.—

''(i) LIEN.—An order of restitution shall operate as a lien in favor of the United States for its benefit or for the benefit of any non-Federal victims against all property belonging to the defendant or defendants.

''(ii) TIMING.—The lien shall arise at the time of the entry of judgment or order and shall continue until the liability is satisfied, remitted, or set aside, or until it becomes otherwise unenforceable.

''(iii) PERSONS AGAINST WHOM LIEN APPLIES.—The lien shall apply against all property and property interests—

''(I) owned by the defendant or defendants at the time of arrest; and

''(II) subsequently acquired by the defendant or defendants.

''(B) ENTRY OF LIEN.—The lien shall be entered in the name of the United States on behalf of all ascertained victims, unascertained victims, victims entitled to restitution who choose not to participate in the restitution program and victims entitled to restitution who cannot assert their interests in the lien for any reason.

''(3) JOINTLY HELD PROPERTY.—

''(A) IN GENERAL.—

''(i) DIVISION AND SALE OF PROPERTY.—If the court enforcing an order of restitution under this section determines that the defendant has an interest in property with another, and that the defendant cannot satisfy the restitution order from his or her separate property or income, the court may, after considering all of the equities, order that jointly owned property be divided and sold, upon such conditions as the court deems just, notwithstanding any Federal or State law to the contrary.

''(ii) PROTECTION OF INNOCENT PARTIES.—The court shall take care to protect the reasonable and legitimate interests of the innocent spouse and minor children of the defendant, especially real property used as the actual home of that innocent spouse and minor children, except to the extent that the court determines that the interest of that innocent spouse and children is the product of the criminal activity of which the defendant has been convicted, or is the result of a fraudulent transfer.

''(B) FRAUDULENT TRANSFERS.—In determining whether there was a fraudulent transfer, the court shall consider whether the debtor made the transfer—

''(i) with actual intent to hinder, delay, or defraud the United States or other victim; or

''(ii) without receiving a reasonably equivalent value in exchange for the transfer.

''(C) CONSIDERATIONS FOR PROTECTION OF INNOCENT PARTIES.—In determining what portion of the jointly owned property shall be set aside for the innocent spouse or children of the defendant, or whether to have sold or divided the jointly held property, the court shall consider—

''(i) the contributions of the other joint owner to the value of the property;

''(ii) the reasonable expectation of the other joint owner to be able to enjoy the continued use of the property; and

''(iii) the economic circumstances and needs of the defendant and dependents of the defendant and the economic circumstances and needs of the victim and the dependents of the victim.''.

SEC. 4. FINES.

Section 3572(b) of title 18, United States Code, is amended to read as follows:

''(b) PAYMENTS; EFFECT OF INDIGENCY.—Any fine, special assessment, restitution, or cost shall be for a sum certain and shall be payable immediately. In no event shall a defendant incur any criminal penalty for failure to make a payment on a fine, special assessment, restitution, or cost as a result of the indigency of the defendant.''.

SEC. 5. RESENTENCING.

Section 3614(a) of title 18, United States Code, is amended by inserting before the period at the end the following: ''or may increase the sentence of the defendant to any sentence that might originally have been imposed under the applicable statute''.

NATIONAL VICTIM CENTER,
March 18, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: The National Victim Center would like to express it strong support for your bill, the Victims Restitution Enforcement Act of 1997. Restitution is one of the most direct manifestations of justice that our criminal justice system can provide: requiring the convicted offender to pay for the harm caused by his criminal conduct. No other aspect of our system has a greater impact on the lives of crime victims, or on their satisfaction with the criminal justice process.

The provisions of this bill would greatly facilitate the ordering and collection of restitution for victims' of federal offenses, and would serve as a mode for state legislatures who are searching for a means to enhance their own restitution efforts. Adoption of this bill would fully implement the spirit of the Mandatory Victims' Restitution Act of 1996 (P.L. 104–132, §201 et seq.). It would provide courts the information necessary to issue meaningful restitution orders, would create a raft of mechanisms to enhance the enforcement of those orders.

Passage of the Victims Restitution Enforcement Act of 1997 would send a strong signal to the American people that the federal government will do everything in its power to provide justice to our nation's crime victims. We urge your fellow congress members to join in supporting this important legislation.

Yours truly,

DAVID BEATTY,
Acting Executive Director.

MICHIGAN COALITION,
April 8, 1997.

Hon. SPENCER ABRAHAM,
U.S. Senator,
Washington, DC.

DEAR SENATOR ABRAHAM: The Michigan Coalition Against Domestic and Sexual Violence (MCADSV) fully supports the Victim Restitution Enforcement Act that you introduce today. Perpetrators of domestic violence and sexual assault exact a devastating emotional toll on their victims, a price that many survivors pay for a lifetime. Additionally, there are often substantial financial costs borne by the victim. Obvious expenses are those for property damage and medical care. Often overlooked are the costs of counseling, lost work time, child care, and expenses related to preparing for and attending the trial.

While there is no legislative or other remedy to erase the pain and terror experienced as a result of violent crime, we can take greater measures to ensure that victims are not forced to pay, out of their own pockets, for the actions of criminals. This legislation is necessary both to empower victims and require more perpetrators to pay for the financial consequences of their crimes.

MCADSV greatly appreciates your advocacy efforts on behalf of crime victims by sponsoring this important initiative.

Sincerely yours,

KATHLEEN HAGENIAN,
Director,
Public Policy and Program Services.

By Mr. FEINGOLD:

S. 520. A bill to terminate the F/A–18 E/F aircraft program; to the Committee on Armed Services.

TERMINATING THE F/A–18 E/F SUPER HORNET LEGISLATION

Mr. FEINGOLD. Mr. President, I rise today to introduce legislation to terminate the U.S. Navy's F/A–18 E/F Super Hornet Program.

The basis for this legislation is contained in a 1996 General Accounting Office report entitled ''Navy Aviation: F/A–18 E/F Will Provide Marginal Operational Improvement at High Cost.'' In this report, GAO studied the rationale and need for the F/A–18 E/F in order to determine whether continued development of the aircraft is the most cost-effective approach to modernizing the Navy's tactical aircraft fleet. GAO concluded that the marginal improvements of the F/A–18 E/F are far outweighed by the high cost of the program.

Mr. President, in our current fiscal climate, I have serious concerns about authorizing funding for such a costly program, which according to GAO will deliver only marginal improvements over the current C/D version of the F/A–18.

As GAO noted in its report, at a projected total program cost of $89.15 billion, the F/A–18 E/F Program is one of the most costly aviation programs in the Department of Defense. The total program cost is comprised of $5.833 billion in development costs and $83.35 billion in procurement costs for 1,000 aircraft.

Mr. President, before I begin to describe GAO's findings in detail, I would first like to discuss briefly the role of the F/A–18 aircraft in our Nation's overall naval aviation force structure. The Navy performs its carrier-based missions with a mix of fighter (air-to-air combat), strike (air-to-ground combat), and strike/fighter (multicombat role) aircraft. Currently, carrier based F–14 fighter aircraft perform air-to-air missions; A6E's perform air-to-ground missions; and F/A–18's perform both air-to-air and air-to-ground missions. The F/A–18 E/F Super Hornet is the latest version of the Navy's carrier-based F/A–18 strike/fighter plane.

Mr. President, the F/A–18 E/F is just one of three costly new fighter programs the Department of Defense has on the drawing boards right now.

In addition to the F/A–18 E/F, there is the Air Force's F–22, which is intended to replace the A–10 and the venerable F–16 Falcon. The F–22 is also intended to either supplant or augment the Air Force's top fighter, the F–15. It will have stealth capabilities and will be able to survive in dense air-defense environments.

And of course, there is the Joint Strike Fighter, which I will discuss in greater detail in a few moments. The JSF is intended to perform virtually every type of mission that fighter aircraft perform in today's force structure, and is to be employed by the Navy, the Air Force, and Marine Corps in unprecedented fashion.

There are few who seriously believe that the Pentagon can afford to maintain all three tactical fighter programs. The General Accounting Office, the Congressional Budget Office and many others have maintained that the

likelihood that all three programs can be fully funded with the planned number of aircraft buys is virtually nil. In fact, many view the JSF as the only modernization program that should be continued. Given our fiscal constraints and Federal budget deficit, can we afford to finance three separate fighter programs with the caliber and costs of the F/A–18 E/F, the F–22, and the JSF?

The answer is unequivocally no. And that is why I am introducing legislation to terminate any further development or procurement of the program that appears to be most questionable, the E/F upgrade.

The Navy has based the need for development and procurement of the F/A–18 E/F on existing or projected operational deficiencies of the F/A–18C/D in the following key areas: strike range, carrier recovery payload and survivability. In addition, the Navy notes limitations of current C/D's with respect to avionics growth space and payload capacity. In its report, GAO concludes that the operational deficiencies in the C/D that the Navy cited in justifying the E/F either have not materialized as projected or such deficiencies can be corrected with nonstructural changes to the current C/D and additional upgrades made which would further improve its capabilities.

One of the primary reasons the Navy cites in justifying the E/F is the need for increased range and the C/D's inability to perform long-range unrefueled missions against high-value targets. However, GAO concludes that the Navy's F/A–18 strike range requirements can be met by either the F/A–18 E/F or F/A–18 C/D. Furthermore, it concludes that the increased range of the E/F is achieved at the expense of its aerial combat performance, and that even with increased range, both aircraft will still require aerial refueling for low-altitude missions.

The F/A–18 E/F specification requirements call for the aircraft to have a flight range of 390 nautical miles (nm) while performing low-altitude bombing missions. The F/A–18 E/F will achieve a strike range of 465 nm while performing low-altitude missions by carrying 2 external 480 gallon fuel tanks. While current C/D's achieve a flight range of 325 nm with 2–330 gallon fuel tanks while performing low-altitude missions—65 nm below the specification requirement of the E/F—when they are equipped with the 2–480 gallon external fuel tanks that are planned to be used on the E/F, the C/D can achieve a strike range of 393 nm on low-altitude missions.

Recent Navy range predictions show that the F/A–18 E/F is expected to have a 683 nm strike range when flying a more fuel-efficient, survivable, and lethal high-altitude mission profile rather than the specified low-altitude profile. Similarly, although F/A–18 E/F range will be greater than the F/A–18 C/D, the C/D could achieve strike ranges (566 nm with 3–330 gallon fuel tanks or 600 nm with 2–480 gallon tanks and 1–330 gallon tank) far greater than the target distances stipulated in the E/F's system specifications by flying the same high-altitude missions as the E/F. Additionally, according to GAO, the E/F's increased strike range is achieved at the expense of the aircraft's aerial combat performance as evidenced by its sustained turn rate, maneuvering, and acceleration which impact its ability to maneuver in either offensive or defensive modes.

One claim the Navy has made in response to the GAO report is that the C/D cannot be outfitted with 480-gallon external fuel tanks. GAO disputes this, citing contractor studies that concluded 480-gallon tanks can be carried on the C/D's inboard stations. GAO also points out that the Canadians have flown the F/A–18 C with the larger external fuel tanks.

Mr. President, another significant reason the Navy cites in support of the continued development of the E/F is an anticipated deficiency in F/A–18C carrier recovery payload—the amount of fuel, weapons and external equipment that an aircraft can carry when returning from a mission and landing on a carrier.

However, the deficiency in carrier recovery payload which the Navy anticipated of the F/A–18C simply has not materialized. When initially procured, F/A–18C's had a total carrier recovery payload of 6,300 pounds. Because of the Navy's decision to increase the F/A–18C's maximum allowable carrier landing weight and a lower aircraft operating weight resulting from technological improvements, the F/A–18C now has a carrier recovery payload of 7,113 pounds.

F/A–18C's operating in support of Bosnian operations are now routinely returning to carriers with operational loads of 7,166 pounds, which exceeds the Navy's stated carrier recovery payload capacity. This recovery payload is substantially greater than the Navy projected it would be and is even greater than when the F/A–18C was first introduced in 1988. In addition, GAO notes that while it is not necessary, upgrading F/A–18C's with stronger landing gear could allow them to recover carrier payloads of more than 10,000 pounds—greater than that sought for the F/A–18 E/F (9,000 pounds).

While the Navy also cites a need to improve combat survivability in justifying the development of the F/A–18 E/F, the aircraft was not developed to counter a particular military threat that could not be met with existing or improved F/A–18 C/D's. Additional improvements have subsequently been made or are planned for the F/A–18 C/D to enhance its survivability including improvements to reduce its radar detectability, while survivability improvements of the F/A–18 E/F are questionable. For example, because the F/A–18 E/F will be carrying weapons and fuel externally, the radar signature reduction improvements derived from the structural design of the aircraft will be diminished and will only help the aircraft penetrate slightly deeper than the F/A–18 C/D into an integrated defensive system before being detected.

Mr. President, as we discuss survivability, it is relevant to highlight the outstanding performance of the F/A–18 C/D in the gulf war just a few short years ago. By the Navy's own account, the C/D performed extraordinarily well, dropping 18 million pounds of ordinance, recording all Navy MiG kills, and, in the Navy's own words, experiencing ''unprecedented survivability.''

In addition to noting the operational capability improvements in justifying the development of the F/A–18 E/F, the Navy also notes limitations of current C/D's with respect to avionics growth space and payload capacity. The Navy predicted that by the mid-1990's the F/A–18 C/D would not have growth space to accommodate additional new weapons and systems under development. Specifically, the Navy predicted that by fiscal year 1996 C/D's would only have 0.2 cubic feet of space available for future avionics growth; however, 5.3 cubic feet of available space have been identified for future system growth. Furthermore, technological advancements such as miniaturization, modularity and consolidation may result in additional growth space for future avionics.

The Navy also stated that the F/A–18 E/F will provide increased payload capacity as a result of two new outboard weapons stations; however, unless current problems concerning weapons release are resolved—air flow problems around the fuselage and weapons stations—the types and amounts of weapons the E/F can carry will be restricted and the possible payload increase may be negated. Also, while the E/F will provide a marginal increase in air-to-air capability by carrying two extra missiles, it will not increase its ability to carry the heavier, precision-guided, air-to-ground weapons that are capable of hitting fixed and mobile hard targets and the heavier stand-off weapons that will be used to increase aircraft survivability.

Understanding that the F/A–18 E/F may not deliver as significant operational capability improvements as originally expected, I would now like to focus on the cost of the F/A–18 E/F Program and possible alternatives to it. As previously mentioned, the total program cost of the F/A–18 E/F is projected to be $89.15 billion. These program costs are based on the procurement assumption of 1,000 aircraft—660 by the Navy and 340 by the Marine Corps—at an annual production rate of 72 aircraft per year. Mr. President, as the GAO report points out, these figures are overstated. According to Marine Corps officials and the Marine Corps Aviation Master Plan, the Marine Corps does not intend to buy any F/A–18 E/F's and, therefore, the projected 1,000 aircraft buy is overstated by 340 aircraft.

Although the Pentagon contends that the Navy had intended to purchase 1,000 aircraft all along, extensive documentation and testimony demonstrates this not to be the case and the 1,000 figure was the original complete buy.

I would also note the importance of the Marine Corps opting out of the E/F Program. Although the E/F was originally developed to service two branches with differing needs and requirements, the Marine Corps has chosen instead to invest in the Joint Strike Fighter program and use those aircraft to replace their AV–8B Harriers and F/A–18 C/D's.

Furthermore, the Congress has stated that an annual production rate of 72 E/F aircraft is probably not feasible due to funding limitations and directed the Navy to calculate costs based on more realistic production rates as 18, 36, and 54 aircraft per year. In fact, according to the Congressional Research Service: ''* * * no naval aircraft have been bought in such quantities in recent years, and it is unlikely that such annual buys will be funded in the 1990's, given expected force reductions and lower inventory requirements and the absence of consensus about future military threats.''

Using the Navy's overstated assumptions about the total number of planes procured and an estimated annual production rate of 72 aircraft per year, the Navy calculates the unit recurring flyaway cost of the F/A–18 E/F—costs related to the production of the basic aircraft—at $44 million. However, using GAO's more realistic assumptions of the procurement of 660 aircraft by the Navy, at a production rate of 36 aircraft per year, the unit recurring flyaway cost of the E/F balloons to $53 million. This is compared to the $28 million unit recurring flyaway cost of the F/A–18 C/D based on a production rate of 36 aircraft per year. Thus, GAO estimates that this cost difference in unit recurring flyaway would result in a savings of almost $17 billion if the Navy were to procure the F/A–18 C/D's rather than the E/F's.

Mr. President, this is certainly a significant amount of savings. Now I know that some of my colleagues will say that by halting production of the F/A–18 E/F and instead relying on the F/A–18 C/D, we will be mortgaging the future of our Naval aviation fleet. However, Mr. President, there is a far less costly program already being developed which may yield more significant returns in operational capability. This program is the Joint Strike Fighter or JSF Program.

The JSF Program office is currently developing technology for a family of affordable next generation multirole strike fighter aircraft for the Air Force, Marine Corps, and Navy. The JSF is expected to be a stealthy strike aircraft built on a single production line with a high degree of parts and cost commonality. The driving focus of the JSF is affordability achieved by triservice commonality. The Navy plans to procure 300 JSF's with a projected initial operational capability around 2007.

Contractor concept exploration and demonstration studies indicate that the JSF will have superior or comparable capabilities in all Navy tactical aircraft mission areas, especially range and survivability, at far less cost than the F/A–18 E/F. The JSF is expected to be a stand alone, stealthy, first-day-of-the-war, survivable aircraft. Overall, the JSF is expected to be more survivable and capable than any existing or planned tactical aircraft in strike and air-to-air missions, with the possible exception of the F–22 in air-to-air missions. The Navy's JSF variant is also expected to have longer ranges than the F/A–18 E/F to attack high-value targets without using external tanks or tanking. Unlike the F/A–18 E/F which would carry all of its weapons externally, the Navy's JSF will carry at least four weapons for both air-to-air and air-to-ground combat internally, thereby maximizing its stealthiness and increasing its survivability. Finally, the JSF would not require jamming support from EA–6B aircraft as does the F/A–18 E/F in carrying out its mission in the face of integrated air defense systems.

While the JSF is expected to have superior operational capabilities, it is expected to be developed and procured at far less expense than the F/A–18 E/F. In fact, the unit recurring flyaway cost of the Navy's JSF is estimated to range from $31–38 million depending on which contractor design is chosen for the aircraft, as compared to GAO's $53 million estimate for the F/A–18 E/F. Additional cost benefits of the JSF would result from having common aircraft spare parts, simplified technical specifications, and reduced support equipment variations, as well as reductions in aircrew and maintenance training requirements.

Mr. President, given the enormous cost and marginal improvement in operational capabilities the F/A–18 E/F would provide, it seems that the justification for the E/F is not as evident as once thought. Operational deficiencies in the C/D aircraft either have not materialized or can be corrected with nonstructural changes to the plane. As a result, proceeding with the E/F program may not be the most cost-effective approach to modernizing the Navy's tactical aircraft fleet. In the short term, the Navy can continue to procure the F/A–18 C/D aircraft, while upgrading it to improve further its operational capabilities. For the long term, the Navy can look toward the next generation strike fighter, the JSF, which will provide more operational capability at far less cost than the E/F.

Mr. President, succinctly put, the Navy needs an aircraft that will bridge between the current force and the new, superior JSF which will be operational around 2007. The question is whether the F/A–18 C/D can serve that function, as it has demonstrated its ability to exceed predicted capacity or whether we should proceed with an expensive, new plane for a marginal level of improvement. The $17 billion difference in projected costs does not appear to provide a significant return on our investment. In times of severe fiscal constraints and a need to look at all areas of the budget to identify more cost-effective approaches, the F/A–18 E/F is a project in need of reevaluation.

Last year, I offered an amendment to the fiscal year 1997 authorization bill for the Department of Defense that required the Pentagon to conduct a cost-benefit analysis of the F/A–18 E/F Program, and to report their findings to the Congress by March 30, 1997. This study was to include a review of the E/F program, an analysis and estimate of the production costs of the program for the total number of aircraft expected to be procured at several different production rates and a comparison of the costs and benefits of this program with the costs and benefits of the C/D Program. That analysis has not been forwarded to the Congress as of this date.

In addition to this report, the Quadrennial Defense Review [QDR], responsible for evaluating all weapon system programs, is also scheduled to be completed in the near future.

Unfortunately, I was enormously disappointed when the Secretary of Defense, rather than waiting for these reports to be completed and publicly released, announced on March 28 his decision to move forward with the E/F Program and procure 62 new F/A–18 E/F fighter planes at an initial cost of $48 million each.

I would have hoped that the Secretary, who I have tremendous respect and admiration for, would have waited until the mandated reports had been provided to Congress and until the results of the QDR—which could have a significant impact on the Pentagon's tactical aircraft modernization plans—had been made public. Instead, this perplexing decision to proceed with the procurement of 62 of these expensive planes precludes the Congress from offering any input on the Department's policy based on a review of the required reports. I am puzzled as to why the new Secretary did not await these reports before announcing this decision.

The 1996 GAO report concluded that we could achieve almost $17 billion in cost savings if the Navy elected to procure additional C/D versions of the F/A–18 rather than the costlier E/F model. Mr. President, by all accounts the F/A–18 C/D is a top quality aircraft that has served the Navy well over the last decade, and could be modified to meet every capacity the E/F is intended to fulfill over the course of the next decade at a substantially lower cost.

Therefore, considering the Department of Defense has clearly overextended itself in terms of supporting

three major multirole fighter programs, and given that the most promising tactical aviation program appears to be the triservice joint strike fighter which will likely outperform the F/A–18 E/F at a substantially lower cost, it is clear that we must discontinue the E/F Program before the American taxpayer is asked to fund yet another multibillion dollar duplicative program.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TERMINATION OF THE F/A–18E/F AIRCRAFT PROGRAM.

(a) TERMINATION OF PROGRAM.—The Secretary of Defense shall terminate the F/A–18E/F aircraft program.

(b) PAYMENT OF TERMINATION COSTS.—Funds available for procurement and for research, development, test, and evaluation that are available on or after the date of the enactment of this Act for obligation for the F/A–18E/F aircraft program may be obligated for that program only for payment of the costs associated with the termination of the program.

By Mr. COVERDELL (for himself, Mr. INHOFE, Mr. HUTCHINSON, Mr. HAGEL, and Mr. SHELBY):

S. 521. A bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes; to the Committee on Finance.

THE COVERDELL TAXPAYER PRIVACY PROTECTION ACT

Mr. COVERDELL. Mr. President, today I rise to offer legislation that will end one of the most pernicious offenses forced upon honest taxpayers. I am talking about file snooping. Others may call it browsing or scanning. Whatever the name, it is just plain wrong, and it ought to be stopped. That is why today I am introducing the Taxpayer Privacy Protection Act.

Too often, the Internal Revenue Service acts as a bully, enforcing the Tax Code through fear and intimidation. Even worse, legal loopholes have allowed certain IRS employees to violate the privacy of innocent citizens without punishment. Some of the most troubling abuses committed by employees of the IRS against innocent Americans include the practices of file snooping.

Recently in the Wall Street Journal, we learned of the case of Mr. Richard W. Czubinski of Boston, MA. He is a member of the Ku Klux Klan who used his IRS job to search the tax returns of political opponents and people he suspected of being Government informers. He was prosecuted and convicted by a jury, but his conviction was overturned in the Federal Court of Appeals. In making its decision, the appellate panel found Mr. Czubinski's browsing to be reprehensible, but also found no crime had been committed because prosecutors could not prove he had used the information or disclosed it.

In addition, a few years back, I was shocked to learn that in my home city of Atlanta, nearly 370 employees of the local IRS office were caught accessing the tax returns and return information of friends, neighbors, and celebrities without proper authorization.

Mr. President, the Taxpayer Privacy Protection Act would make it a crime to engage in file snooping, punishable by a fine of up to $1,000 and/or 1 year imprisonment. Further, a convicted offender would have to reimburse all costs of prosecution and face dismissal.

My legislation also requires notification of taxpayers who suffer this abuse. Unfortunately, what should seem to be a simple matter of decency must be required of the IRS. In response to suggestions taxpayers be notified when their privacy has been invaded by file snoopers, IRS Commissioner Margaret Richardson stated, ''I'm not sure there would be serious value to that in terms of protecting the taxpayers' rights.'' With all respect, such sentiment is typical of a Washington status quo mentality that is out-of-touch with the rest of America.

Finally, my proposal would provide taxpayers who have been victims of file snooping with the option of seeking civil action. Quite simply, it is the decent thing to do.

Taxpayer privacy is one of the most sacred trusts we place in the IRS. Unfortunately, this agency has not lived up to this trust. With passage of the Taxpayer Privacy Protection Act, honest, hardworking taxpayers can be assured their full privacy will be protected every April 15. They deserve no less.

By Mr. GLENN:

S. 523. A bill to amend the Internal Revenue Code of 1986 to prevent the unauthorized inspection of tax returns or tax return information; to the Committee on Finance.

IRS SYSTEMS SECURITY LEGISLATION

Mr. GLENN. Mr. President, the date of April 15 is indelibly etched in the minds of most Americans. For it is on or by that day that honest, hard-working citizens voluntarily share their most personal and sensitive financial information with their Government.

All Americans should have unbridled faith that their tax returns will remain absolutely confidential and zealously safeguarded. That is the foundation of our taxpaying system. If this trust is breached, then the bonds that tie citizens with their Government may break, with disastrous consequences for us all.

In 1993 and 1994, as chairman of the Governmental Affairs Committee, I held hearings which first exposed that vulnerability. We found out that hundreds of IRS employees had been investigated for what I term ''computer voyeurism'', where they call up returns of friends, enemies, celebrities, relatives, or neighbors just to snoop and satisfy their own prurient interests. Even worse, in some cases, IRS employees either altered their own returns to get refunds, or conspired with other taxpayer friends to change their returns and get a kickback from those refunds.

My investigation revealed serious flaws in the IRS' ability to monitor, prevent, and detect browsing.

In response, the IRS Commissioner pledged a zero tolerance policy to protect taxpayer privacy and vigorously discipline those who abuse this trust. The Commissioner also implemented a new system called EARL—Electronic Audit Research Log—to help identify inappropriate and unauthorized access to taxpayer information stored in the IRS' main computer system.

That primary system, IDRS—Integrated Data Retrieval System—handles more than 100 million transactions per month and is used by over 55,000 IRS employees. At least one-third of those employees are authorized to input adjustments to tax account records.

I had asked the General Accounting Office [GAO] to review the progress made by the IRS in reducing computer security risks and in curbing browsing. Earlier this year, GAO produced that report. However, because some of the specific details could jeopardize IRS security, that report was designated for ''Limited Official Use'' with restricted access.

Due to my involvement in this important issue, and because I believe the public has a right to know, I requested that GAO issue a redacted version of the report suitable for public release. I would like to thank GAO for their hard work in this matter and also the IRS for their cooperation in making this possible.

The findings of GAO's report are disturbing. Even more important, their findings are reaffirmed by the IRS in a comprehensive internal report of their own compiled last fall.

Before I get to the specifics, I just want to say a couple of things.

Point One. The vast majority of IRS employees are dedicated and committed to their jobs, and labor in extremely difficult conditions with very outmoded systems. Unfortunately, in this day and age, they must also fear for their own personal safety.

Some 99.9 percent of them would never engage in such snooping or fraud. It is not as if every American has reason to believe that his or her privacy and tax return information has been compromised. But even just a single incidence of this behavior is one too many and cannot be tolerated.

Just last year, in Tennessee, a jury acquitted a former IRS employee who had been charged with 70 counts of improperly peeking at the tax returns of celebrities such as Elizabeth Taylor, Dolly Parton, Wynonna Judd, Michael

Jordan, Lucille Ball, Tom Cruise, President Clinton, and Elvis Presley.

More recently, just a few weeks ago, a Federal appeals court in Boston reversed the conviction of a former employee who had been found guilty of several counts of wire and computer fraud by improperly accessing the IRS taxpayer database. It was reported that he had browsed through several files, including those of a local politician who had beaten him in an election, and a woman he once had dated. The Government had alleged this worker was a member of a white-supremacist group and was collecting data on people he thought could be Government informers.

In both of these cases, because of a loophole in the law, no criminal penalties could be meted out. The reason? No disclosures had been made to third parties.

I doubt these kinds of decisions give great comfort to honest, law-abiding citizens. That is why today I am reintroducing my legislation—the Taxpayer Privacy Protection Act—to close this gap and ensure that any unauthorized access or inspection of return information, in whatever form, is punishable as a criminal offense and that employees so convicted are fired immediately.

I know that the chairman of the House Ways and Means Committee is interested in passing such a bill as are several of my Senate colleagues including Senator COVERDELL. I commend everyone for their interest and looking forward to making this bill—finally—a reality.

Let's pass this by April 15 and send a signal across the land that those who violate the privacy of tax paying Americans will be fined, will be fired, and will be jailed. The public rightfully expects no less.

Point Two. The IRS has recognized this serious issue and has undertaken some responsive actions. Warnings of possible prosecution for unauthorized use of the system appear whenever employees log onto the taxpayer account database. They have installed automated detection programs in some of their systems to monitor employee use and alert managers to possible misuse. And, the IRS has just created a new Office of Systems Standards and Evaluations to centralize and enforce IRS standards and policies for all major security programs. I have confidence that this Office, if given the proper resources, will be a positive force in this effort.

The problem, however, is that these efforts, while well-intentioned, have come too late and fall far short of the commitment, management, and determination sorely needed to confront this matter head-on.

The sad fact is that with 1 week to go until tax returns are due, one thing is clear: the IRS has flunked its own audit and has let down the American people.

The agency promised zero tolerance for browsing. Today's information suggests that they have failed to live up to that pledge—1,515 new cases of browsing have been identified since our last report. Of those only 27 have resulted in employees being fired. I don't know what kind of new math they may be using, but that doesn't sound like zero tolerance to me.

GAO even found that the 1,515 figure may drastically underestimate actual incidents because—and I quote—the agency's ''ability to detect browsing is limited''.

Overall, GAO found that IRS' approach to computer security is not effective. Serious weaknesses persist in security controls intended to safeguard IRS computer systems, data, and facilities and expose tax processing operations to the risk of disruption and taxpayer data to the risk of unauthorized use, modification, and destruction. Further, although IRS has taken some action to detect and prevent browsing, the fact remains that the IRS has no effective means for measuring the extent of the browsing problem, the damage being done by browsing, or the progress being made to deter browsing.

This finding is candidly confirmed in IRS' own internal report:

> progress in developing efficient prevention and detection programs has been painfully slow. The program has suffered from a lack of overall consistent, strong leadership and oversight.

Quite distressing to me is the finding, as stated in the IRS' own report, that employees, when confronted, indicate that they browsed because they do not believe it is wrong and that there will be little or no consequence to them if they are caught.

Before summarizing the major findings, I also want to point out another facet of this report. That is, the effectiveness of controls used to safeguard IRS systems, facilities, and taxpayer data. GAO found serious weaknesses in these efforts, especially in the areas of physical and logical security.

For example, the facilities visited by GAO could not account for about 6,400 units of magnetic storage media, such as tapes and cartridges, which might contain taxpayer data. Further, they found that printouts containing taxpayer data were left unprotected and unattended in open areas of two facilities where they could be compromised.

I really don't want to say much more on this portion of the report than I have already. Except that these matters, and the others referred to by GAO, must be dealt with swiftly and effectively.

I have summarized GAO's findings in a handout. Where appropriate, I have also included references from IRS' own recent internal report on their browsing deterrence and detection program. As I mentioned earlier, that report—[Electronic Audit Research Log (EARL) Executive Steering Committee Report, Sept. 30, 1996]—and I commend the IRS for its candid and frank evaluations in it—affirms most of GAO's findings, conclusions, and recommendations.

I will briefly highlight the major findings in these attachments:

THE IRS SYSTEM DESIGNED TO DETECT BROWSING [EARL] IS LIMITED

GAO found that the system used to monitor and detect browsing is ineffective because it can't distinguish between legitimate work activity and illegal browsing.

Moreover, EARL only monitors the main taxpayer database. There are several other systems used by employees to create, access, or modify data which, apparently, go unsupervised. This is something I have asked the GAO to look into further.

According to GAO:

> because IRS does not monitor the activities of all employees authorized to access taxpayer data . . . IRS has no assurance that these employees are not browsing taxpayer data and no analytical basis on which to estimate the extent of the browsing problem or any damage being done.

In fact, according to the IRS' EARL report:

> The current system of reports does not provide accurate and meaningful data about what the abuse detection programs are producing, the quality of the outputs, the efficiency of our abuse detection research efforts, or the level of functional management follow through and discipline. This impedes our ability to respond to critics and congressional oversight inquiries about our abuse detection efforts.

IRS PROGRESS IN REDUCING AND DISCIPLINING BROWSING CASES IS UNCLEAR

The systems used by the IRS cannot report on the total number of unauthorized browsing incidents. Nor do they contain sufficient information to determine, for each case investigated, how many taxpayer accounts were inappropriately accessed or how many times each account was accessed.

Consequently, for known incidents of browsing, IRS cannot efficiently determine how many and how often taxpayers' accounts were inappropriately accessed. Without such information, IRS cannot measure whether it is making progress from year to year in reducing browsing.

Internal IRS figures show a fluctuation in the number of browsing cases closed in the last few years: 521 cases in fiscal year 1991; 787 in fiscal year 1992; 522 in fiscal year 1993; 646 in fiscal year 1994, and; 869 in fiscal year 1995.

More distressing, however, is the fact that in spite of the Commissioner's announced zero tolerance policy, the percentages of cases resulting in discipline has remained constant from year to year, averaging 29 percent.

IRS itself reported that almost one-third of the cases detected were situations where an employee accessed their own account, which, according to the report, is ''generally attributable to trainee error''.

Their answer creates simply more questions, however. Why are employees accessing their own accounts? Is this a wise policy?

PENALTIES FOR BROWSING ARE INCONSISTENT ACROSS IRS

Despite IRS policy to ensure that browsing penalties are handled consistently across the agency, it appears

that there are disparities in how similar cases are decided among different offices.

For instance, the number of browsing cases resulting in employees being terminated in the last year surveyed ranged from 0 percent at one facility to a high of only 7 percent at another.

The percentage of browsing cases resulting in employee counseling ranged from 0 percent at one facility to 77 percent at another.

Even more incredible to me—and quite distressing—is the extremely low percentage of employees caught browsing each year who are fired for their offense, according to the IRS' own figures. Would you believe that, for all of the browsing cases detected and closed each year, the highest number of employees fired in 1 year has been 12. Between fiscal year 1991 and fiscal year 1995, only 43 employees were fired after browsing investigations. That is generally 1 percent of the total number of cases brought each year. Even if you include the category of resignation and retirement, the highest percentage of employees terminated through separation or resignation/retirement in any 1 year has been 6 percent.

I could go on and on, but I think you get the idea.

Taxpayer privacy is being jeapordized and the IRS is not doing enough to address it.

A new law to make browsing a crime will be an important tool and I have worked with the IRS and the Justice Department in crafting my legislation.

I will also be looking forward to Thursday's hearing of the Senate Governmental Affairs Committee when the IRS will be testifying and this issue is likely to come up.

In closing, I do not want to be standing up here again next year talking about browsing. Although the computer age makes guarding taxpayer privacy more difficult and complex, the fact remains: the IRS can and must do better. The American people expect and demand nothing less.

By Mr. DASCHLE (for himself and Mr. DORGAN):

S. 524. A bill to amend title XVIII of the Social Security Act to remove the requirement of an x ray as a condition of coverage of chiropractic services under the Medicare Program; to the Committee on Finance.

MEDICARE LEGISLATION

Mr. DASCHLE. Mr. President, today I am introducing legislation that makes a commonsense change to Medicare's outdated policy regarding chiropractic care. Specifically, my bill would eliminate the requirement that beneficiaries get an x ray before they are authorized to be reimbursed for chiropractic services under Medicare. This legislation accomplishes two important goals. First, it removes outdated vestiges of still pronounced discrimination against chiropractic practitioners in the Medicare Program. Second, this bill makes chiropractic services more accessible and affordable for beneficiaries. I encourage my colleagues to join me in supporting this measure, which is the Senate companion to legislation introduced in the House of Representatives on March 4, 1997 by Representative PHIL CRANE.

Existing Medicare law strictly limits reimbursement for chiropractic services to manual manipulation of the spine and only to correct a subluxation. However, before beneficiaries can be reimbursed for chiropractic care, Medicare requires that the patient get an x ray to confirm the need for these services. Beneficiaries must either pay for the x ray out of their own pockets, a cost that many cannot afford, or pass through the ''gateway'' controlled by other medical providers, whose x rays, typically far more expensive, are reimbursable under the program.

While x rays are often a useful diagnostic tool to verify a medical condition, most medical professionals and health analysts agree that there is no clinical justification for a blanket requirement that Medicare beneficiaries verify the need for chiropactic care through an x ray. Medicare's statutory x ray requirement results in unnecessary patient exposure to x rays and simply cannot be justified as an across-the-board requirement.

Representatives of the Health Care Financing Administration [HCFA] who have closely studied this issue reached the same conclusion that I did and recommended to the President that this provision be included in his Medicare reform plan. I am pleased that the President did include in his fiscal year 1998 balanced budget proposal a provision calling for the elimination of the x ray requirement for chiropractic care. I am cautiously optimistic that bipartisan support from within the Congress and the administration will help facilitate passage of this modest, but important, measure.

I grew up in a community where chiropractors perform a valuable service by providing an alternative to allopathic medicine. The nearly 200 chiropractors in South Dakota serve the State well. In rural States like mine, chiropractors are often an essential source of health care delivery. Sometimes they are the only health providers in the community. In rural States across the country, the chiropractic profession plays an integral role in the health care system.

But the issue is even larger than one of correcting inequities in the law and recognizing the contributions of chiropractors alone. We are constantly searching for ways to give more Americans greater access to quality health care, and to facilitate that availability of care in the most cost-effective manner. One proven way to make progress toward those goals is to exploit the talent and dedication represented in the diversity of practitioners increasingly involved in the delivery of health care services in the United States. Competition among different kinds of providers and access to less expensive forms of care have to be emphasized if we are to control escalating health care costs. Yet this competition is virtually impossible when programs like Medicare put up barriers to beneficiaries receiving care from a group of licensed professionals like chiropractors.

As health care cost increases continue to threaten both the quality and economic stability of our national health care delivery system, the cost savings potential of chiropractic care should be fully explored. The bill I am introducing today will help provide access to quality care at a reasonable cost. I urge my colleagues in the Senate to support this measure to ensure Medicare patients have appropriate access to the benefits of chiropractic care.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF REQUIREMENT FOR X-RAY AS A CONDITION OF COVERAGE OF CHIROPRACTIC SERVICES UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Section 1861(r)(5) of the Social Security Act (42 U.S.C. 1395x(r)(5)) is amended by striking ''demonstrated by X-ray to exist''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1998.

By Mr. HATCH (for himself, Mr. KENNEDY, Ms. SNOWE, Mr. KERRY, Mr. JEFFORDS, Mr. DODD, Mr. STEVENS, Mr. ROCKEFELLER, Mr. BENNETT, Mr. DASCHLE, Ms. COLLINS, Mr. WELLSTONE, Mr. SMITH of Oregon, Mr. BINGAMAN, Mr. CAMPBELL, Mrs. MURRAY, Mr. REED, Mrs. BOXER, Mr. LAUTENBERG, Mr. DURBIN, and Mr. REID):

S. 525. A bill to amend the Public Health Service Act to provide access to health care insurance coverage for children; to the Committee on Labor and Human Resources.

CHILD HEALTH INSURANCE AND LOWER DEFICIT ACT

Mr. HATCH. Mr. President, today, Senator KENNEDY, I, and a number of others, are introducing the Hatch-Kennedy child health insurance and lower deficit bill, or the CHILD Act, S. 525. We will also introduce a companion measure, S. 526, which contains a tobacco excise tax increase to pay for the program established in the CHILD bill.

The CHILD bill has been negotiated over a long period of time in intensive and sometimes heated negotiations. As anybody can understand, it is difficult to get the two sides together on matters like this. So we have worked very, very hard to try and bring both sides together.

It is no secret that Senator KENNEDY and I have worked together in the past. And, we have fought each other in the past. But today is a time of unity, for I believe we have written a bill that really makes sense, a bill that will work and that will help one of the most vulnerable segments of our society, children without health insurance.

Of the 40 million people who are uninsured in this country, 10 million of them are children. Of those 10 million, about 3 million do qualify for Medicaid, but are not enrolled.

While it has its problems, Medicaid is an excellent program overall, a program that does assist the poorest of the poor children and families. But those above the Medicaid eligibility poverty levels, comprise about 7 million children, most of whom are often called the near poor, or the working poor.

Mr. President, as a recent study has made abundantly clear, about one out of three children in this country lacks health insurance. It is a pathetic situation.

As my colleagues are aware, Senator KENNEDY and Senator KERRY introduced a bill last year which addressed the child health insurance problem from a considerably different perspective than the bill we are finally going to introduce today.

I think it is important to point out the differences for the edification of my colleagues.

The bill we will file today is a bill that is a straight block grant to the States. The States have flexibility to determine their own eligibility standards with minimal Federal requirements.

The proposal is not an entitlement program. It is a fully funded program. It is a 5-year authorization.

The mechanism for funding the CHILD program authorization is an increase in the tobacco excise tax, amounting to 43 cents per package for cigarettes and proportionate increases on other tobacco products. Some have analogized this to a user fee on those who use tobacco products.

We think this excise tax is justified. In 1955, a package of cigarettes cost about 23 cents. Of that amount, 8 cents consisted of a Federal excise tax on the cigarettes.

Today, a package of cigarettes costs almost $2, at least $1.82 in most States, but we have only a 24-cent Federal excise tax on the utilization of those cigarettes.

We think this provision is also justified from a public health perspective.

Smoking is the largest preventable cause of premature death in the United States.

Thirty percent of all cancer patients develop their diseases from smoking. Almost all lung cancer comes from smoking. And much of the cardiovascular disease that we have in our society comes from smoking—including passive smoking as well.

It should be no secret to my colleagues that it was a difficult decision for me to submit a bill which will increase taxes, but after considerable study I concluded in this case it is a just and a right thing to do.

And if we increase the cigarette tax by 43 cents, we will still be below the percentage the excise tax was back in 1955 when a package of cigarettes cost 23 cents and the excise tax was 8 cents of that.

It is important to note that two-thirds of the revenue raised from this bill over the next 5 years will be used for the new child health insurance. The States will be able to negotiate with private health insurance companies to provide coverage, and they will be able to utilize the community health centers which are giving low-cost but high-quality health care in America today.

I am one of the strongest advocate for community health centers, and, I must say, they have done a superlative job of delivering health care in general in our society.

In Utah, we have what is known as the Caring Foundation. For every dollar we raise in charity, Blue Cross/Blue Shield matches that dollar with $1, making $2 for child health insurance. I believe that can be duplicated across this country in the best interest of children and families.

When someone inquires about why I am sponsoring the CHILD Act, my thoughts turn to scores of constituents who have brought their concerns about the cost and availability of health insurance to my attention.

It is heart rending to me when I have uninsured families come into my office—many of whom are young and who have children. These families are frantic; they don't know where to turn when a child gets sick.

Two young women from Provo in my home State came in to visit me recently. Both had six children. They both work part time. Their husbands work full time, but neither family makes more than $20,000 a year. They are hard-working people. They are the working people of our society who are the poorest of the poor not on Medicaid, who cannot afford health insurance and, frankly, who do not know where to turn.

I think that it behooves us to solve this problem for them, and the best way to do it is with a straight block grant to the States.

The grant approach has a lot of benefits. There should be minimal new bureaucracy, because the IRS already collects excise taxes on cigarettes. There should be minimal bureaucracy because HHS will distribute the funds based on a simple formula reflecting the number of uninsured in a State.

We provide a safeguard so there is no incentive for businesses to drop the lower paid people off their health insurance. In this bill, if a company wishes to drop any employee from the company health plan, then they will have to drop all their employees, from the top executives on down.

We are trying to help those who cannot help themselves, which I think is the most conservative thing we can do in this society. We are not trying to help those who can help themselves but refuse to. People who can help themselves ought to help themselves.

What I am saying, Mr. President, is that it is time. It is time for this Congress to get down to business.

Mr. President, it is time.

It is time for us to get down to business.

It is time for the Congress to focus on how to make a great country greater on how to set aside partisan differences and help the people we were elected to help.

It is time to focus on what truly needs to be done in this country not on deadlock or gridlock or shutdown.

It is time to wake up and realize that—in this great land of incredible riches and abundance—in the greatest country of the world—there are still children being left behind.

Who cannot be disturbed, even frightened, by the statistics?

Drug use among our young people is dramatically on the rise. In its ninth annual survey of students in grades 6–12, the National Parents' Resource Institute for Drug Education [PRIDE] reported that annual use of most drugs was at the highest level since the survey began 10 years ago. Record use was reported for cigarettes, marijuana, cocaine, uppers, downers, inhalants, and hallucinogens.

Serious questions have been raised about our children's ability to learn. Our children rank pitifully behind other countries in educational scores. One survey of international test scores for math and science, found Americans to rank dead last and South Koreans ranking the best. And, who could not be disturbed by this? A 1991 National Assessment of Education Progress survey, revealed that only 5 percent of high school seniors demonstrated enough understanding of geometry and algebra to be prepared for college-level math.

Violence is rapidly becoming a way of life for today's children. Over the past decade, the rate of homicide committed by teenagers aged 14–17 has more than doubled, increasing 172 percent from 1985 to 1994. In fact, 35 percent of all violent crime is committed by offenders less than 20 years of age.

And here's another astounding fact. Two years ago, a survey of 1,000 teachers showed that 11 percent had been assaulted in school. Teachers have been robbed, vandalized, slashed by razors, physically assaulted, shot, and set on fire in the schools. What kind of learning environment is that for our children?

And, let's look at child health. How many Senators are aware that almost one out of three children have no health insurance?

Ten million children have no health insurance at all. That is more children than the entire populations of Maine,

Rhode Island, Alaska, Delaware, Georgia, Hawaii, Montana, Nebraska, South Dakota, and Vermont—10 States—combined.

Did anyone know this? Over 500,000 American infants are uninsured, infants who need such critical services as immunizations to grow up healthy.

Mr. President, these are astounding statistics. Terrifying predictors of our world as we head into the 21st century.

And I, for one, am going to put my foot down. I will do everything I can to reverse this trend.

I challenge each Senator in this body to work with me on what must be the top agenda item for the 105th Congress: Making this world a better place for our children.

I will make this a top priority in the Judiciary Committee.

We will look at such issues as the Federal Gang Violence Act, violence in the schools, and, importantly, a strong national antidrug abuse strategy.

Already the committee has approved—only to suffer the most narrow of defeats on the floor—the Balanced Budget Act, passage of which is perhaps the most important legacy we can leave for our children, each of whom is born saddled with $20,000 in debt.

And I hope other committees will be working as well.

For no effort to improve this world for our children can be complete without measures to improve their ability to grow up healthy.

That is why I have united with my good friend and sometimes adversary, Senator KENNEDY, to draft the bill we are introducing today: the Child Health Insurance and Lower Deficit Act. We call it the CHILD bill. The CHILD bill will be accompanied by additional legislation we also introduce today which provides the funding offset for the CHILD Program through an increase in the tobacco excise tax.

Introduction today of S. 525, and the companion bill to increase the tobacco excise tax, completes 3 months of intense negotiations between myself and Senator KENNEDY.

Our discussions were sometimes heated, sometimes acrimonious, but always well intentioned. They have resulted in a bill, the adoption of which I think will make this country a better place.

And so, today, Senator KENNEDY and I have found a solid center—we have compromised from the left and from the right. We are doing this to help the 10 million children in the United States who are without health insurance. We are doing it because it is the right thing to do.

The child health insurance and services bill Senator KENNEDY and I will introduce today is targeted to the near poor, primarily working families, who are not covered by existing Government programs. Two-thirds of the uninsured children come from low-income working families with annual incomes of $25,000 or less; 86 percent are from families where at least one parent is employed.

I think any honest examination of this would show that these statistics are deplorable. Children are our most precious natural resource. If we had a vote on that today, it would pass 100 to 0. And if you agree on that, the next step is simple. I can't think of a more appropriate role for the Federal Government than helping the most vulnerable in our society. It has become a cliche, but children are our future.

Already I have taken criticism for this bill and for uniting with a Democrat to sponsor the CHILD Act. It is true that Senator KENNEDY and I represent the most divergent philosophies in the U.S. Congress. It is for that very reason we are proposing S. 525 today. United, we can provide the basis for a consensus position we hope all our colleagues will endorse.

It is true that Senator KENNEDY and I do not often agree on public policy. I can't even count the number of times I have stood on this floor to oppose—even filibuster—legislation he has sponsored. But with respect to health care—when it comes to helping people—we both have a strong commitment to doing the right thing regardless of politics. And this legislation is the right thing to do.

Joining Senator KENNEDY and me today in cosponsorship of the CHILD bill, S. 525, are 19 Senators, for a total of 21. Those Senators are: SNOWE, KERRY, JEFFORDS, DODD, STEVENS, ROCKEFELLER, BENNETT, DASCHLE, COLLINS, WELLSTONE, SMITH (OR), BINGAMAN, CAMPBELL, MURRAY, REED, BOXER, LAUTENBERG, DURBIN, and REID.

Joining us in cosponsorship of the tobacco tax bill, S. 525, are Senators BENNETT, BINGAMAN, BOXER, DODD, DURBIN, JEFFORDS, KERRY, LAUTENBERG, MURRAY, REED, REID, ROCKEFELLER, SNOWE, and WELLSTONE.

What are the major features of the CHILD bill?

Our proposal sets up a voluntary State grant program—I repeat, voluntary State grant program. The funds will be used by States to subsidize the cost, or part of the cost, of private health insurance for needy children. States will also be able to use Community and Migrant Health Centers to provide services directly to children.

We hope our program will be a catalyst to improve health care for kids. It is a Federal/State/private partnership. Any State that wishes to participate must contribute to the program. States may require individuals or their employers to contribute as well.

We have designed an approach which we believe is fiscally responsible. The bill authorizes program expenditures for each of 5 years, and it is fully financed with a 43-cent increase in tobacco excise taxes. Two-thirds of the revenues will be used for program services, and one-third for deficit reduction.

In drafting S. 525, we have worked very hard to make certain that no large, new bureaucracy will be needed to implement the CHILD Program. The idea of a huge new Federal involvement in health care frightens most Americans, as was so amply evidenced by the resounding defeat of the Clinton health care bill in 1994.

I was one of the loudest objectors to that legislation as a member of both the Finance and Labor Committees at the time it was considered. I want to assure my colleagues that we are not replicating that exercise here today.

HHS will disburse the grant money according to existing Medicaid formulas and the number of uninsured children in the State. The Treasury Department already collects an excise tax.

The States will set eligibility levels, which presumably they could do very easily based on their experiences with Medicaid and other State programs to help the poor and near poor. The States will use their current Medicaid benefits packages to negotiate contracts for insurance coverage. These are not complex calculations. They should be easily achievable.

We also worked very hard to allay any concerns that we were establishing a new entitlement program.

We are not.

The bill does not establish any individual entitlement to benefits. It is a 5-year authorization which is fully funded. It is not like Medicare where we guarantee we will pay for the services of every eligible beneficiary. It is not like Medicaid where we pay an open-ended amount, which is appropriated annually.

What we are really talking about doing with this bill is finding cost-effective ways to get quality health care services to children. Our bill recognizes and strengthens the important role that community, migrant and homeless centers play in caring for the Nation's uninsured children and their families. Community and rural health centers already exist. We are not creating them or remaking them in this bill.

They are located in medically underserved communities where many uninsured children live. Over 940 health centers in every State serve one out of six low-income American children, over 4.5 million children. They are currently the family doctor for one out of seven uninsured children, totaling 1.3 million children. Last year, health center professionals delivered one of every 10 babies born in the United States, and one out of every five low income babies. They are experts in providing quality, comprehensive primary and preventive care to uninsured children—the very type of care we are trying to get to children with this bill.

Our bill permits these children to continue to choose health centers as their primary care provider and to make the choice of a health center available to other uninsured children. In each area currently served by a health center, a direct service option will be available to children who are served by a health center. Families choosing the direct service option will

get the same comprehensive Medicaid package of services as do those who opt for a children's policy. Under the direct service option, children will receive their primary and preventive care at the health center they select and will receive specialty and inpatient care through networks of providers certified by the State or through a wrap-around insurance policy.

We believe that the direct service option will be as cost effective as an insurance policy and may even be less expensive. Several studies which compared the total annual cost of health care for Medicaid patients served by health centers—including primary and specialty care and inpatient care—to the total annual cost of care for Medicaid patients served by other types of providers—including health maintenance organizations and private physicians—found that health center care was the least expensive.

The reason? Health centers prevent illness because of the primary and preventive care they provide. Based on these studies, the cost of all care—primary, specialty, and inpatient—under the direct service option is expected to be lower than the cost for a child cared for by another type of provider.

As the chief sponsor of the balanced budget amendment, I could not support the creation of any new entitlement program.

Indeed, I believe this proposal is fully consistent with the BBA. First, our bill is fully financed by the proposed tobacco products tax. Second, for every $2 of program cost the Hatch-Kennedy bill dedicates $1 to deficit reduction.

When all is said and done, this bill would help to bring the budget in balance—which I believe will be nearly as essential to children in the long-run as necessary health care is in the short-run.

Let me underscore that the net cost to the Federal Government of the CHILD Act is zero, because it is fully funded. In fact, the bill literally saves money, because it provides at least $10 billion in funds for deficit reduction over the next 5 years.

We cap Federal expenditures at $20 billion over 5 years for services, with $10 billion for deficit reduction. Over the 5-year period, the ratio of services to deficit reduction will be 2 to 1.

For services, we will provide the following amounts: 1998: $3 billion, 1999: $3 billion, 2000: $4 billion, 2001: $5 billion, 2002: $5 billion.

For deficit reduction, we provide the following amounts: 1998: $3 billion, 1999: $3 billion, 2000: $2 billion, 2001: $1 billion, and 2002: $1 billion.

Let me make perfectly clear that the size of this program is capped each year. In fact, if not enough revenue is generated, then the size of the program will be lowered accordingly.

Let me take a moment to address other potential concerns about this bill.

Many have asked why we need a new program. Indeed, we have the Medicaid Program, which helps the poorest of the poor. Even so, there are 10 million children without coverage. In fact, 3 million uninsured children are eligible for Medicaid, but are not enrolled.

There is no program for the remaining 7 million children, most of whom come from near poor families. Those families are faced with two very unattractive options: a choice between dropping out of the labor force in order to get Medicaid eligibility, or keeping their jobs with no health care coverage at all.

It might be logical to assume that Medicaid would provide the basis for a program to increase child health coverage. And we did examine that idea. But, Medicaid is an open-ended entitlement—and an expensive one at that. Both the States and the Federal Government are seriously concerned about the runaway costs of Medicaid.

In contrast, our capped program is not an entitlement. It is a targeted approach which allows States considerable flexibility in design and administration.

Others have suggested that we use a tax-based approach. I would be willing to consider a tax credit approach, if we could design one that really works. But I foresee two problems in developing such an approach.

The first is that a tax credit could really amount to an open-ended entitlement, whereas the size of our program is capped each year. The second is that poor and near-poor families, who we are trying to help with this bill, simply cannot afford to buy insurance coverage during the year, and wait until the next April to get the money back.

For the benefit of my colleagues, I want to respond to two other concerns.

First, I must emphasize that S. 525 is not the Kerry-Kennedy bill from last year, S. 2186. It is a new proposal that Senator KENNEDY and I wrote together. Senator KENNEDY and I have both moved considerable distances to write this compromise legislation.

This bill is not an open-ended, permanent entitlement; it is a capped 5-year program, run by the States and, as such, is very similar to a proposal former House Republican Leader Bob Michel authored in 1995.

Second is the assertion that this bill is part of the Clinton agenda on health care. If helping the needy is crime, then I plead guilty. But I hope I have convinced those here today that there is a big difference between Clintoncare and the Hatch-Kennedy bill.

Indeed, I am aware that some believe there is a hidden Clinton agenda to enact health care reform piece by piece, starting with kids care.

I think that is a red herring. This argument suggests to me that we should never do anything worthwhile because of the possibility that it may evolve into something bad. I agree that we do not want the huge Clinton health care mandate proposed and debated during the 103d Congress. But, this bill is not that bill—it is not even a look-alike bill.

I have tried to design a Reaganesque block grant tailored to meet a specific problem with a wide degree of flexibility for the States. Unlike the Clinton program, the CHILD Act is focused. It is fully financed; it does not establish a new Federal bureaucracy; and it does not create any new entitlements. There are no price controls and no regional alliances and no global budgets.

Another difference is that we are trying to make this a bipartisan approach right from the beginning. We have the wisdom of that national debate 2 years ago and are far wiser for it.

Let me next turn to the issue of the tobacco tax as a source of revenue for the Children's Health Insurance and Lower Deficit Act. There can be no doubt that smoking and tobacco use is a major public health problem. By any measure, it is also costly.

Smoking is our Nation's No. 1 preventable health threat. There are about 48 million Americans who smoke. About 2 million Americans use other tobacco products like chewing tobacco.

Consider these facts.

Tobacco kills an estimated 419,000 Americans each year.

An additional 2.5 million more people throughout the world die from smoking each year.

Smoking accounts for about 1 in 5 deaths in the United States.

Tobacco accounts for more deaths than homicide, car and airplane accidents, alcohol, heroin, crack, and AIDS—combined. In fact, cigarettes are also a major cause of fire fatalities in the United States. In 1990, cigarettes were responsible for about one-quarter of all deaths associated with residential fires; this represented over 1,000 deaths.

Each day nearly 3,000 young Americans become regular smokers. Eventually, 1,000 will die early from tobacco-related diseases.

Unfortunately, cigarette smoking is on the rise among the young: According to the Centers for Disease Control and Prevention [CDC], the number of high school students reporting that they smoked in the last month rose about one-third between 1991 and 1995, from 27.5 percent in 1991 to 34.8 percent in 1995.

Among black high school age males the jump in smoking was even more alarming, doubling from 14 percent in 1991 to 28 in 1995.

About 8 in 10 smokers begin to use tobacco before age 18 and about one-half of all smokers started at age 14 or earlier.

In 1964, Surgeon General Luther Terry reported that smoking causes lung cancer in men.

In 1988, the Surgeon General C. Everett Koop reported that smoking was an addictive behavior—the same as for heroin or cocaine.

Each year, the estimated 1 million youngsters who become smokers add

about $9 to $10 billion to the Nation's health care costs over their lifetimes.

According to a 1994 CDC report, tobacco cost an estimated $50 billion in direct health care costs in 1993. Of this total, CDC estimated that $26.9 billion went for hospital expenditures, $15.5 billion for physician expenditures, $4.9 billion for nursing home expenditures, $1.8 billion for prescription drugs, and $900 million for home health care expenditures.

The 1994 CDC report notes: ''The findings in this report indicate that cigarette smoking accounts for a substantial and preventable portion of all medical-care costs in the United States.''

According to CDC projections, in 1993 approximately 24 billion packages of cigarettes were sold in the United States and for each of these packages about $2.06 was spent on medical care attributable to smoking. Of this $2.06 per pack estimated societal medical care cost, CDC estimated that $0.89 was paid through public sources.

The CDC study estimated that there was a twofold increase in estimated direct medical care costs attributable to smoking between 1987 and 1993.

Extrapolating the 1987 survey data reported by CDC, it can be estimated that, in 1993, about $10 billion in Medicare costs and $5 billion in Medicaid costs were attributable to smoking.

It has been estimated that smoking cost $4.75 billion to other Federal health care programs, $1.6 billion to other State health programs, and over $16.7 billion in higher premiums paid to private health insurance companies.

In addition to the direct cost of about $50 billion annually, experts agree that a similar amount of costs are borne by society through lost productivity—that is, the foregone earnings of those dying prematurely.

Researchers at the University of California at San Francisco, Drs. Wendy Max and Dorothy Rice, estimate that the 1993 mortality costs due to smoking were $47 billion.

Overall, smoking costs society over $100 billion annually. This is simply too high a price to pay.

It is estimated by the Joint Tax Committee that a 43 cent per pack increase in the cigarette tax, coupled with proportionate tax increases for other tobacco products, would yield about $6 billion in new revenues.

Another point that I want to make today is that the tobacco tax simply has not kept up with inflation. As a matter of fact, the relative component of the price of cigarettes devoted toward taxes has slipped over the last three decades and, even with the increase we propose today, will actually be lower proportionately once this bill is enacted than it was in 1964 when Surgeon General Luther Terry reported that smoking causes cancer.

In 1964, the average total price of a pack of cigarettes was about 30.5 cents per pack. Of this total, 8 cents went to pay the Federal tax and another 8.5 cents per pack were levied in State cigarette and sales tax. In sum, in 1964, about 50.5 percent of the cost of a pack of cigarettes went to taxes.

Currently, the average price per pack of cigarettes is about $1.94. Of this total, 24 cents represents the Federal tax and an additional 31.7 cents per pack is levied by the States together with an additional 9.3 cents per pack in sales taxes. All in all, the share of the per pack price of cigarettes devoted to taxes has dropped to about 33.5 percent today from the 1964 level of 50.5 percent.

If the CHILD Act were signed into law and the new 43 cents per pack tax were added, and if this new tax were passed on directly to the consumer to increase the per pack price to $2.37 per pack, the share of the total price devoted to taxes—45.6 percent—would still be lower than it was in 1964.

Even when this new tax is factored in, the United States would still have a relatively modest tax component built into the price of cigarettes compared with other industrialized countries. For example, in Canada 64 percent of the price of cigarettes is devoted to taxes. In Great Britain, the comparable figure is 82 percent.

As a conservative, I am generally opposed to tax increases. I firmly believe that the Federal Government should spend less, and the American people should keep more of the money that is earned in our economy.

As a conservative, I believe in a balanced budget. That is why I spent the better part of February managing the floor debate for the balanced-budget amendment. That is why I worked hard to convince Senator KENNEDY to earmark one-third of the revenues raised by the proposed increase in the cigarette tax for deficit reduction.

Yet, the statistics about tobacco use and cost that I cited above, I believe, make the case that tobacco products are imposing external costs onto society that are not adequately reflected in the price of these inherently dangerous products. Simply stated, the producers and consumers of tobacco products are not paying the full costs of this product.

When I balance the opportunity that we have in terms of helping to provide health insurance and services to children, coupled with a significant deficit reduction component, against my natural aversion to raising taxes, I come down in favor of this financing mechanism with this tobacco tax—or, as I call it, a user fee. I believe that both the public health and economics reasons are unique and compelling.

I believe that when my colleagues in Congress have the opportunity to fully consider these issues that they will agree with the cosponsors of this legislation and support the CHILD Act.

In closing, Mr. President, let me state my intention to work with all interested parties to improve this bill as it moves through the legislative process.

Indeed, as I have stated, there are some provisions contained within this bill that I believe could be improved through a thorough public discussion.

In particular, I would like to hear from the Governors about how this bill meets their needs with respect to the uninsured population.

I am aware that they may have a few concerns about the bill, such as using the Medicaid benefits package as the model for the private insurance contracts.

Senator KENNEDY and I inserted that provision in the bill for two reasons. We knew that the Governors would be familiar with it and, most importantly, it would obviate the need at either the Federal or State levels to undertake the onerous task of creating a benefits package.

Our Utah Governor, Mike Leavitt, has stated on more than one occasion that he believes the Medicaid benefit package is too ''rich;'' in other words, a more efficient package would be less costly and still provide needed care. I look forward to working with him and the leaders of other States to address this issue.

Another issue of critical concern is the interrelationship of this program with the employer community. We were very careful to design a program that would complement existing employer efforts to insure their employees without a costly Federal mandate. On the other hand, though, we wanted to make sure that there was no incentive for employers to ''dump'' employees into the new program in order to relieve themselves of a benefit cost.

That is why we inserted a provision that states that any employer who makes health insurance contributions for an employee cannot vary such contributions based on an individual's eligibility under the CHILD Act. The only way an employer could put a currently insured employee into the CHILD program would be to eliminate coverage for all employees in the company plan. We think this is highly unlikely to happen.

Again, let me state that we were very sensitive to the concerns about a mandate on employers, and we look forward to a very careful examination of this issue as the legislation progresses.

Let me also discuss for a moment the issue that Senator LOTT has already mentioned, that of making certain that the 3 million children who are currently eligible for Medicaid, but not participating, become enrolled. While our bill does not address that issue, it is something we need to do. I hope to work with Senator JEFFORDS and Senator DEWINE who have indicated in interest to me in working to make certain that those who are eligible for Medicaid can participate.

But let me hasten to add that only 3 million out of the 10 million uninsured children are eligible for Medicaid. So, Senator LOTT's idea—which is a good one—would still leave 70 percent of the problem untouched.

Mr. President, in closing I want to reiterate my commitment to working

with Senator KENNEDY and all 98 of my other colleagues to enact a bill this year which will improve child health insurance coverage in the United States.

It is time, and I hope the majority of this body will agree.

The PRESIDING OFFICER. Under the previous unanimous-consent request, the 15 minutes allocated to the Senator from Utah has expired.

Mr. HATCH. Will my friend yield me 30 seconds?

Mr. KENNEDY. Sure.

Mr. HATCH. I want to compliment my friend for the remaining 30 seconds. I wish I could spend more time.

Development of these bills has not been an easy thing for him to do, or for me. But I am convinced we have drafted a program that will work.

I have to suggest that if Senator KENNEDY and Senator HATCH—who have such widespread differences of philosophy—can unite to propose a program like this, then anybody can get together. Despite our philosophical differences, which are wide, we both have a great deal of friendship and caring for each other. We are working as hard as we can to do what is right here.

I want to thank my colleague for his great work in this effort.

I yield the floor.

Mr. KENNEDY. Mr. President, I want to thank Senator HATCH for his leadership on this important issue affecting our Nation's children.

Those of us in the Senate have noted that Senator HATCH was instrumental a number of years ago, working with Senator DODD and myself, on the child care block grant program, which still is in existence. It has been evaluated as an extremely effective program for providing child care for the working poor.

A number of years ago we also worked closely together in the summer jobs initiative that included continuing education programs.

In the area of children, I think Senator HATCH and I as well as many others understand that this is neither a Democratic issue nor a Republican issue. Nor is it a North or South issue. It is an American family issue.

For every American family children come first, as well they should. They are our greatest asset and they represent our Nation's future. When we invest in our children, we are investing in America's future. That is why this effort is of such importance and why Senator HATCH and I are now working closely together to make sure that this legislation becomes law.

Mr. President, it is reasonable to ask, why now? Why children?

The fact of the matter is 3,000 children every single day lose their health insurance. Nine out of ten of those who are losing their health insurance in this country are children.

The number of uninsured children is growing. It will rise to 5 million by the year 2000, making it increasingly urgent that we address the fact that more and more children are becoming uninsured.

We are talking about the sons and daughters of working families—families that are working 52 weeks of the year, 40 hours a week, trying to make ends meet and play by the rules. One of the things they are unable to do is provide health care coverage for their children.

Their children require this coverage, which is why Senator HATCH and I and many others want to make health insurance accessible and affordable for all of America's children. We know the number of children who have ear infections and never see a primary care doctor. We know the number of children who are in school at this very hour and have difficulty seeing the blackboard or reading a book and are humiliated in their classroom because they have not had their eyes tested.

This crisis is occuring all over the country. It is happening in urban areas and in rural communities. But we can do something about it, and that is why the legislation is of such importance.

Ten million children are uninsured. Their parents are working hard trying to make ends meet, and the one thing they cannot afford are the premiums to provide health care coverage for their children.

As Senator HATCH has pointed out, our legislation will build on existing programs in the States, and the States by and large are overwhelmingly using the voucher system. I know there are those who favor a tax credit program, but it has been tried and did not work in the past.

We are also building on the private sector because the insurance that will be provided and distributed is going to be as a result of competition in the States.

Finally, we are paying for the program with a 43-cents-per-pack increase in the Federal tobacco tax.

Some say, isn't this unfair and unjustified? We say that tobacco costs the Nation $50 billion a year in direct medical costs—$50 billion a year. By adding 43 cents on a pack of cigarettes, we will have even less than the proportion of tax—Federal, State, and sales tax—for a pack of cigarettes than we had in the early 1960's.

When we look at where we are in comparison to where other countries around the world—our cigarette taxes are well below every other industrial country in the world. With our 43-cents-per-pack increase in the Federal cigarette tax, it will still be among the lowest of all industrial nations.

Mr. President, we strongly support this increase in the cigarette tax because it can do more to stop children from smoking than any other action we could possibly undertake. This will have a dramatic impact on reducing addiction among teenagers, who have less income than adults to spend on cigarettes. That is when the smoking really starts and where the child becomes addicted.

We say that not only because that has been the history of pricing over the period of the last 30 years, but it is there in the documents and statements of the tobacco companies as we have seen in the Liggett story recently.

Mr. President, this is legislation which the American people support. It makes sense from a health point of view. It makes sense from their family point of view. It makes sense for the future in terms of having children who are going to have good quality health care. It makes sense because it will save the lives of over 800,000 children who would otherwise have died from a smoking-caused illness. And it will also provide a modest reduction in terms of the deficit.

This is a win-win-win for the American people. It should be a bipartisan effort. I want to commend Senator HATCH for his leadership and I thank all of our Democratic colleagues for joining in our efforts.

I am honored to join Senator HATCH in introducing the Child Health Insurance and Lower Deficit Act of 1997, which will be a major step toward making health insurance accessible and affordable for all of America's children. I am hopeful that the legislation we are introducing today will be approved by this Congress, and signed by President Clinton. It shows that Democrats and Republicans can work together to solve this national problem.

One of the most urgent needs of children is health insurance coverage. Insurance is the best possible ticket to adequate health care—and every child deserves such care.

Today, however, more than 10 million children have no health insurance—1 child in every 7—and the number has been increasing in recent years. Every day, 3,000 more children lose their private health insurance. If the total continues to rise at the current rate, 13 million children will have no insurance coverage by the year 2000.

Almost 90 percent of these uninsured children are members of working families. Two-thirds are in two-parent families. Most of these families have incomes above the Medicaid eligibility line, but well below the income level it takes to afford private health insurance today.

The children's health care crisis begins at the beginning—with inadequate prenatal care. Some 17 industrial countries have lower infant mortality rates than the United States. Every day, 636 infants are born to mothers in this country who did not have proper prenatal care; 56 die before they are 1 month old. And 110 die before the age of 1. Many more grow up with permanent disabilities that could have been avoided with prenatal care. Uninsured pregnant mothers have sicker babies, and these babies are at greater risk—low birth weight, miscarriage, and infant mortality.

Too many young children are not receiving the preventive medical care they need. Uninsured children are twice as likely to go without medical care for conditions such as asthma,

sore throats, ear infections, and injuries. One child in four is not receiving basic childhood vaccines on a timely basis. Periodic physical examinations are out of reach for millions of children, even though such exams can identify and correct conditions before they cause a lifetime of pain and disability.

Preventive care is the key to a healthy childhood, and it also is a cost-effective investment for society. Every dollar invested in childhood immunizations saves $10 in later hospital and other treatment costs.

Some say there is no health care crisis for children. But I reply, tell that to the hard-working parents who cannot afford coverage for their families or whose employers won't provide it.

Tell it to the hospital emergency room physicians who are often the only family doctor these children know, and who have to treat them for heart-breaking conditions that could have been prevented or easily cured with timely care.

Tell it to school teachers struggling to teach children too sick to learn. Tell it to children's advocates across the country, who see children every day with health care needs neglected for too long. Between 30 and 40 percent of children in the child protective system suffer from significant health problems.

For all these reasons and many more—10 million more—the children's health care crisis is real, and the time to address it is now. Every child deserves a healthy start in life. No family should have to fear that the loss of a job, or an employer's decision to drop coverage or hike the insurance premium will leave their children without health care.

The current neglect is all the more unconscionable, because children and adolescents are so inexpensive to cover. That is why we can and must cover them this year—in this Congress. The cost is affordable—and the benefits for children are undeniable.

The legislation that Senator HATCH and I are introducing will make health insurance coverage more affordable for every working family with uninsured children. It does so without imposing new Government mandates. It encourages family responsibility, by offering parents the help they need to purchase affordable health insurance for their children.

Under our plan, $20 billion over the next 5 years will be available to expand health insurance coverage for children, and $10 billion will be available for deficit reduction. I share Senator HATCH's commitment to balancing the Federal budget by the year 2002. As our plan today suggests, we believe we can do it, and do it fairly.

When fully phased in, our legislation will provide direct financial assistance to approximately 5 million children annually. Every family with an uninsured child will have access to more affordable coverage. Combined with efforts to enroll more eligible children in Medicaid, this plan is a giant step toward the day when every American child has health insurance coverage. This bill is the most important single step the Congress can take this year to provide a better life for every American child.

States choosing to participate in the program will contract with private insurers to provide child-only private coverage. These subsidies will be available to help eligible families purchase coverage for their children, or participate in employment-based health plans. Coverage will be available for every child, including children in families not eligible for financial assistance. The program also allows States to allocate up to 5 percent of total program costs to provide preventive care and primary care to pregnant women. Participating States must contribute to the cost of the program, and must maintain their current levels of Medicaid coverage for children.

The basic principles of this proposal are neither novel nor untested. Fourteen States already have similar programs for children. In Massachusetts, an existing program was expanded last year, so that families up to 400 percent of the poverty level are now eligible for financial assistance to buy insurance. In 17 additional States, Blue Cross/Blue Shield offers children's-only coverage, with subsidies for low-income families. These State initiatives provide a solid base on which to build an effective Federal-State-private partnership to get the job done for all children.

Senator HATCH and I propose to pay for this program of children's health insurance and deficit reduction with an increase of 43 cents a pack in the Federal cigarette tax, from its current level of 24 cents. It makes sense to finance the coverage this way, because of the higher costs for health care and premature deaths caused by smoking.

Smoking is the leading preventable cause of death in the United States. It kills more than 400,000 Americans a year. It costs the Nation $50 billion a year in direct health costs, and another $50 billion in lost productivity. A cigarette pack sold for $1.80 costs the Nation $3.90 cents in smoking-related expenses.

Even with our proposed increase, cigarette taxes as a percent of the product price will still be lower than they were in 1965 and will be far below the levels in almost every other industrialized country.

A higher cigarette tax will have the added benefit of reducing smoking among teenagers. If we do nothing to reduce such smoking, 5 million deaths from smoking-related diseases will occur over the lifetime of the current generation of children.

Raising tobacco taxes to finance health insurance for children has the support of an overwhelming 73 percent of the public. If the tobacco tax is raised, an even higher 87 percent support using the revenue to expand health services for children.

I look forward to early action by Congress on this issue. Every day we delay means more children fail to get the healthy start in life they need. When we fail our children, we also fail our country and its future.

I yield the remaining time to the Senator from Connecticut, Senator DODD.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me thank my colleague from Massachusetts for yielding.

Let me begin these brief remarks by commending him and, of course, our good friend and colleague from Utah, Senator HATCH, who is the lead sponsor of this legislation, for his efforts here, along with our colleague from Massachusetts who historically, of course, has taken the leadership role over the last number of decades on health-care-related issues.

Our colleague from Utah and I have had the pleasure and privilege of working together on major legislation. When he says, if you have a bill with ORRIN HATCH's name on it, there is a good chance it is going to become law, I can testify to that, having worked with him on the act for better child care. Today millions of people have accidental health care and decent child care because of his efforts. So I commend, Mr. President, both of our colleagues.

I offered the first child health care package almost 4 years ago to deal with children's health. As both of our colleagues have pointed out, Mr. President, we have about 10 to 10.5 million children in the country who do not have any health care at all. In my State of Connecticut, about 110,000 children are without any health care coverage at all.

What makes this so ironic in many ways, Mr. President—as we have gone through a debate on welfare reform fairly recently—is that 88 percent of the parents of these children without health care are working. The assumption I think a lot of people must have is that children without health care are the children of parents who are living on public assistance. Nothing could be further from the truth. If you are on public assistance, you get health care, you get Medicaid. If you are out of work on welfare, you get Medicaid. If you are in jail, you get health care in this country. But God help you if you are a working family out there working at the lower income levels trying to provide for your family when we have a seen a dramatic increase in the reduction of private health care coverage.

Mr. President, I asked for a General Accounting Office study a number of months ago, the results of which came back about a few weeks ago on what has happened to private health insurance for working families. We have seen about a 4.5 to 5 percent increase nationwide in the number of families who have dropped or been dropped from private health insurance. In 1993, 29

million families lost their health care coverage in this country. And the premium costs went up. Small employers decided to drop it altogether.

So we have watched a tremendous increase in the number of families, working families, with children without any kind of health care coverage at all.

Many of our State laws, Mr. President, require, under law, that you insure your automobile. Many of our State laws, if not all of them, require that if you have a home mortgage, there be insurance on your house. All that we are suggesting here today is that if you have a child, there ought to be health care coverage or insurance for that child.

If it is mandatory that your home be insured, if it is mandatory your car be insured, if you are out of work and on public assistance you get health care, if you are in prison you get health care, what our colleagues from Massachusetts and Utah, and those of us who are supporting them, are suggesting, is that if you are a working family in this country, your children—your children—also ought to have a safety net for health care. So this proposal does just that.

Mr. President, I will just conclude with a story. We had a press conference announcing this GAO study a few days ago. I brought with me a woman from Connecticut. Both she and her husband work. Her husband is in construction. She works for a nonprofit organization in the State of Connecticut. They have two children. Their oldest boy has a serious mental health problem. It is a serious mental health illness with a cost of over $1,000 a month, on average, for medication. They have run out of support from the State program. There is not going to be any more. They were left with this choice—until someone stepped in and made an exception in their case—but left with this choice: Either they could quit their jobs and go on public assistance and get health care for that child, that is one option, or the other was to take their child and turn him over to the State, give up custody and let him become a ward of the State, so that then the child could get health care coverage.

We hear people talking of family values and families staying together all the time. But somehow, in this situation, this family wants desperately to keep custody of their child, and they keep working and they get no help whatever. There is something fundamentally erroneous about the situation that presently exists that if you work and want to keep your children, you run the risk of losing the health care, whereas if you go on public assistance or give up the custody of your child, you can get health care coverage.

Mr. President, the suggestion of both of our colleagues is to fill in this gap that exists for these 10½ million children today that are without any health care coverage. The numbers are growing, by the way. This is not a number that is declining, but is a number that is growing.

They have come up with a funding scheme that I think most people will support in this country. It is controversial. Obviously, some will object to how this is paid for. I think it is a very sound idea to come up with this funding scheme and also to allocate some of the resources for deficit reduction.

Again, Mr. President, if we can insure our cars by law, our homes by law, if you are on welfare or in prison and you get health care coverage, at the very least, we ought to do the same for America's children. This legislation allows us to do that. I commend both of our colleagues and look forward to adoption of the law.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KERRY. Mr. President, I am delighted to join with my colleague, Senator KENNEDY, with Senator HATCH, and others, in introducing today legislation to provide health care to the 10 million children in the United States who today do not have that care.

Last year, Senator KENNEDY and I joined together with other Senators to introduce legislation to similarly provide health care to these children. Since the time that we introduced legislation a year ago, over 750,000 children under the age of 18 have lost health insurance. One child loses health insurance every 35 seconds in the United States. We are the only industrial country on the face of this planet that does not insure our children, or that does not insure, even, many of our adults.

What is extraordinary about this situation is that we are not talking about the poorest of our poor in America. The poorest of the poor get help. They have health insurance. They get Medicaid. The fact is that we are talking about 10 million children who are the children of working Americans, fully three-fifths of whom work full-time jobs, and 90 percent of whom are working at some job or another.

I visited recently at the Children's Hospital in Boston and I listened to the story of two parents who are working, both of whom are just not earning enough money in their full-time jobs to be able to pay the premiums for the expensive insurance that their sick child needs.

The fact is that over one-half of all the children in the United States who have asthma never see a doctor. One-third of all the children in the United States who have an ear problem never see a doctor. Similarly, for eye problems: As we have learned from medical experts, those problems, often undiagnosed, become chronic ailments and many times become lifetime impairments. We then pick up the cost of those impairments with special education needs, and at the back end of often substance abuse or other kinds of highly intensive, labor-intensive interventions which we could have avoided early on.

Just take the case of neonatal/prenatal care. It costs $1,000 for a year of covering a pregnant woman with early nutrition, early intervention, for pregnancy. But if a child is born underweight as a consequence of the lack of that kind of intervention, it costs $1,100 a day.

I have talked to teachers in schools who have told me the stories of young students who come into the school; they are in the classroom and they are disruptive, not because they want to be disruptive, but because they have a problem. In one particular case, a teacher told me of a child who chronically disrupted the entire class. They could not figure it out. They finally got the child to a clinic because the child had not been examined by a doctor, and they found the child had a chronic earache problem as a consequence of an infection. Antibiotics were given, the infection was cleared up, and the child became a full participant in the classroom.

Mr. President, there are countless stories like these. I want to congratulate Senator KENNEDY and Senator HATCH for working together in helping to come up with a scheme to fund this, that clearly addresses other health needs of the country. When we consider the costs of our various wings of hospitals that are dedicated to pulmonary disease, to emphysema, to cancer as a consequence of smoking, we are spending billions upon billions of dollars, far in excess of the cost of this kind of program, to provide preventive care at the early outset.

So this is really an investment, not an expenditure. This will repay itself many times over. We know that the health care expenditure in early prevention will save anywhere from $3.40 to $16 by virtue of $1 invested.

Mr. President, it is time in America for us for catch up to the rest of the industrialized world and provide insurance to the young children of this Nation who desperately need it.

By Mr. LAUTENBERG (for himself, Mr. DURBIN, Mr. HARKIN, Mr. WELLSTONE and Mr. KENNEDY):

S. 527. A bill to prescribe labels for packages and advertising for tobacco products, to provide for the disclosure of certain information relating to tobacco products, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TOBACCO DISCLOSURE AND WARNING ACT OF 1997

Mr. LAUTENBERG. Mr. President, I rise today to introduce a bill we are calling the Tobacco Disclosure and Warning Act of 1997. Frankly, I hope we are going to be able to look back at this day and say this was a great day for America's children, that this was a great day for the future well-being of coming generations.

I am joined by my Senate colleague from Illinois, Senator DICK DURBIN,

who worked with me in the past on establishing a ban on smoking in airplanes, he was a Member of the House before, and Senator HARKIN from Iowa, and Senator WELLSTONE from Minnesota. They joined me this morning in declaring that we are interested this day in the health of our children. We want to warn them that a habit that they could be induced—if I may use the term more crudely, seduced—into, if they join in the tobacco addiction group, that they may be jeopardizing their health very seriously.

Our bill will force tobacco companies to tell the truth, finally, to the American people. As witnessed by the Liggett & Myers' settlement, which wiped away the secrecy and deception perpetrated by the industry, truth is one of the few items in short supply in the tobacco industry. This bill will require tobacco manufacturers to disclose the ingredients of their product to the public.

Actually, it is a modest step. Of the hundreds of products on sale in America that go into the human body, tobacco products are the only ones—the only ones—for which manufacturers do not have to disclose the ingredients. Take a company like Coca-Cola, one of the world's great companies. They have a proud tradition of keeping their formula secret. They have to list Coke's ingredients on every can.

There is a major difference, of course, between Coca-Cola and cigarettes. Coca-Cola does not kill anybody and cigarettes kill 400,000 people a year—more than 400,000. That is one out of every three new users that the industry is trying to recruit. That is according to the Centers for Disease Control.

Manufacturers of every food product and every over-the-counter drug disclose their contents. Cigarette manufacturers do not. Can we wonder why? Yet, of any consumable product for sale in the United States, it is by far among the most deadly.

When you think about the materials that are in cigarettes, carcinogens—43. Should not America know that when you inhale you are going to get some arsenic, going to get some benzine, materials that are very dangerous to health?

Lead, we fight all over the place to take lead out of gasoline, take lead out of paint. But we sell it to the kids. That is what the tobacco industry wants to do. Cadmium, nickel—you would not let your child go near these things, yet everyday this industry, these companies, get tax deductions to advertise their addictive, health-damaging product—maybe lethal.

Our bill also is going to replace the warnings. We ask, A, they list the ingredients. B, we ask also that health warnings on the side of a cigarette package be significant, with larger warnings on the front and back that are simple and direct, saying: ''Cigarettes kill. Smoking can kill you. Cigarettes are addictive. Cigarettes cause heart attacks and stroke.''

It is pretty simple. But maybe, just maybe, then we will be able to stop the industry from targeting its recruits for the day. Mr. President, 3,000 children, young people, a day, are attracted and start smoking. And then they cannot quit.

These kinds of warnings exist all around the world. Cigarettes kill one out of every three, again, I repeat, of its users. Over 400,000 Americans every year die from smoking and lots more get sick: Emphysema, heart attacks, cannot conduct their normal activity, cannot associate with their families, cannot show the kids how to hit a ball, run a base or go skating or skiing. We should disclose information on the ingredients of cigarettes to the public and provide it with realistic warnings about the health risks that cigarettes cause. It may seem that most smokers know a single cigarette may have hundreds of dangerous ingredients, but I doubt it. When a smoker lights a cigarette, some of these ingredients burn to create other chemicals, and some of these are carcinogenic.

A Surgeon General's report in 1989 reported that cigarettes contain 43 carcinogens. The list is here, over 43. I did not know it until recently. But the public certainly has a right to know. Do most smokers realize that one of these chemicals is arsenic? I do not think so. Our bill would disclose that, as well as the other chemical carcinogens in cigarettes.

With all these known dangers about smoking, we should not hide health warning labels in small type on the side of a cigarette pack. Other countries, countries like Canada, Australia, Thailand, put large labels on the front of each pack and they put it, of course, in their native language. The United States should provide equal protection to consumers. The warnings should be stark, brutal if necessary, and easily seen. When cigarettes get in the hands of kids, and 3,000 of them take up smoking every day, they ought to be looking at something that says: Smoking can kill you. Smoking is addictive. Smoking harms athletic performance.

That is a lot more graphic and descriptive than the small print that appears today. We should have no beating around the bush because this bush kills you. With large and honest warnings, more children will get the message and perhaps some will put down that pack rather than lighting it up.

Mr. President, the 105th Congress should enact this legislation. It should not be a partisan issue. In the coming weeks I expect this bill will attract cosponsors from both sides of the aisle. The public has a right to know. They have a right to know the truth. Unless Congress forces the industry's hand, it will never fully disclose to customers what it puts in its product, what it puts in their products.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Tobacco Disclosure and Warning Act of 1997''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Tobacco products are the largest preventable cause of illness and premature death, responsible for one of every 5 deaths in the United States.

(2) Tobacco is a uniquely harmful product in that it is the only product which kills when used as intended.

(3) Cigarettes and spit tobacco products are powerfully addictive because they contain nicotine which is a poisonous, addictive drug.

(4) Tobacco-related addiction is a pediatric disease. The vast majority of new smokers are teenagers or younger and children are beginning to smoke today at a younger age than ever before.

(5) The United States health care system spends an estimated $50 billion a year to treat diseases caused by tobacco use. In addition, the United States economy loses $50 billion a year from lost productivity due to tobacco-related illnesses and premature death.

(6) The nicotine in tobacco products is responsible for the addiction of up to one half of all children who experiment with tobacco.

(7) More than 3,000 children begin smoking each day. An estimated 1,000 of them will die from a tobacco-related illness.

(8) Tobacco manufacturers manipulate the levels and presence of the drug nicotine in their products with the intent to cause and sustain addiction in consumers.

(9) In 1997 the tobacco industry will spend over $5 billion on advertising and promotion to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(10) The Federal Government has a substantial interest in ensuring that those who do not use tobacco products are not encouraged to use them and those who use tobacco products are discouraged from continuing their use.

(11) A failure to provide adequate and complete health warnings and labeling information to fully inform consumers about the risks and dangers of tobacco use is misleading.

(12) Health warnings on cigarette packages have not been updated since 1984 and do not fully reflect current scientific knowledge on the adverse health effects of tobacco use.

(13) The display format of tobacco health warnings can be more effective as a vehicle for promoting public knowledge of the health risks.

(14) Health warnings are most effective when directed at those people who are tempted to try smoking, who are experimenting with smoking, or who are considering a decision to quit smoking.

(15) Health warnings will be most effective when they are present each time the opportunity to use a tobacco product occurs and each time tobacco products are promoted and advertised.

(16) Changes in warning format and revisions in the text of health warnings further the Federal government's commitment to reduce tobacco-related disease and are a low cost means of enhancing the effectiveness of other tobacco reduction programs.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term ''advertisement'' means—

(A) all newspapers and magazine advertisements and advertising inserts, billboards, posters, signs, decals, banners, matchbook advertising, point-of-purchase display material and all other written or other material used for promoting the sale or consumption of tobacco products to consumers,

(B) advertising at an internet site,

(C) advertising promotion allowances,

(D) the appearance on any item (other than cigarettes or other tobacco products) of the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or other tobacco products,

(E) any other means used to promote the identification or purchase of tobacco products.

(2) The term ''brand'' means a variety of tobacco products distinguished by the tobacco used, tar and nicotine content, flavoring used, size of the tobacco product, filtration, or packaging.

(3) The term ''cigarette'' means—

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco which is to be burned,

(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling is likely to be offered to, or purchased by consumers as a cigarette described in subparagraph (A),

(C) little cigars which are any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subparagraph (A)) and as to which one thousand units weigh not more than 3 pounds, and

(D) loose rolling tobacco and papers or tubes used to contain such tobacco.

(4) The term ''constituent'' means any element of tobacco or cigarette mainstream or sidestream smoke, including tar, the components of the tar, nicotine, and carbon monoxide or any other component designated by the Secretary.

(5) The term ''distributor'' does not include a retailer and the term ''distribute'' does not include retail distribution.

(6) The term ''ingredient'' means any substance the use of which results, or may reasonably be expected to result, directly or indirectly, in its becoming a component of any tobacco product, including any component of the paper or filter of such product.

(7) The term ''package'' means a pack, box, carton, or other container of any kind in which cigarettes or other tobacco products are offered for sale, sold, or otherwise distributed to customers.

(8) The term ''Secretary'' means the Secretary of Health and Human Services.

(9) The term ''spit tobacco'' means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(10) The term ''tar'' means the particulate matter from tobacco smoke minus water and nicotine.

(11) The term ''tobacco product'' means—

(A) cigarettes,

(B) little cigars,

(C) cigars as defined in section 5702 of the Internal Revenue Code of 1954,

(D) pipe tobacco,

(E) loose rolling tobacco and papers used to contain such tobacco,

(F) products referred to as spit tobacco, and

(G) any other form of tobacco intended for human consumption.

(12) The term ''trademark'' means any word, name, symbol, logo, or device or any combination thereof used by a person to identify or distinguish such person's goods from those manufactured or sold by another person and to indicate the source of the goods.

(13) The term ''United States'' includes the States and installations of the Armed Forces of the United States located outside a State.

(14) The term ''State'' includes, in addition to the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 4. PRODUCT PACKAGE LABELING.

(a) IN GENERAL.—

(1) CIGARETTES.—

(A) WARNINGS.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any cigarettes unless the cigarette package bears, in accordance with the requirements of this section, one of the following warning labels:

WARNING: Cigarettes Kill

WARNING: Cigarettes Cause Lung Cancer and Emphysema

WARNING: Cigarettes Cause Infant Death

WARNING: Cigarettes Cause Heart Attacks and Stroke

WARNING: Cigarettes Are Addictive

WARNING: Nicotine Is An Addictive Drug

WARNING: Cigarette Smoking Harms Athletic Performance

WARNING: Smoking During Pregnancy Can Harm Your Baby

WARNING: Cigarette Smoke Is Harmful to Children

WARNING: Smoke From * Cigarettes Can Cause Cancer in Nonsmokers.

For purposes of the last warning in the preceding sentence, * denotes the name of the brand of cigarettes required to bear such label.

(B) INGREDIENTS AND CONSTITUENTS.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any cigarettes unless the cigarette package contains a package insert, in accordance with the requirements of this section, the ingredients and constituents of the cigarettes which were reported to the Secretary under section 7 and which the Secretary determines should be made public.

(C) PACKAGE INSERT.—

(i) IN GENERAL.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any cigarettes unless the cigarette package includes a package insert, prepared in accordance with guidelines established by the Secretary by regulation, on the carcinogens and other substances posing a risk to human health contained in the ingredients and constituents of the cigarettes in such package.

(ii) REGULATIONS.—The Secretary shall issue regulations requiring the package insert required by clause (i) to provide the information required by such clause (including carcinogens and other dangerous substances) in a prominent, clear fashion and a detailed list of the ingredients and constituents.

(2) SPIT TOBACCO PRODUCT.—

(A) WARNINGS.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any spit tobacco product unless the product package bears, in accordance with the requirements of this section, one of the following warning labels:

WARNING: Spit Tobacco Causes Mouth Cancer

WARNING: Spit Tobacco Is Not a Safe Alternative to Cigarettes

WARNING: Spit Tobacco Is Addictive

WARNING: Nicotine Is An Addictive Drug

WARNING: Use of * Spit Tobacco Can Cause Gum Disease

WARNING: Use of * Spit Tobacco Can Cause Tooth Loss

For purposes of the last warning in the preceding sentence, * denotes the name of the brand of spit tobacco required to bear such label.

(B) INGREDIENTS AND CONSTITUENTS.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any spit tobacco unless the spit tobacco package bears, in accordance with the requirements of this section, the ingredients and constituents of the spit tobacco which were reported to the Secretary under section 7 and which the Secretary determines should be made public.

(3) OTHER TOBACCO PRODUCTS.—

(A) WARNINGS.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any tobacco product, other than cigarettes or spit tobacco, unless the product package bears, in accordance with the requirements of this section, one of the following warning labels:

WARNING: Tobacco Kills

WARNING: Tobacco Causes Lung Cancer and Emphysema

WARNING: Tobacco Causes Infant Death

WARNING: Tobacco Causes Heart Attacks and Stroke

WARNING: Tobacco Is Addictive

WARNING: Nicotine Is An Addictive Drug

WARNING: Tobacco Harms Athletic Performance

WARNING: Tobacco Use During Pregnancy Can Harm Your Baby

WARNING: Tobacco Smoke Is Harmful to Children

WARNING: Tobacco Smoke Can Cause Cancer in Nonsmokers

(B) INGREDIENTS AND CONSTITUENTS.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any tobacco product subject to subparagraph (A) unless the tobacco product package bears, in accordance with the requirements of this section, the ingredients and constituents of the tobacco product which were reported to the Secretary under section 7 and which the Secretary determines should be made public.

(b) LABEL FORMAT.—

(1) IN GENERAL.—The warning labels required by paragraphs (1)(A), (2), and (3) of subsection (a) shall—

(A) appear on the top of the 2 most prominent sides of the product package on which the label is required and 1 label shall be in Spanish,

(B) be in a size which is not less than 33 percent of the side on which the label is placed,

(C) appear in white letters on black backing or in black letters on white backing, whichever is more conspicuous and prominent in contrast to the color of the package, except that the words ''WARNING'' shall appear in bright red letters and if the package does not have any color, the words ''WARNING'' shall be in black or white as prescribed by this subparagraph and shall be boldly underlined with a black or white underlining,

(D) be in a rectangular shape enclosed in a border of color contrasting to the color of the backing prescribed by subparagraph (C) and to the predominant color of the package, and

(E) include letters in a height, thickness, and type face which assures that the letters in the space provided for the statement will

be no less legible, prominent, and conspicuous than the most legible, prominent, and conspicuous typeface, typography, and size of other matter printed on the side of the package on which the label statement appears.

(2) FORMAT FOR OTHER CIGARETTE LABELS.—The label required by paragraph (1)(B) of subsection (a) shall appear on the package in such style and format as the Secretary may by regulation prescribe.

(c) ROTATION.—The warning labels required by paragraphs (1)(A) and (2) of subsection (a) shall be rotated by each manufacturer of cigarettes and spit tobacco products on each brand of cigarettes and spit tobacco products in accordance with a plan approved for the manufacturer by the Secretary. Each such plan shall provide for an approximately even distribution of the labels among the packages of a brand of the cigarettes and spit tobacco products of each manufacturer each year.

SEC. 5. LABELING IN ADVERTISING.

(a) IN GENERAL.—

(1) CIGARETTE ADVERTISING.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any brand of cigarettes unless the advertising for such brand bears the warning label required for cigarettes by section 4(a)(1)(A).

(2) SPIT TOBACCO.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any spit tobacco product unless the advertising for such product bears the warning label required for spit tobacco products by section 4(a)(2)).

(3) OTHER TOBACCO PRODUCTS.—It shall be unlawful for any person to manufacture, import, package, or distribute for sale within the United States any tobacco product, other than cigarettes or spit tobacco, unless the advertising for such product bears the warning label required for such product by section 4(a)(3)).

(b) FORMAT.—

(1) WARNING LABELS.—The warning label required by subsection (a) for advertising shall—

(A) appear in white letters on black backing or in black letters on white backing, whichever is most prominent relative to the color of the advertisement, except that the word ''WARNING'' shall appear in bright red letters and in a advertisement without color ''WARNING'' shall be in black or white as prescribed by this subparagraph and shall be boldly underlined with a black or white underlining,

(B) be in a rectangular shape which occupies 33 percent of the space of each advertisement and which is located at the top of the advertisement and enclosed in a border of color contrasting to the color of the backing prescribed by subparagraph (A) and to the predominant color of the advertisement of the tobacco product being advertised,

(C) include letters in a type face and size which, within the space limitation prescribed by subparagraph (B), assure that the letters in the statement will be no less legible, prominent, or conspicuous than the most legible, prominent, and conspicuous typeface, typography, and size of other matter printed on the advertisement, and

(D) be in the same language as the text of the advertising in which it appears.

(2) BILLBOARDS WITH LIGHTING.—The warning label on billboards which use artificial lighting shall be no less visible than other printed matter on the billboard when the lighting is in use.

(c) ROTATION.—

(1) NON-BILLBOARD ADVERTISING.—Warning labels on advertising (other than billboard advertising) shall be rotated quarterly in alternating sequence for each brand of cigarettes or spit tobacco product manufactured by the manufacturer or imported by the importer in accordance with a plan submitted by the manufacturer or importer and approved by the Secretary.

(2) BILLBOARDS.—Warning labels on advertising displayed on billboards shall be rotated annually or whenever the advertisement is changed, whichever occurs first.

SEC. 6. AUTHORITY TO REVISE HEALTH WARNINGS.

The Secretary may by regulation revise any health warning required by section 4(a)(1)(A), 4(a)(2), or 4(a)(3) and the format for the display of such warning if the Secretary finds that such revision would promote greater understanding of the risks of tobacco.

SEC. 7. TOBACCO PRODUCT INGREDIENTS AND CONSTITUENTS.

(a) GENERAL RULE.—Each person which manufactures, packages, or imports into the United States any tobacco product shall annually report, in a form and at a time specified by the Secretary by regulation—

(1) the identity of any added constituent of the tobacco product other than tobacco, water, or reconstituted tobacco sheet made wholly from tobacco, and

(2) the nicotine, tar, and carbon monoxide yield ratings which shall accurately predict the nicotine, tar, and carbon monoxide intake from such tobacco product for average consumers based on standards established by the Secretary by regulation,

if such information is not information which the Secretary determines to be trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and section 1905 of title 18, United States Code. The constituents identified under paragraph (1) shall be listed in descending order according to weight, measure, or numerical count. If any of such constituents is carcinogenic or otherwise poses a risk to human health, as determined by the Secretary, such information shall be included in the report.

(b) PUBLIC DISSEMINATION.—The Secretary shall review the information contained in each report submitted under subsection (a) and if the Secretary determines that such information directly affects the public health, the Secretary shall require that such information be included in a label under sections 4(a)(1)(B), 4(a)(2)(B), and 4(a)(3)(B).

(c) OTHER SOURCES OF INFORMATION.—The Secretary shall establish a toll-free telephone number and a site on the Internet which shall make available additional information on the ingredients of tobacco products, except information which the Secretary determines to be trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and section 1905 of title 18, United States Code.

SEC. 8. ENFORCEMENT.

(a) IN GENERAL.—

(1) The Secretary shall carry out the Secretary's duties under this Act through the Commissioner of Food and Drugs.

(2) The Secretary shall issue such regulations as may be appropriate for the implementation of this Act. The Secretary shall issue proposed regulations for such implementation within 180 days of the date of the enactment of this Act. Not later than 180 days after the date of the publication of such proposed regulations, the Secretary shall issue final regulations for such implementation. If the Secretary does not issue such final regulations before the expiration of such 180 days, the proposed regulations shall become final and the Secretary shall publish a notice in the Federal Register about the new status of the proposed regulations.

(3) In carrying out the Secretary's duties under this Act, the Secretary shall, as appropriate, consult with such experts as may have appropriate training and experience in the matters subject to such duties.

(4) The Secretary shall monitor compliance with the requirements of this Act.

(5) The Secretary shall recommend to the Attorney General such enforcement actions as may be appropriate.

(b) INJUNCTION.—

(1) The district courts of the United States shall have jurisdiction over civil actions brought to restrain violations of sections 4 and 5. Such a civil action may be brought in the United States district court for the judicial district in which any substantial portion of the violation occurred or in which the defendant is found or transacts business. In such a civil action, process may be served on a defendant in any judicial district in which the defendant resides or may be found and subpoenas requiring attendance of witnesses in any such action may be served in any judicial district.

(2) Any interested organization may bring a civil action described in paragraph (1). If such an organization substantially prevails in such an action, the court may award it reasonable attorney's fees and expenses. For purposes of this paragraph, the term ''interested organization'' means any nonprofit organization one of whose purposes, and a substantial part of its activities, include the promotion of public health through reduction in the use of tobacco products.

(c) CIVIL PENALTY.—Any person who manufactures, packages, distributes, or advertises a tobacco product in violation of section 4 or 5 shall be subject to a civil penalty of not more than $100,000 for each violation per day.

SEC. 9. LIABILITY.

Compliance with any requirement of this Act, the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1331 et seq.), or the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4401 et seq.) shall not relieve any person from liability to any other person at common law or under State statutory law.

SEC. 10. EFFECTIVE DATES AND CONFORMING AMENDMENTS.

(a) EFFECTIVE DATES.—This Act shall take effect on the date of the enactment of this Act, except that

(1) sections 4, 5, and 7 shall take effect one year after the date of the enactment of this Act,

(2) section 6 shall take effect 3 years after the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS.—Effective one year from the date of the enactment of this Act, the Federal Cigarette Labeling and Advertising Act (other than sections 6, 9, 10, and 11) (15 U.S.C. 1331 et seq.) and the Comprehensive Smokeless Tobacco Health Education Act of 1986 (other than sections 1, 2, 3(f), and 8) (15 U.S.C. 4401 et seq.) are repealed.

ADDITIONAL COSPONSORS

S. 18

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 18, a bill to assist the States and local governments in assessing and remediating brownfield sites and encouraging environmental cleanup programs, and for other purposes.

S. 28

At the request of Mr. THURMOND, the names of the Senator from New Mexico [Mr. DOMENICI] and the Senator from

Arkansas [Mr. HUTCHINSON] were added as cosponsors of S. 28, a bill to amend title 17, United States Code, with respect to certain exemptions from copyright, and for other purposes.

S. 91

At the request of Ms. SNOWE, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 91, a bill to establish an Office on Women's Health within the Department of Health and Human Services.

S. 102

At the request of Mr. BREAUX, the names of the Senator from Kansas [Mr. BROWNBACK] and the Senator from South Dakota [Mr. JOHNSON] were added as cosponsors of S. 102, a bill to amend title XVIII of the Social Security Act to improve Medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes.

S. 207

At the request of Mr. MCCAIN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 207, a bill to review, reform, and terminate unnecessary and inequitable Federal subsidies.

S. 224

At the request of Mr. WARNER, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 224, a bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits program, and for other purposes.

S. 228

At the request of Mr. MCCAIN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 228, a bill to amend title 31, United States Code, to provide for continuing appropriations in the absence of regular appropriations.

S. 304

At the request of Mr. DORGAN, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 304, a bill to clarify Federal law with respect to assisted suicide, and for other purposes.

S. 351

At the request of Mrs. MURRAY, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 351, a bill to provide for teacher technology training.

S. 365

At the request of Mr. COVERDELL, the names of the Senator from Arkansas [Mr. HUTCHINSON] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 365, a bill to amend the Internal Revenue Code of 1986 to provide for increased accountability by Internal Revenue Service agents and other Federal Government officials in tax collection practices and procedures, and for other purposes.

S. 370

At the request of Mr. GRASSLEY, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 370, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners and clinical nurse specialists to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 371

At the request of Mr. GRASSLEY, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 371, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 389

At the request of Mr. ABRAHAM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 419

At the request of Mr. BOND, the name of the Senator from Louisiana [Ms. LANDRIEU] was added as a cosponsor of S. 419, a bill to provide surveillance, research, and services aimed at prevention of birth defects, and for other purposes.

S. 492

At the request of Mr. SARBANES, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 492, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 511

At the request of Mr. CHAFEE, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 511, a bill to require that the health and safety of a child be considered in any foster care or adoption placement, to eliminate barriers to the termination of parental rights in appropriate cases, to promote the adoption of children with special needs, and for other purposes.

SENATE CONCURRENT RESOLUTION 11

At the request of Mr. GREGG, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Concurrent Resolution 11, a concurrent resolution recognizing the 25th anniversary of the establishment of the first nutrition program for the elderly under the Older Americans Act of 1965.

SENATE RESOLUTION 63

At the request of Mr. DOMENICI, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Kentucky [Mr. FORD], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Montana [Mr. BAUCUS], the Senator from Virginia [Mr. WARNER], the Senator from Wisconsin [Mr. KOHL], and the Senator from Arkansas [Mr. HUTCHINSON] were added as cosponsors of Senate Resolution 63, a resolution proclaiming the week of October 19 through October 25, 1997, as ''National Character Counts Week.''

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Thursday, April 10, 1997, at 10:30 a.m. to receive testimony from outside counsel concerning petitions filed in connection with a contested U.S. Senate election held in Louisiana in November 1996.

For further information concerning this hearing, please contact Bruce Kasold of the Rules Committee staff at 224–3448.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 8, 1997, at 10 a.m. and at 3:30 p.m. to hold hearings.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Tuesday, April 8, 1997, at 9:30 a.m. in room 485 of the Russell Senate Building to conduct an oversight hearing on juvenile justice issues in Indian country.

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

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 8, 1997, at 2 p.m. to hold a hearing.

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

SUBCOMMITTEE ON PERSONNEL

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet on Tuesday, April 8, 1997, at 10 a.m. in open session, to receive testimony on active and reserve military and civilian personnel programs and the Defense Health Program in review of S. 450, the National Defense Authorization Act for fiscal years 1998 and 1999.

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

SUBCOMMITTEE ON SEAPOWER

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet at 2:30 p.m. on Tuesday, April 8, 1997, in open session, to receive testimony regarding submarine development and procurement programs and global submarine threat in review of S. 450, the national defense authorization bill for fiscal years 1998 and 1999.

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

ADDITIONAL STATEMENTS

UNIVERSITY OF KENTUCKY'S BASKETBALL PROGRAM

● Mr. MCCONNELL. Mr. President, the University of Kentucky's basketball program has a rich and storied legacy; more wins than any team in college basketball history, six NCAA titles, more appearances in the NCAA tournament than any other program, and 38 Southeastern Conference titles. But, those statistics only begin to tell the tale. Even with all these successes, the 1996–97 edition of the Wildcats will carry a special place in the hearts of Kentucky fans. For the real story behind the UK basketball team is the love affair the fans have with the Big Blue's program.

It was not so long ago, Mr. President, that even one loss was enough to launch some in the Commonwealth into a fit of pique. So accustomed to winning, some Wildcat fanatics had grown unable to accept an occasional setback. Even worse, many had forgotten how to enjoy the hard-earned victories that talented Kentucky teams continually produced.

Today there is a new attitude in the bluegrass, Mr. President. An attitude which exults in victories and championships without believing the end of the world is near if their beloved Cats happen to come up short. An attitude derived from the players and coaches themselves. An attitude borne of hard work and the satisfaction brought by the unparalleled success that hard work has produced.

Never has this been more true than with this year's Kentucky squad. With the odds stacked against the team all year long, the fans were able to revel in a 35–5 season, a Southeastern Conference tournament title and a national runnerup trophy. Not bad for a squad that lost four players to the NBA draft, two starters to injury and returned only one starter from the previous year's national championship team. At times this year, many would agree that the MVP of the team was trainer ''Fast'' Eddie Jamiel.

These young men, Coach Rick Pitino, and Athletic Director C.M. Newton deserve special recognition for reminding us all that how you play the game is as important as the final result. Not once during a roller-coaster season did any player or coach complain about the difficulty of the challenges at hand. Excuses are for losers, and there are no losers associated with this Wildcat team of overachievers.

The Fabulous Five, the Fiddlin' Five, Rupp's Runts, the Unforgettables, the Untouchables, and now the Unbelievables. Other Kentucky teams had more talent but never has a Wildcat group worked as hard. This team had tremendous pride due to the fact that ''KENTUCKY'' was stitched in bold blue letters across their chests. They took that pride and used it to achieve more than any fan or so-called expert could have hoped for. I join Wildcat faithful across the Nation in saluting this year s gallant effort. ●

THE CHEMICAL WEAPONS CONVENTION

● Mr. DURBIN. Mr President, one of this Nation's most pressing national security concerns is the ratification of the Chemical Weapons Convention. The case for this treaty is compelling. The CWC treaty was negotiated by Presidents Reagan and Bush, two Republican administrations. It is now being moved to ratification by a Democratic administration. CWC is supported whole heartedly and overwhelmingly by the American people. According to a poll, 84 percent of all Americans support this convention. It also has the unconditional support of the U.S. chemical industry and the U.S. military as represented by Gen. Norman Schwarzkopf, General Shalikashvili, and Admiral Zumwalt among others. It is endorsed by veterans groups; religious organizations; the intelligence community; peace groups; societies for physicians, scientists, and engineers; and military organizations. It has already been ratified by 68 countries around the world including China, India, Japan, many of the former Soviet Republics and Warsaw Pact countries as well as our major West European allies. The fact of the matter is, the treaty is both effective and reasonable. It makes sense militarily and economically.

Despite this unprecedented support from such diverse groups, the Convention has been languishing, awaiting a Senate vote since 1993. Very simply put, and to quote from an editorial in the Chicago Tribune: ''This Treaty Ought To Be Ratified.'' This Tribune editorial goes on to state, ''In the annals of 20th century warfare, hardly a weapon short of nuclear explosives has produced such loathing and terror as those classified as chemical weapons.'' When you are considering outlawing the development, production, transfer, acquisition, and use of chemical weapons, partisanship and obstructionism should not be an issue.

There are many misstatements and much propaganda against the CWC. The truth is that there is a heavy price to pay if we are not an original signatory: The United States will have no place on the executive council; Americans won't be able to serve as inspectors; American chemical companies will lose significant business to overseas competitors because of mandatory trade sanctions; and U.S. credibility and influence will be undermined. We'll be in the same category as other nonsignatories such as Libya, Iran, and Syria.

On the other hand, the ratification of CWC will make it less likely that our troops will ever again encounter chemical weapons in the battlefield; less likely that chemical weapons will fall into the hands of terrorists; and less likely that rogue states will have access to chemical weapons. Unfortunately, CWC is not the panacea to remove all threat of chemical weapons, but it is a first important step.

I urge my Senate colleagues to take up the debate on the Chemical Weapons Convention on the Senate floor so that this treaty can be ratified. I also ask that three editorials from Illinois newspapers supporting CWC be printed in the RECORD.

The editorials follow:

[From the Chicago Tribune, Sept. 27, 1995]

THE HELMS CHOKE-HOLD ON DIPLOMACY

That the president of these United States must seek the advice and win the consent of the Senate in making treaties and appointing ambassadors is so integral to the American system of checks and balances that it is written into the Constitution.

The framers of that document certainly were no strangers to the baser side of domestic politics, so a certain amount of horse-trading in the conduct of foreign policy—which is the province of the president—was to be tolerated and even encouraged. Today, however, the pugnacious senator from North Carolina, Jesse Helms, has turned advice and consent into stonewalling and deadlock.

As Senate Foreign Relations chairman, a post he assumed with the Republican sweep of Congress, Helms has laid down his gavel and refuses to convene business meetings of that powerful committee.

Frozen by his fit of pique are ratification of a dozen treaties and international agreements, including two landmark pacts; Start 2, the treaty slashing U.S. and Russian nuclear arsenals that was signed by former President George Bush, a Republican; and the Chemical Weapons Convention, which outlaws the manufacture and use of chemical weapons.

Among the 400 State Department appointments locked up by Helms are 30 ambassadorial positions. Thus, the United States is left without chief envoys to 15 percent of its embassies, including those in several nations critically important to American national security and a peaceful world order—China, Lebanon, Pakistan, Panama, South Africa and Zaire.

What is Helms after? He wants to reorganize the State Department by eliminating the independent agencies that handle foreign aid, arms control and public information. Helms says $3 billion can be saved over four years by letting the State Department swallow up the Agency for International Development (AID), the Arms Control and Disarmament Agency (ACDA) and the U.S. Information Agency (USIA).

The majority of Helms' Senate colleagues, however, disagree. As recently as last week, the Senate refused to approve Helm's controversial reorganization plan, which was attached to the foreign aid bill.

President Clinton concedes there's fat to be trimmed from the State Department budget but points out, for example, that the AID budget has been trimmed by 20 percent since he took office, part of a downward trend that has seen the overall funding of foreign affairs drop by 47 percent since 1985.

This stonewalling by Helms is ill-considered, and extends far beyond Congress' power of the purse. Helms should let the treaties and appointments be voted in committee. Then, the Senate as a whole and not just one senator—should be allowed to consider what advice to give Clinton and whether to give its consent on these important foreign policy matters.

[From the State Journal-Register, Feb. 11, 1997]

OBSTRUCTIONISM BLOCKING CHEMICAL WEAPONS ACCORD

The Senate's delay in bringing the chemical weapons treaty to a ratifying vote is inimical to national interests. This treaty is strongly supported by every major national constituency.

The treaty is an American brainchild, negotiated under Presidents Reagan and Bush. President Clinton sent it to the Senate for ratification in 1993. It has bipartisan Senate support and is enthusiastically backed by the U.S. military, which is destroying its chemical weapons stockpiles and wants to see other nations do the same.

The problem is summed up in two words: Jesse Helms. This relic from North Carolina who, through seniority, not ability, has become chairman of the Foreign Relations Committee, has persuaded Majority Leader Trent Lott to withhold the treaty from a vote on the floor, where it would easily pass.

In playing this power game, Helms serves neither nation, Senate nor party.

He serves his own ego.

The practical effect of Helms' obstructionism is to damage the U.S. chemical industry, a strong treaty supporter.

After the treaty takes effect April 29, participating nations (160 have endorsed it so far) and prohibited from dealing with nonparticipants in any of the chemicals banned by the treaty, many of which have commercial as well as military uses.

The U.S. chemical industry puts the cost to it of this provision at $600 million in exports annually.

But Helms does more serious damage to America's reputation. This is our treaty. Since the United States renounced chemical weapons 15 years ago and began destroying stockpiles, it has been persuading other nations to do the same.

The Chemical Weapons Convention is the first treaty calling not just for the reduction of a type of weaponry, but its entire elimination.

The United States has had success convincing others to follow our lead, but now it is the Senate's turn to act. Instead, Helms has blocked a ratifying resolution introduced by Sen. Richard Lugar, R–Ind., the man Helms ousted as committee chairman four years ago in a particularly egregious use of the seniority principle.

If Helms wants to thwart the Clinton administration and does not care about the chemical industry, perhaps he should listen to what the military is saying.

Gen. John Shalikashvili, chairman of the Joint Chiefs of Staff, is supported by former military leaders Colin Powell, Brent Scowcroft, Elmo Zumwalt and others in urging quick ratification.

Disputing Helms' claim that the treaty somehow weakens the United States, Zumwalt, former chief of naval operations, says it ''is entirely about eliminating other people's weapons, weapons that may someday be used against Americans.

That kind of sober warning should be enough to persuade Helms to end his ego trip and let the treaty go forward.

[From the Chicago Tribune, Feb. 19, 1997]

THIS TREATY OUGHT TO BE RATIFIED

In the annals of 20th Century warfare, hardly a weapon short of nuclear explosives has produced such loathing and terror as those classified as chemical weapons, more commonly known as poison gas.

Considered the poor-man's A-bomb because of their ease of manufacture and battlefield delivery, the use of chemicals was considered so inhumane that even the Nazis declined their deployment on the battlefield—if not in the extermination camps.

So horrible was the thought of Iraq using chemical artillery against U.S. forces in the Gulf War that Baghdad had the clear impression that to do so might bring quick nuclear retaliation.

Who besides the leaders of renegade nations would oppose a treaty that would ban and destroy such heinous weapons of war? How about a handful of senators who oppose the U.S. ratification of the 1993 Chemical Weapons Convention.

Jesse Helms, the powerful head of the Senate Committee on Foreign Relations, and a few others oppose the treaty, claiming that it cannot be effectively enforced nor can violations of its provisions be verified. Proponents dispute such claims. Helms has asked that instead of chemical arms, Senate priorities first be focused upon other aims, like legislation ensuring a comprehensive reform of the ''antiquated'' Department of State and the United Nations.

In this there is a problem: if the Senate does not ratify the pact by April 29, the day the convention becomes international law, the sole remaining superpower will lose out on the right to join teams to monitor suspect chemical plants and guarantee the destruction of chemical arms stockpiles. Another detriment would be denial to the U.S. of access to information gathered by those chemical teams.

So far 161 countries have signed the Chemical Weapons Convention, and the legislatures of 68 countries—including those of our major allies—have ratified the pact. Russia, which has yet to ratify, is nevertheless committed to destroy its chemical stockpile by the year 2005 and the United States its own by 2004.

The list of those backing the treaty contains names hardly associated with a soft line on national defense. On that list are military giants like Colin Powell, Norman Schwarzkopf, Brent Scowcroft and Adm. Elmo Zumwalt Jr., and civilians like George Bush, Lawrence Eagleburger and James A. Baker III.

Our confidence on this issue is in them, not Jesse Helms. The Senate should move quickly to ratify the treaty and join the 21st Century.●

TRIBUTE TO THE MIDDLEBURY COLLEGE HOCKEY TEAM

● Mr. JEFFORDS. Mr. President, I rise today to pay tribute to the 1996–97 Middlebury College Hockey Team. The Panthers recently clinched their third consecutive NCAA Division III title. Not only did the team win a championship, but was also able to remain undefeated throughout the season. Their impressive performance is testimony to months of hard work and dedication.

Vermonters take their hockey seriously and the success of Middlebury College's hockey team is not only a victory for the school, but the entire community as well. The players and coaches have represented themselves as well as Vermont admirably. I know that everyone associated with the team is proud of their achievements and we all look forward to another successful season next year under the continued tutelage of Coach Beaney.

Once again, I would like to extend my best wishes and congratulations to the Middlebury College Hockey Team: Coach Bill Beaney, Assistant Coach Wes McKee, Francois Bourbeau, Jeff Anastasio, Erik Zink, Mathieu Bilodeau, Ryan Goldman, Sebastien Bilodeau, Emil Jattne, Mike Anastasio, Ben Barnett, Cam Petke, Nickolai Bobrov, Mark Spence, Francois Gravel, David Bracken, Peter Schneider, Curt Goldman, Brady Priest, Ross Sealfon, Mike Bay, Ray Turner, Jason Cawley, Chris Farion, Tim Fox, Jim Walsh, and John Giannacopoulos.●

TRIBUTE TO LT. COL. ARCHIBALD GALLOWAY II

● Mr. LUGAR. Mr. President, it is with great pleasure that I rise today to pay tribute to Lt. Col. Archie Galloway for his dedicated military service to our country.

Colonel Galloway is retiring on May 31, 1997 from active service in the U.S. Army after serving for nearly 29 years as an infantry officer and soldier. I came to know Colonel Galloway personally during his last 3½ years of military service as a staff officer in the Army's Senate liaison office, as he arranged for and accompanied me on a number of key trips around the globe on critical national issues of defense and foreign affairs.

Colonel Galloway was born in Baltimore, MD, on April 12, 1947. He enlisted in the Army in 1967 as a private and was later commissioned as a second lieutenant in 1969 from Infantry Officer Candidate School at Fort Benning, GA. Throughout his military career, he consistently distinguished himself during times of peace and war, in both command and staff positions. He volunteered for duty in Vietnam as a Vietnamese ranger adviser and was decorated with the Vietnamese Cross of Gallantry with Silver Star and the Bronze Star Medal. During Operation Just Cause, he served as the chief of current operations in the joint task force and earned at the end of his tour in the 7th Infantry Division the Legion of Merit. His other notable military awards include the Combat Infantryman's Badge, Meritorious Service Medal with four Oak Leaf Clusters, Army Commendation Medal, Army General Staff Identification Badge, Ranger, Airborne, and Air Assault Badges.

Colonel Galloway's professionalism and leadership as a military officer have earned him the respect and admiration of his soldiers, fellow officers,

and Members of the U.S. Congress. He is known for his integrity, compassion, and ability to inspire men and women from all walks of life. It is these qualities that will assure his success as a new legislative assistant for Senator JEFF SESSIONS.

I salute Arch Galloway for his distinguished military record and wish him and his wonderful wife and great baker, the former Nancy Carol Brendel, many years of happiness and good health in his retirement. ●

SALUTE TO HAROLD HAZELIP

● Mr. FRIST. Mr. President, I rise today to commend Harold Hazelip for an outstanding career. Hazelip has served as president of Lipscomb University since 1986 with dedication and a proactive sense of leadership. This spring he will retire, and the students, faculty and staff at Lipscomb University will miss him greatly. But as they look back on his years of service, they will find that the legacy he leaves behind is a strong foundation for education and the community.

Since 1986, Lipscomb University has seen many changes. Enrollment has reached record highs at the university and at David Lipscomb Campus School for kindergarten through high school. Fundraising efforts are more productive than at any time in the university's 104-year history and alumni are giving more back to their school.

When Harold Hazelip took the helm, Lipscomb University was called David Lipscomb College. Through hard work and a clear vision Hazelip helped the school implement a masters degree program to become accredited as a university by the Southern Association of Colleges. In addition to a variety of new programs, Hazelip has also been able to recruit some of the best professors from across the country. Today, 83 percent of Lipscomb's faculty hold terminal degrees in their field, an increase from 63 percent when Hazelip started.

During Hazelip's tenure, admissions standards were strengthened and the diversity of the student body increased. The campus grew, too, with the addition of a new library, a recreational gymnasium, and a campuswide fiberoptic network. Hazelip has eagerly combined technological innovation, student diversity, advanced education programs, and new instructional facilities to steer Lipscomb University toward a bright future.

The most exciting legacy that Hazelip leaves behind is the growth and continued interest in mission work and youth ministry at Lipscomb University. This aspect of campus life is a true reflection of the dedication that Hazelip has for the university as well as his community. Harold Hazelip truly encompasses the ideals of community involvement and leadership. In today's tumultuous world, it is reassuring to see these ideals passed along.

Mr. President, Harold Hazelip is not simply a university president, he is also a writer, a minister, a Chamber of Commerce member, and a leader in education. His commitment to each of these titles is reflected in the successes he has helped the people around him achieve. Hazelip's retirement from Lipscomb University challenges the university community to uphold the standards that he set and to move beyond those criterion to reach higher goals for the institution. Like any good teacher, Hazelip has given Lipscomb University the foundation to achieve success. It is now up to the university to build upon that foundation. Harold Hazelip has set Lipscomb University on the fast track to success, and I am confident that Lipscomb's future is very bright as a result. I thank Harold Hazelip for his dedication to education and his community, and I wish him well as he enters retirement.●

MR. SPRINGFIELD, JOHN Q. HAMMONS

● Mr. BOND. Mr. President, on Sunday, April 13, 1997, the city of Springfield, MO will dedicate a statue of John Q. Hammons in recognition of his lifelong devotion to his city, his State, and his country.

When Thoreau observed that, ''Philanthropy is almost the only virtue which is sufficiently appreciated by mankind,'' he could not have imagined how impossible it has become for Springfield to show sufficiently its appreciation for the generosity of John. He has donated, built, benefactored, patroned, and supported all facets and levels of life in Springfield. When visiting the city, you are aware immediately of John Q. Hammons landmarks which grace and enrich the community.

In raising this statue and in knowing they can never adequately express their admiration, respect, and affection, fellow Springfieldians enthusiastically embrace the opportunity to say thank you. Sunday will be a great occasion for the people of Springfield and I join them in paying tribute to John Q. Hammons.●

TRIBUTE TO THE UND WOMEN'S BASKETBALL TEAM

● Mr. DORGAN. Mr. President, my home State of North Dakota has been making the national news lately because of the recordbreaking snowfalls and flooding we have been suffering. This will surely be a winter that North Dakotans will remember for a long time to come. However, we North Dakotans will also be able to look back on this winter with fond memories because of the two national championships captured by the University of North Dakota in women's basketball and men's hockey.

First of all, I want to pay special tribute to the 1997 National Collegiate Athletic Association's Division II women's national basketball champions, the University of North Dakota Fighting Sioux. This championship is made more special because it is the first ever for women's basketball at UND, and it keeps the national championship trophy in North Dakota for the fifth straight year.

I am sure that this championship is made even sweeter for Head Coach Gene Roebuck and his team because it comes after playing in the shadow of North Dakota State University's women's basketball team for the last several years. The fact is that two of the best division II basketball teams in the country year in and year out play right in the Red River Valley of North Dakota, and it was just a matter of time before the UND women would get their share of the limelight.

To win the national championship, the UND women handily defeated the Southern Indiana Lady Screaming Eagles 94–78 after closing out the game on a 20–4 run. Winning the national championship was truly a team effort with six players scoring in double figures. The Fighting Sioux finished the season 28–4, which ties the school record for most wins in a season.

The outstanding team accomplishments were aided by some notable individual accomplishments. Freshman point guard Jaime Pudenz was named the most outstanding player of the tournament. Jaime was joined on the Elite Eight All-Tournament team by senior Kelli Britz and sophomore Jenny Crouse. Kelli also has the additional distinction of finishing her career at UND as the school's leader in the 3-point fieldgoals made and attempted and second all time in total points scored. Tiffany Pudenz led the Fighting Sioux in scoring in the championship game with 23 points.

But a basketball team needs hard work and contributions from all of its players if it is to reach the pinnacle of a national championship. The Fighting Sioux certainly got that from senior Allison Derck, junior Elisha Kabanuk, sophomores Casey Carroll and Kami Winger, and freshmen Anna Feit, Pernilla Jonsson, Elisabeth Melin, and Katie Richards.

Finally, I want to honor the coaches who have turned the Fighting Sioux into one of the dominant forces in the North Central Conference and all of division II women's basketball. Coach Roebuck is one of the most successful active coaches in basketball with a record of 246–50 over the last 10 seasons. He is assisted on the bench by Darcy Deutsch, Chris Gardner, and Doug Reiten.

I've always known that North Dakota has some of the best people you can find, and I'm told that the visitors to Grand Forks for the national championship came away with the same impression. Now all of America can understand that some of the finest people and finest women's basketball both come from the Red River Valley.●

TRIBUTE TO THE UND ICE HOCKEY TEAM

● Mr. DORGAN. Mr. President, my home State of North Dakota has been making the national news lately because of the record-breaking snowfalls and flooding we have been suffering. This will surely be a winter that North Dakotans will remember for a long time to come. However, we North Dakotans will also be able to look back on this winter with fond memories because of the two national championships captured by the University of North Dakota in women's basketball and men's hockey.

I want to pay special tribute to the 1997 National Collegiate Athletic Association's Division I national hockey champions, the University of North Dakota Fighting Sioux. This is the sixth national championship in the long and storied 50-year history of the UND hockey team. In fact, only one other college, Michigan, has more national hockey titles to its credit than UND.

But perhaps this championship is among the most meaningful because of its improbability. Consistently throughout this season, the hockey program has defied the odds-makers with win after win. This team was predicted to finish no better than fifth in the Western Collegiate Hockey Association at the beginning of the season, but I guess someone forgot to tell that to the team and its coaches for not only did they win the WCHA but also the national championship. They closed out the season with a 31–10–2 record, becoming just the sixth team in UND history to win at least 30 games.

To win the national championship, the Fighting Sioux fought back from a 2 to 0 deficit after the first period to score five goals in the second period against Boston University. In the third period, the Sioux's smothering defense took over and the Sioux won by a final score of 6 to 4.

The team's outstanding team accomplishments throughout the year were aided by some notable individual accomplishments. Junior wing player Matt Henderson was named the tournament's most outstanding player. He was joined on the all-tournament team by freshman goalie Aaron Schweitzer, junior defenseman Curtis Murphy, and the team's leading scorer, sophomore wing David Hoogsteen. Sophomore Jason Blake was 1 of 10 finalists for college hockey's top individual player award, the Hobey Baker Award.

But a team needs hard work and contributions from all of its players if it is to reach the pinnacle of a national championship. The Fighting Sioux certainly got that from seniors Kevin Hoogsteen, Toby Kvalevog, Dane Litke, and Mark Pivetz, junior Mitch Vig, sophomores Jesse Bull, Adam Calder, Ian Kallay, Jay Panzer, Tom Philion, Tyler Rice, Jeff Ulmer, Aaron Vickar, and Brad Williamson, and freshmen Peter Armbrust, Joe Blake, Brad DeFauw, Tim O'Connell, and Jason Ulmer.

Finally, I want to honor the coaches who have led the Fighting Sioux to these levels. Head Coach Dean Blais was named ''WCHA Coach of the Year.'' He is assisted by Scott Sandelin and Mark Osiecki.

Since 13 of the team's 20 members are freshmen or sophomores this year, I am sure we can all look forward to another excellent season. But for now it is more than enough for North Dakotans to bask in the glow of winning yet another national championship in a 10-day period. And hopefully some of the warm feelings will help to melt the snow and dry up the floods.●

ONE HUNDRED TWENTY FIVE YEARS OF COLORADO SPRINGS GAZETTE

● Mr. ALLARD. Mr. President, one of Colorado's most prominent newspapers, the Colorado Springs Gazette, celebrated 125 years of service to the Pikes Peak region on March 23, 1997.

Although known as the Colorado Springs Gazette-Telegraph since 1947, the newspaper used its 125th birthday as an opportunity to return to its earlier roots as the Colorado Springs Gazette.

Colorado Springs is one of Colorado's most vibrant communities having experienced tremendous growth in recent decades. It is home to some of our Nation's most important military facilities such as Fort Carson Army Base, Falcon Air Force Base, the U.S. Air Force Academy and NORAD, U.S. Space Command, and the Air Force Space Command at Peterson Air Force Base. Most recently, several prominent family values advocacy organizations have located in Colorado Springs.

The founder of the newspaper, Gen. William Jackson Palmer, also is regarded as the founder of Colorado Springs. In fact, as the 125th anniversary edition of the Gazette pointed out, the city and the newspaper literally grew up together.

The colorful history of Colorado Springs has been chronicled for 125 years in the pages of the Colorado Springs Gazette and I join the State of Colorado in wishing its publisher, N. Christian Anderson III and the entire Gazette staff, congratulations.●

TRIBUTE TO THE BARRE-MONTPELIER TIMES ARGUS

● Mr. JEFFORDS. Mr. President, I rise today to pay tribute to the Barre-Montpelier Times Argus on it's 100 years of service to its community. From its in-depth statewide political reporting, to its commitment to local news, to its independent editorial page, the ''T. A.'' has played a significant role in central Vermont's history.

I salute the Times Argus for not only reaching this important milestone, but for inviting the entire central Vermont community to participate in its 100th anniversary celebration. The paper has scheduled an open house and guided tour of its facility and is sponsoring numerous theatrical and sports events this summer. In addition, later this year the Times Argus will be printing a centennial edition and is soliciting contributions from its readers about the history and personal impact of the newspaper and the community it covers. I know that I plan to take part in that endeavor.

While much in the newspaper industry has changed since the Times Argus was formed on March 16, 1897, the one constant has been the newspaper's commitment to its readers and community. Again I congratulate the Times Argus on 100 wonderful years of service and wish another 100 years of continued success.●

THE DEATH OF CORRECTIONAL OFFICER SCOTT WILLIAMS

● Mrs. BOXER. Mr. President, I rise today in real sadness to report to my colleagues about the senseless murder last Thursday of Scott Williams, a decorated correctional officer at the Lompoc Federal Penitentiary.

Scott was just 29 years old when he was attacked savagely by an inmate with a makeshift knife. The stabbing occurred during a time of day when inmates walk freely through Lompoc's corridors. He is the only officer killed in the line of duty in the prison's history. My heart goes out to the family Scott Williams leaves behind—to his wife, Kristy, and their two young daughters, Kaitlin and Kallie.

Scott was a model officer, much admired by his colleagues at Lompoc, where he had been employed for only 4 years. But in those 4 years this young man had been promoted once and had received six awards for outstanding service. Scott Williams was as admired for his professionalism and commitment to duty as he was for his kind manner.

Sadly, Scott's training and commitment were not enough to sustain him in the terrifying and deadly moments of the attack, for he was unarmed. Four other officers—Mark Stephenson, Marcos Marquez, Scott Ledham, and Scot Elliott—were injured as they rushed to his side and finally subdued the attacker.

This tragic episode highlights the very real dangers that confront correctional officers across the country. And such incidents are on the rise throughout the Federal prison system. Nowhere is the record for attacks on guards worse than at Lompoc.

Few of us can appreciate the perils faced daily by our correctional officers. The job is fraught with danger, and it takes a special person to come through each day with one's spirit and confidence intact. But Scott Williams was such a man, and now his family and friends must go on without him.

I grieve for the family that is no more: for the husband and wife who can no longer dream of growing old together, for the young daughters denied

a lifetime of their father's love and affection. I grieve for the people of Lompoc, and Los Alamos—Scott's hometown, still stunned and shocked by this murder in their midst.

I intend to initiate some inquiries concerning the appropriate way to prevent such acts of senseless savagery from happening in the future. As a proper testament to the life of Officer Scott Williams, it is incumbent upon us to do no less.●

TELEMARKETING FRAUD PREVENTION ACT

● Mr. KYL. Mr. President, I rise to comment on the Telemarketing Fraud Prevention Act of 1997. I am pleased to sponsor this bill, which directs the U.S. Sentencing Commission to increase penalties for those who purposefully defraud vulnerable members of our society and those who cross international borders to evade prosecution. I thank Senator REID for his sponsorship of this bill, and his leadership in combating telemarketing fraud.

Current penalties for this crime are not tough enough to deter the problem and they leave the victims without restitution. Penalties for bank, wire, radio, and television fraud are at least two-thirds higher than the penalty for telemarketing fraud. Too often, telemarketing fraud felons receive a sentence of fewer than 5 years in prison. The toughest penalty to date is 10 years. These are small penalties considering that many telemarketing fraud criminals have stolen the life savings of retired senior citizens.

Mr. President, thousands of Americans lose billions of dollars a year from telemarketing fraud. According to Maryland Attorney General J. Joseph Curran, Jr., telemarketing fraud is probably the fastest growing illegal activity in this country. An Associated Press story reported that top prosecutors in Arizona and 9 other States filed lawsuits or took other legal action against more than 70 telemarketers nationwide 2 years ago in an attempt to crack down on fraud that costs consumers more than $40 billion a year.

Senior citizens appear to be the most vulnerable to chicanery of this kind. Fred Schulte, an investigating editor for the Fort Lauderdale Sun-Sentinel and an expert on telemarketing fraud, has pointed out that senior citizens are often too polite or too lonely not to listen to the voice on the other end of the line. The risk of being taken advantage of, I believe, increases with age. According to Attorney General Reno, it is not uncommon for senior citizens to receive as many as five or more high-pressure phone calls a day.

As one telemarketing con man who has worked all over the country put it: ''people are so lonely, so tired of life, they can't wait for the phone to ring. It's worth the $300 to $400 to them to think that they got a friend. That's what you play on.'' Mr. President, malicious criminal activity like this must be punished appropriately.

These criminals prey on the vulnerable of our society. In one case, Nevada authorities arrested a Las Vegas telemarketer on a charge of attempted theft. The telemarketer was accused of trying to persuade a 92-year-old Kansas man who had been fraudulently declared the winner of $100,000 to send $1,900 by Western Union in advance to collect his prize. Another example: a Maine company showed real telemarketing creativity. For $250, the so-called Consumer Advocate Group offered to help consumers recover money lost to fraudulent telemarketers—but it provided no services, according to Wisconsin Attorney General James Doyle, who sued the Maine firm plus four other telemarketers.

Mr. President, the Association of Attorneys General has supported similar consumer protection efforts in the past. As Minnesota Attorney General Hubert H. Humphrey III put it last year: ''In the hands of a con artist, a phone is an assault weapon.''

I would, at this time, like to highlight one specific provision of the bill. Section 2 requires that an offender forfeit any real or personal property derived from proceeds obtained as a result of the offense. The proceeds shall be used, as determined by the Attorney General, for the national information hotline established under the Violent Crime Control and Law Enforcement Act of 1994. The proceeds of the fraud will be returned to help the victims. I believe that it is important to pay attention to victims' rights in this area.

Last year, more than 400 individuals were arrested by law-enforcement officials working on Operation Senior Sentinel. Retired law-enforcement officers and volunteers, recruited by AARP, went undercover to record sales pitches from dishonest telemarketers. Volunteers from the 2-year-long Operation Senior Sentinel discovered various telemarketing schemes. Some people were victimized by phony charities or investment schemes. Others were taken in by so-called premium promotions in which people were guaranteed one of four or five valuable prizes but were induced to buy an overpriced product in exchange for a cheap prize. One of the most vicious scams preyed on those who had already lost money. Some telemarketers charged a substantial fee to recover money for those who had been victimized previously—and proceeded to renege on the promised assistance. By the time the dust settled, it took the Justice Department, the FBI, the FTC, a dozen U.S. attorneys and State attorneys general, the Postal Service, the IRS, and the Secret Service to arrest over 400 telemarketers in five States, including my home State of Arizona.

Clearly telemarketing fraud is on the rise. It is estimated that 8 out of 10 households are targets for telemarketing scams that bilk us of up to $40 billion annually. The telemarketing industry rakes in more than $600 billion in annual sales. There are many seniors in my State and across the country who must be protected against this type of fraudulent activity. That is why I have sponsored this bill. The House of Representatives passed a bill similar to mine in the 104th Congress, which has been reintroduced during this Congress by Representative GOODLATTE. It already has 47 cosponsors and the support of the 60 Plus Association and the National Consumers League. I urge my colleagues to join us and cosponsor the Telemarketing Fraud Prevention Act.●

MEASURE READ FOR THE FIRST TIME—S. 522

Mr. MURKOWSKI. Mr. President, under rule XIV, I understand Senate bill 522, which was introduced today by Senator COVERDELL, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The assistant legislative clerk read as follows:

A bill to amend the Internal Revenue Code of 1986 to impose civil and criminal penalties for the unauthorized access of tax returns and tax return information by Federal employees and other persons, and for other purposes.

Mr. MURKOWSKI. Mr. President, I ask for its second reading and object to my own request on behalf of Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. Objection is heard.

OROVILLE-TONASKET CLAIMS SETTLEMENT AND CONVEYANCE ACT

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 412, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 412) to approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

Mr. GORTON. Mr. President, today, the Senate will take up and pass H.R. 412, legislation authorizes a settlement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District in Washington State. Senator MURRAY and I introduced identical legislation on this subject earlier this month.

The reason for the speedy passage of this legislation is directly related to the settlement entered into between the Bureau of Reclamation and the irrigation district. This legislation will authorize a carefully negotiated settlement between the BOR and the

Oroville-Tonasket Irrigation District. When enacted, this legislation will save the BOR, and therefore the Nation's taxpayers, money that would otherwise be spent fighting with the irrigation district in court. The administration supports the legislation.

The reason for quick action on this legislation is the fact that the settlement between the irrigation district and the BOR requires enactment of the legislation by April 15, 1997. If the legislation is not enacted by that date, the irrigation district would have to refile its claim against the Government, and we'd be right back where we started—in court. As a result, Chairman MURKOWSKI, and Senators BUMPERS and KYL have carefully considered my request for quick action and have noted the unique circumstances surrounding this legislation. I would like to thank Senators MURKOWSKI, BUMPER, and KYL for working with me to get this legislation passed quickly. This is truly a unique situation, which calls for quick action.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection. It is so ordered.

The bill (H.R. 412) was passed.

MEASURE JOINTLY REFERRED—S. 468

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that Senate bill 468, which was introduced on March 18, be jointly referred to the Committee on Finance and the Committee on Environment and Public Works.

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

ORDER FOR RECORD TO REMAIN OPEN UNTIL 7 P.M.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the RECORD remain open until 7 p.m. for the introduction of bills and statements.

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

ORDERS FOR WEDNESDAY, APRIL 9, 1997

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m., Wednesday, April 9. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and that there be a period of morning business until the hour of 1 p.m. with Senators to speak therein for up to 5 minutes each, with the following exceptions: Senator THOMAS, 30 minutes; Senator GRASSLEY, 30 minutes; Senator WYDEN, 20 minutes; Senator DASCHLE or his designee, 10 minutes; Senator CAMPBELL, 10 minutes; Senator LAUTENBERG, 10 minutes.

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

PROGRAM

Mr. MURKOWSKI. Mr. President, for the information of all Senators, tomorrow, following morning business, at 1 p.m. the Senate will begin consideration of S. 104, the Nuclear Waste Policy Act. It is our hope that the Senate will be able to make substantial progress on S. 104 during Wednesday's session of the Senate. All Members can, therefore, anticipate rollcall votes throughout tomorrow's session and into the evening, if necessary.

ORDER FOR ADJOURNMENT

Mr. MURKOWSKI. Mr. President, if there is no further business to come before the Senate, I ask that following the statement of the Senator from Illinois, the Senate stand in adjournment under the previous order.

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

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

SCHOOL FUNDING

Ms. MOSELEY-BRAUN. Mr. President, a recent gathering of millionaires and billionaires at an economic conference in Switzerland underscored the importance of education in the global economy of the new millennium. In this information age, they concluded, the distinction between the haves and have nots will be the distinction between the knows and know nots. As it is with individuals, so it is with nations.

We have documented the difference that education credentials make in the average earnings of American workers. High school graduates make 46 percent more every year than those who do not graduate. College graduates earn 155 percent more every year than those who do not complete high school. Over the course of a lifetime, the most educated Americans will earn five times as much as the least educated.

Access to quality public education has been the cornerstone of the American meritocracy, providing people with more talent than means with the opportunity for economic success in most fields of endeavor. The rungs on the ladder of opportunity are crafted in the classroom.

To focus solely on the individual advantage of educational opportunity, however, is to miss the point of its importance to society as a whole. Education is a public good, not just a private benefit, and its relevance to the community transcends its importance to the person. It directly correlates to almost every indicia of societal well-being. Health status, support for the arts and cultural activities, and participation in our democratic institutions increase with educational attainment; while social instability, pathologies, and demand for transfer payments increase in its absence. We all have a direct and personal stake in the availability of educational opportunity for every child.

The conference in Switzerland, however, touched on yet another aspect of the public value of education—its role in the development of a work force prepared for the external changes technology has created. It has been argued the United States was able to beat the global competition in the industrial age because of the high quality of our work force. It is an open question whether we will continue to enjoy such advantage in the information age. In this international competition, older industrial societies will find themselves in direct competition with the second-, third-, and even fourth-world societies that may have skipped industrialization altogether. We can choose either to compete with cheap labor worldwide and guarantee a decline in living standards here, or we can ensure that our work force has the high-skill, sophisticated productivity that will command a living wage in this global economy. It was very interesting to me that during the recent debate about immigration, some of the most influential voices against restricting legal immigration came from Silicon Valley and the high-technology business community: They argued there was a shortage of American workers trained for their work, and they would be unable to maintain their competitive position if limited in the option of importing talent, so the need to educate our work force, as a society and a country, has never been more important.

And so we are faced with a challenge of more monumental proportions than ever before. President Clinton recently referred to education as central to our national security. Yet, we still approach education generally, and education funding in particular, with the perspective of an age long past. Schools are still paid for primarily through the local property tax. Elementary and secondary education has long been almost the exclusive preserve of State and local government, and there has traditionally been a resistance to the National Government having anything to do with the circumstances in which Johnny learns to read.

Such a view misses the changes that have transformed the world and brought us closer together. We have, now more than ever, a community interest that calls for cooperation among and between all of the instruments of our collective will. National, State,

and local governments all have a role to play in funding education. All must do so if we are to respond to the imperative of educational opportunity and excellence in our own enlightened self interest.

Jonathan Kozol, in his important work ''Savage Inequalities,'' spoke to the effects of tying educational opportunity to property wealth. Disparities are created that fly in the face of America's promise of equality of opportunity. Moreover, the local property tax is a poor basis for educational funding: It is inelastic; it is not progressive; it has no relation to the function being supported; and it ties the fate of Johnny's schools to Grandma's fixed income. State governments have not corrected this funding anomaly. A recent report by the U.S. General Accounting Office [GAO] quantifies the inequities of the current mix of State and local tax support of schools and found not only the disparity based on wealth that Kozol exposed, but an even further perversity: Those communities which had the least in terms of property wealth tried the hardest to support their schools by devoting a greater portion of their income to education.

When one considers, in addition, that there is—again, according to the GAO—at least $112 billion in deferred maintenance on the school buildings alone, the magnitude of our education funding challenge becomes clear. That $112 billion for infrastructure will simply address our crumbling school problem; it does not put the new technologies into the classroom or train teachers to use them or pay for the increased phone bills for computer use.

What should be clear is that the answer is not either/or, but all. There are appropriate roles for all of our governments, at the national, State, and local levels. We should emphasize cooperation and collaboration between them, with each taking the responsibility most appropriate to resources and capacity. I have suggested the National Government take up the rebuilding of our crumbling schools, not only because the price tag is so huge, and the problem widespread and pervasive in city, suburban, and rural communities across the Nation, but because it is something the National Government can do without interfering with local decision making, such as which part of the school to fix first.

In the meantime, we should all welcome the debate occurring at the State houses and city councils and boards of education all over America. We should be proud that our President made education the cornerstone of his State of the Union Address. We should be optimistic that our generation has the capacity to address and resolve the challenges of our time, and that we can translate all of the tension and concern about this issue into reality-based solutions.

We must start, however, as the Earth Day slogan advises, by ''Thinking Globally and Acting Locally.'' The answers will be plain and the balance apparent when we consider the implications of this challenge for our Nation's future. The chairman of the OECD, Jean-Claude Paye, once said: ''Leaders worried about their economies need to focus on society's fraying fabric.''

Our attention to education funding reform is a first step in grasping the challenge of our time, and as we restore our Nation's schools, the permanence of the American dream will become more secure.

I thank the Chair. I yield the floor.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

The PRESIDING OFFICER. The Senate stands in adjournment.

Thereupon, the Senate, at 6:16 p.m., adjourned until 10:30 a.m. on Wednesday, April 9, 1997.

NOMINATIONS

Executive nominations received by the Senate April 8, 1997:

DEPARTMENT OF JUSTICE

JAMES WILLIAM BLAGG, OF TEXAS, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS VICE RONALD F. EDERER, RESIGNED.

CALVIN D. BUCHANAN, OF MISSISSIPPI, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF MISSISSIPPI FOR THE TERM OF 4 YEARS VICE ROBERT Q. WHITWELL, RESIGNED.

JAMES ALLAN HURD, JR., OF THE VIRGIN ISLANDS, TO BE U.S. ATTORNEY FOR THE DISTRICT OF THE VIRGIN ISLANDS FOR THE TERM OF 4 YEARS VICE JAMES W. DIEHM, RESIGNED.

JOHN D. TRASVINA, OF CALIFORNIA, TO BE SPECIAL COUNSEL FOR IMMIGRATION-RELATED UNFAIR EMPLOYMENT PRACTICES FOR A TERM OF 4 YEARS, VICE WILLIAM HO-GONZALEZ, TERM EXPIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

RUTH Y. TAMURA, OF HAWAII, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2001. (REAPPOINTMENT)

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

KENNETH P. MOOREFIELD, OF MARYLAND

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JONATHAN M. BENSKY, OF WASHINGTON
JOHN PETERS, OF FLORIDA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

THOMAS LEE BOAM, OF UTAH
STEPHEN K. CRAVEN, OF FLORIDA
LAWRENCE I. EISENBERG, OF FLORIDA
EDGAR D. FULTON, OF VIRGINIA
SAMUEL H. KIDDER, OF WASHINGTON
BOBETTE K. ORR, OF ARIZONA
JAMES WILSON, OF PENNSYLVANIA