United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, SECOND SESSION

Vol. 142 WASHINGTON, TUESDAY, JULY 16, 1996 No. 104

Senate

The Senate met at 9 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 our guest chaplain, Rev. Haldon Arnold, Church of Christ, Springfield, VA. We are glad to you have with us.

PRAYER

The Reverend Haldon Arnold of the Church of Christ, Springfield, VA, offered the following prayer:

Let us pray:

Eternal Father, as these men and women meet today in this historic Chamber to deliberate upon those matters which affect us all, may they be so inclined as to seek Your wisdom and counsel, to be filled with Your spirit that the Nation may be at peace and have a more tranquil life.

We thank You, Lord, for our great country, for its Government, for those who serve in the Congress, our courts, and the White House. May they all labor that our country may be stronger, more able to help the weak, more nearly a government of the people, by and for the people, also.

Father, please continue to be patient with us that we may not self-destruct. Continue to forgive us our mistakes, and our sins, but above all, continue to love us.

And now abides faith, hope, and love, but may all of us know that the greatest of these is love, and I pray through Christ. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

Mr. LOTT. Good morning, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, this morning, under the provisions of rule XXII of the Senate, a live quorum will begin at 10 a.m. Once a quorum is established, there will be a 15-minute roll-call vote on the motion to invoke cloture on the motion to proceed to S. 1936, the Nuclear Waste Policy Act. All Senators should be reminded this vote will occur shortly after 10 a.m. this morning, so they need to be prepared to come to the Chamber. If cloture is invoked on the motion to proceed to the nuclear waste bill, it is my hope we may be able to proceed immediately to the consideration of this important matter in some reasonable and understandable way. If cloture is not invoked, there will be another cloture vote this morning on the Department of Defense appropriations bill.

Again, I urge all Senators to cooperate to enable the Senate to move forward on a number of these items. There are a number of appropriations bills now—I think four—that are available. I hope we will be able to complete those in the coming days.

Mr. President, I ask unanimous consent that the time between now and 10 a.m. be equally divided.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

Mr. LOTT. I yield the floor, Mr. President.

NUCLEAR WASTE POLICY ACT OF 1996—MOTION TO PROCEED

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A motion to proceed to the bill (S. 1936) to amend the Nuclear Policy Act of 1982.

The Senate resumed consideration of the motion to proceed.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, it is my understanding that we have 1 hour equally divided prior to the cloture vote on the motion to proceed.

The PRESIDING OFFICER. That is correct.

Mr. MURKOWSKI. I thank the Chair. I am going to make a short statement and then reserve the remainder of my time to accommodate Senator CRAIG and other Senators.

First of all, the bill we have before us, S. 1936, is really an important bill that does two significant things. First, it keeps a promise, a promise that was made to the taxpayers of this country who have contributed about $12 billion currently to the nuclear waste fund, but, unfortunately, we have nothing to show for it at this time. It also takes important steps to a safer future.

Today, high-level nuclear waste and high-radioactivity-used-type nuclear fuel is accumulating in this country at over 40 sites in 41 States, including waste stored at the Department of Energy weapons facilities, stored, Mr. President, in populated areas, near our neighborhoods, near our schools, on the shores of our lakes and rivers, and in the backyards of constituents, young and old, all across this land.

Later on, I am going to have some charts that I want to show my colleagues so that we can specifically address where this nuclear fuel is stored on both the east and the west coasts, where most Americans live. It may be Yorktown, near your neighborhood and near mine. Unfortunately, spent fuel is being stored in pools that were not designed for long-term storage.

Some of this fuel is already 30 years old. That is not to say it is not safe. It simply was not designed for long-term or semipermanent storage. Each year that goes by, our ability to continue storage of this used fuel in each of these sites in a safe and responsible

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

way simply diminishes. So it is irresponsible to let this situation continue longer. It is unsafe to let this dangerous radioactive material continue to accumulate at more than 80 sites all across the country. It is unwise to block the safe storage of this used fuel in a remote area away from high-population centers.

Furthermore, this is a national problem that requires a coordinated national solution, and this bill, S. 1936, solves this problem. It solves it by safely moving the used fuel to a safe, monitored facility in the remote Nevada desert, a facility designed to safely store the fuel, the very best that nuclear experts can build, certified safe by the Nuclear Regulatory Commission.

So, S. 1936 will end the practice of storing used fuel on a long-term basis in pools in Illinois, Ohio, Minnesota, California, New York, New Jersey, Pennsylvania, and other States all across the country.

This will solve an environmental problem, Mr. President, but the approach to S. 1936 is simply to get the job done, to do what is right for the country and to do it now.

For those who are not familiar with this program, let me describe the status quo. We have struggled with this nuclear waste issue for almost 15 years. We have expended over a billion dollars in the process. We have collected nearly $12 billion from the ratepayers, but the Washington establishment has not been able to deliver on the promise to take and safely dispose of our Nation's nuclear waste by 1998.

Hard-working Americans have paid for this as part of their monthly electric bill. They certainly have not gotten the results, Mr. President. The program is broken and has no future unless it is fixed. We can end the stalemate; we can make the decision.

I think we have reached a crossroads. The job of fixing this program is ours, the responsibility is ours. The time for fixing the program is now.

We are, of course, seeing the Senators from Nevada oppose the bill, as I would expect, with all the arguments and vigor they can muster, and that is certainly understandable. Nobody wants nuclear waste in their State, but it has to go somewhere, and Nevada is the best place we have.

Both Senators from Nevada, of course, are friends of mine. We have talked about this issue at length, and they are doing what they feel they must do to best represent their State. But as U.S. Senators, we must sometimes take a national perspective. We must do what is best for the country as a whole.

To keep this waste out of Nevada, the Senators from Nevada have used some terms, very catchy terms, like ''mobile Chernobyl,'' to frighten Americans about the safety of moving this used fuel to the Nevada desert where it really belongs.

They will not tell you that we have already moved a large amount of commercial and naval nuclear fuel throughout many, many years. The commercial industry alone has shipped 2,500 shipments of used nuclear fuel over the last 30 years. We have seen it shipped into Hanford, Savannah, a site in Idaho.

I want to tell you, an even larger amount of spent fuel is transported worldwide. We have seen it in Japan. We have seen it in England. We have seen it in France. We have seen it in Scandinavia. Since 1968, the French alone have safely moved about the same amount of spent fuels as we have accumulated at our nuclear powerplants today.

They will not tell you that our Nation's best scientists and engineers have designed special casks that are safety certified by the Nuclear Regulatory Commission to transport the used fuel. They will not tell you about the rigger testing that has taken place by the Sandia National Laboratory and others to ensure the casks will safely contain used fuel in the most severe accidents that might be imagined. They will survive.

There is proof that the safety measures work. There have been seven traffic accidents in the United States involving U.S. spent nuclear fuels. When the accidents have happened, these casks have never failed—never failed—to safely contain the used fuel. There has never been an injury or a fatality caused by casked radioactive cargo. There has never been damage to the environment. Can the same be said of gasoline trucks, other hazardous movement on our highways? Of course not. Still, we can expect our friends from Nevada are going to try to convince the people that the transportation will not be safe.

The evidence of the industry in the United States and in Europe proves otherwise. The safety record of nuclear fuel transport, both here and in Europe, as I have said, speaks for itself. The issue provides a clear and simple choice. We could choose to have one remote, safe, and secure nuclear waste storage facility or, through inaction and delay, we can permeate the status quo and have 80 such sites spread across the Nation.

Mr. President, the chart to my right shows the locations of spent nuclear fuel and radioactive waste sites that are designed for the geologic disposal. You can see the reactors. The commercial reactors are in brown situated primarily in States in the Midwest and on the east coast, Illinois, and others. The green are the shutdown reactors with spent fuel on-site. The black are commercial spent-fuel storage facilities that are located in various areas throughout the country. The green are the non-Department of Energy-related reactors. The gold is the nuclear reactors fuel in the Navy holdings. The red is the Department of Energy-owned spent nuclear fuel and high-level radioactive waste. There is the chart, Mr. President. That shows where the sites are around the country.

The next chart which I will put up is the proposed solution to this dilemma. It proposes, obviously, one site, the Nevada test site. The theory behind this is we in the last 50 years tested numerous nuclear devices in this area and found it to be safe. The reality of the situation, Mr. President, is—and I grant to my friends from Nevada, nobody wants the waste. Somebody has to take the waste. Where do you put the waste? This has been determined to be the most plausible site as a consequence of the efforts to develop a permanent repository at Yucca Mountain. What we are proposing by this legislation is to allow a temporary repository to initiate a process of becoming a reality.

I have another chart here which shows in each State the number of volumes associated with the storage in the inventory currently in the estimated inventories through the year 2010. We will have another chart relative to each Member being able to see his or her own State and what it represents.

What we have here, Mr. President, is a situation where it is not morally right to perpetuate the status quo on this matter. I think to do so shirks our responsibility to protect the environment and the future of our children and grandchildren. This Nation needs to confront its nuclear waste problem now. The time is now. Nevada is the place. I urge my colleagues to support the passage of S. 1936 and to support cloture on the motion to proceed to the bill.

One final thing, Mr. President, as we reflect on some of the material that we have seen relative to the question of why move now? Mr. President, as I have indicated, we spent $1 billion. We have spent over 15 years trying to develop and respond to a promise made to the American taxpayer, as the Federal Government has collected from the ratepayers some $11-plus billion—over $12 billion.

So I concede, Mr. President, that no one wants it. On the other hand, if you oppose what has been suggested by this bill, then I think you have an obligation to come up with a solution, a reasonable solution and responsible solution, a long-term solution. The Federal Government promised the ratepayers, promised the industry to take this waste by 1998. The Government cannot deliver on that promise.

Furthermore, Mr. President, this is a major environmental issue. We must accept the responsibility of addressing the accumulation of this waste. We cannot duck it anymore. S. 1936 does that. What we have here, Mr. President, is an effort by the Nevada Senators to gridlock the Senate, to filibuster the Senate.

I have no particular interest in this, but as chairman of the Energy and Natural Resources Committee, I have a responsibility, Mr. President. My State, fortunately, is not one of the States listed. But by the same token,

the obligation to address this is a responsibility of every U.S. Senator. We cannot delay it any longer. We can store it now in the one safe site where we have been exploding nuclear weapons for some 50 years. We owe it to the U.S. citizens to move this material and do it now.

I note the Washington Post editorial this morning, Mr. President, suggested that somehow this action would not meet all the standards of a permanent facility. This is not intended to meet the standards of a permanent facility. This is an interim facility. But by the same token, we all know that the construction continues on the permanent facility at Yucca Mountain with all the safeguards necessary.

I might add, in this legislation none of the safeguards are waived. All of the Federal acts must be adhered to. ''The interim bill is the wrong way,'' the Washington Post says, ''to solve what is not fully yet an urgent problem.'' I differ with the Washington Post. It is an urgent problem, Mr. President.

In many of these States the licensing of the nuclear waste on hand is almost at its maximum limit. As a consequence, Mr. President, we can no longer shirk the responsibility. There have been numerous hearings. There have been numerous debates. The best plausible alternative is a temporary repository associated with Yucca Mountain. That is what the legislation is all about.

Mr. President, I retain the remainder of my time and allow the other side to be heard from. Then I think Senator CRAIG is going to have some remarks.

Mr. REID. Could the Chair indicate how much time remains.

The PRESIDING OFFICER. The Senator's side has 29 minutes and the other side has 14 minutes.

Mr. REID. We have a tremendous amount of work to do in this body, including 12 appropriations bills to pass, welfare reform, taking a look at Medicare, Medicaid. We have this problem that faces every city in America, the decaying infrastructure. We have not spent any time talking about that.

Mr. President, the junior Senator from Alaska mentioned a number of things, and I think it is important to respond. He is talking about keeping a promise—I do not know to whom, maybe to the powerful utilities of this country. Certainly it is no promise to the people of this country to take nuclear waste and spread it across this country without proper controls.

The Senator talked about the special casks. Let us talk about the special casks. The special casks were developed in an effort to more safely transport nuclear waste. The problem is, the cask developed, you still cannot safely transport nuclear waste. It is great for storing on site. But taking these casks across the country could present a few problems. Why? Because they are only safe if an accident occurs and you are going less than 30 miles an hour. We have all driven the highways and seen the trucks come barreling down the roads on the freeways, the expressways, the roadways, and byways. Very, very few of them have I ever seen going 30 miles an hour. The only time they do that is when they are building up their speed from a stop sign. If any vehicle accident occurs with the dry cask storage container in it and it is going more than 30 miles an hour, the cask will be violated. The cask will break.

In addition to that, Mr. President, we have been told that these casks are safe with fire. Well, they are, if the fire is not too hot and does not last too long. If the fire is 1,480 degrees and does not last more than a half hour, you are in great shape. But, of course, we know that last year a train burned for four days. We know that vehicular accidents involving trucks or trains involve diesel fuel. Diesel fuel burns as high as 3,200 degrees Fahrenheit. The average temperature is 1,800 degrees—400 degrees hotter than what the casks were developed to protect.

So, that is why we believe, Mr. President, that this legislation is ill-founded, unwise, and unnecessary. This is not just the Senators from Nevada talking, Mr. President. The fact of the matter is that the President, who we have said all along is going to veto this bill, has sent the minority leader a letter. The letter states a number of things. It is dated July 15. Among the things that are stated in this letter is, ''The administration cannot support this bill.'' We have been saying that all along. Some people question that. It should be very clear now that the President has said this. He has written this. Here is a proposed veto message.

The letter also says:

The administration believes it is important to continue work on a permanent geological repository.

Where? In Nevada at Yucca Mountain. The nuclear industry wants to short-circuit and shortcut the process that has been ongoing.

The letter further states:

The Department of Energy has been making significant progress in recent years and is on schedule to determine the viability of the site.

Designating the Nevada Test Site as the interim waste site, as S. 1936 effectively does, will undermine the ongoing Yucca Mountain evaluation work by siphoning away resources. Perhaps more importantly, enactment of this bill will destroy the credibility of the Nation's nuclear waste disposal program.

Those words come from the White House.

Some have alleged that we need to move spent commercial fuel rods to a central site now.

That is what we have been saying all along, and that is also indicated this letter from the White House.

According to a recent report from the Nuclear Waste Technical Review Board, an independent board established by Congress, there is no technical or safety reason to move spent fuel to an interim central storage facility for the next several years.

Also, the Nuclear Waste Technical Review Board assures us that adequate, at-reactor storage space is, and will remain, available for many years.

The President, among other things, says, ''The bill weakens existing environmental standards by preempting all Federal, State, and local laws.

It ends by saying, ''It is an unfair, unneeded, and unworkable bill,'' as we have been saying all along. This is signed by the Chief of Staff of the President.

There are editorials we can show you from the western part of the United States to say this is a bad bill. Today in the Washington Post, the editorial said, among other things, in its headlined article: ''Waste Makes Haste.'' The Washington Post, an independent newspaper, says:

Anxious to rid itself of the accumulating waste and the liability that it represents, and fearful that the Federal studies could bog down, the nuclear lobby is pushing a bill to designate an ''interim'' storage site in Nevada that would not have to meet all the standards of a permanent facility.

It says:

The interim bill is the wrong way to solve what is not yet a fully urgent problem.

But this is too important a decision to be jammed through the latter part of a Congress on the strength of the industry's fabricated claim that it faces an emergency. On this one, Members should imagine the worst—that bunching and storing the waste will produce the eventual environmental disaster that some of the critics predict. Then they ask themselves, which among them want to sign their names to that?

Mr. President, this bill is a fabrication, as indicated in this article. The bill is a fabrication. It is being pushed by the nuclear lobby, and that is the main reason it is being pushed. This bill should not see the light of day.

I reserve the remainder of our time.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. How much time remains on our side?

The PRESIDING OFFICER. Fourteen minutes remain, and 20 minutes remain on the other side.

Mr. CRAIG. I yield myself 5 minutes. Will the Chair notify me when that time is up?

The PRESIDING OFFICER. Yes.

Mr. CRAIG. In the debate that has gone on and will continue to go on, on this critical issue, the management of the high level nuclear waste, there are myths and there are realities.

I ask unanimous consent that four letters, dated April 7, 1995, August 7, 1995, January 10, 1996, April 26, 1996, all letters to the White House, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S SENATE, COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
Washington, DC, April 7, 1995.

President BILL CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As the new chairman of the Committee on Energy and Natural Resources, one of my top priorities is to help

meet the challenge this nation faces in developing a safe and scientifically sound means of managing spent nuclear fuel. Given the Department of Energy's announcement it will not be able to meet its obligation to begin accepting nuclear waste in 1998, we must address this issue in an aggressive and forthright manner.

Judging from the attention paid this matter by Secretary of Energy Hazel O'Leary, I had assumed it was a top priority for you, as well. But recent letters you sent to Senator Richard Bryan and Nevada Governor Robert Miller seem to suggest otherwise.

While you acknowledge there are ''national security interests involved,'' your letter says you cannot support any current legislation to fix the problem ''at this time.'' If you cannot support current legislative proposals at this time, members of my committee would like to know how and when you plan to offer an alternative proposal.

You are no doubt aware of the environmental and security implications of failing to reach a solution in the not too distant future.

With all due respect. Mr. President. I and many members of my committee believe it is time for you to become an active participant in efforts to resolve this pressing challenge. We urge you to either support the concepts in several current legislative proposals or offer a plan of your own. We have already held hearings on the spent nuclear fuel program and continue to work toward a solution. Your advice and involvement would be greatly appreciated.

Sincerely,

FRANK H. MURKOWSKI,
Chairman.

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, August 7, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: I last wrote to you on the subject of managing the nation's spent civilian nuclear fuel on April 7, 1995.

In my prior letter, I made reference to the fact that you, in a letter to Senator Bryan, stated that you could not support any spent fuel management legislation currently before Congress at this time. Your position raised a number of questions:

If you cannot support any pending legislation, what can you support?

If you will not support legislation now, when might you support it?

If all the comprehensive spent fuel management legislation before Congress is unacceptable, will you provide us with draft legislation that is acceptable?

In my April 7 letter, I challenged the administration to become an active participant by either supporting the concepts in pending legislation or by offering a comprehensive plan of its own. Unfortunately, this has not yet occurred. In fact, neither you nor your office has even responded to my letter. Are we to conclude that you will simply continue to remain critical of all the pending proposals without offering constructive, comprehensive alternatives?

Recently, a House Subcommittee marked up its legislation to address the spent fuel management problem. Floor action may yet occur in the House this year. Meanwhile, our Committee continues its deliberations with industry, consumer groups, regulatory authorities and others with a view toward achieving a broad consensus. Even the Appropriations Committees, anxious to see some progress, are inserting provisions in their bills to promote action. Everyone seems to be working on this issue, Mr. President—except your administration.

I believe the spent fuel management problem is one that can best be solved by working in a bipartisan, collaborative manner. Unfortunately, the opportunity for the administration to provide meaningful guidance at this important stage in our deliberations is quickly being lost.

I again urge you to submit comprehensive legislation to address this important problem, or voice your support for concepts embodied in legislation currently before us. The courtesy of a reply would also be appreciated.

Sincerely,

FRANK H. MURKOWSKI,
Chairman.

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, January 10, 1996.

Hon. WILLIAM J. CLINTON,
President of the United States,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Over the past nine months, I have written two letters to you requesting that the Administration offer a comprehensive plan that would allow the federal government to meet its commitment to manage the nation's spent nuclear fuel and nuclear waste.

What we have now is a program that has spent twelve years and $4.2 billion of taxpayer dollars looking for a site for a permanent high-level nuclear waste repository. By 1998, the deadline for acceptance of waste by the Department of Energy (DOE) and when DOE plans to make a decision about whether or not the Yucca Mountain site is suitable for a permanent repository, twenty-three commercial power reactors will have run out of room in their spent fuel storage pools. By 2010, DOE's rather optimistic target date for opening a permanent repository, an additional 55 reactors will be out of space. It is estimated that continued-onsite storage through 2010 would cost our nation's taxpayers $5 billion dollars more than centralized interim storage. At the same time, spent nuclear fuel and high-level nuclear waste from defense activities is being stored, at great expense, at DOE sites across the country.

On April 7, 1995, and August 7, 1995, when I wrote my previous letters, you had indicated that you could not support legislation then pending before Congress at that time. In light of this position, my letters urged you to offer a comprehensive plan of your own that would resolve this important national security issue. One August 18, 1995, I received a letter from Office of Management and Budget Director Rivlin acknowledging receipt of my letters and indicating that an Administration policy recommendation would be provided before the end of the Labor Day recess.

We have still not received a response from your office. On December 14, 1995, Secretary Hazel O'Leary testified before the Committee on Energy and Natural Resources that the Administration would oppose any legislation that would authorize the construction of a interim storage facility at the Nevada Test Site in time for the government to meet its obligations to begin storing spent nuclear fuel in 1998. Secretary O'Leary indicated that the Administration wishes to simply continue the existing program.

However, the status quo is not an option. As indicated by Senator Domenici at the December 14 hearing, the Appropriations Committee will not continue to provide funding for the program unless legislative changes are made that allow the construction of interim storage on a timely basis. I continue to believe that this problem can best be resolved in a bipartisan manner. However, this is an issue that requires legislative action. If you continue to reject Congressional proposals, I would ask that you offer an alternative plan that would allow the government to fulfill its commitment to the electricity ratepayers of this country. I look forward to your reply.

Sincerely,

FRANK H. MURKOWSKI,
Chairman.

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, April 26, 1996.

Hon. WILLIAM J. CLINTON,
President of the United States,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Over a year ago, I wrote the first of three letters to you regarding an issue that is one of my top priorities, and which I had assumed was a top priority of yours—protecting the environment and the safety of Americans from the threat posed by high-level nuclear waste. Only after the third letter, sent on January 10, 1996, did I receive a response from your Office of Management and Budget Director, which indicated you support the status quo.

Although I would have genuinely appreciated constructive input from your Administration, at that time, it became clear none was forthcoming. Thus, on March 13, 1996, the Energy and Natural Resources committee reported S. 1271, a bill to provide for the safe storage of spent nuclear fuel and nuclear waste at a central interim storage facility.

I was dismayed to receive the Statement of Administration Policy issued on April 23, 1996, which threatened to veto S. 1271 ''because it designates an interim storage facility at a specific site.'' Although that statement claims ''[t]he Administration is committed to resolving the complex and important issue of nuclear waste storage in a timely and sensible manner,'' such words ring hollow in the context of a threat to veto any legislation that does anything other than perpetuate the status quo.

Currently, high level nuclear waste and spent nuclear fuel is accumulating at over 80 sites in 41 states, including waste stored at DOE weapons facilities. It is stored in populated areas, near our neighborhoods and schools, on the shores of our lakes and rivers, in the backyard of constituents young and old all across this land.

The question is not whether or not we like nuclear power; it is whether this nation will responsibly deal with the spent nuclear fuel that already exists. Even if the use of nuclear power were to end today, the problem of what to do with related materials remains. Each year that goes by, the ability to continue storage of nuclear waste at each of these sites in a safe and responsible way decreases.

It is inappropriate to let this situation continue unresolved. As a grandparent and concerned American, I hope to convince you to help us do something about it.

Rather than letting this dangerous radioactive material continue to accumulate at more than 80 sites all across the country, doesn't it make sense to store it at one, safe and monitored facility at a site so remote that the Government used it to explode nuclear weapons for fifty years? The responsible answer is ''yes.''

We've struggled with the nuclear waste issue for more than a decade. We've collected over $11 billion from electricity ratepayers to run the existing program. That program (the status quo) has hit a brick wall. Congressional and public confidence in the program is in decline—and the Appropriations Committee has responded by cutting its funds. Ratepayers, state public utility commissions and Congressional appropriations

committees have lost patience and are making it clear they refuse to continue pouring billions of dollars into a program that fails to solve this problem, and will not, for the foreseeable future.

The choice is ours. We can choose to have one, remote, safe and secure nuclear waste storage facility. Or, through inaction and delay, we can perpetuate the status quo and have 80 such sites spread across the nation. The job of fixing this program is also ours.

It is not morally right to perpetuate the status quo on this matter. To do so would be to shirk our responsibility to protect the environment and the future for our children and grandchildren. This nation needs to confront its nuclear waste problem now. That means Congress must pass and you should sign S. 1271 into law. I can only hope you will reconsider your position and make a decision to help us solve this very real environmental problem.

Sincerely yours,

FRANK H. MURKOWSKI.

Mr. CRAIG. Mr. President, when the chairman of the Energy and Natural Resources Committee of the Senate submitted these letters to the White House urging them to become involved in this critical national issue, the response was limited to nothing. We even suggested in legislation that I first introduced, S. 1271, that the committee worked very hard on, that if they could not support the pending legislation, they should offer an alternative. Their answer was no answer.

As a result of all of that, the White House never became a player in this most critical issue. The Department of Energy, under the direction of Hazel O'Leary, could not become a player because the White House had chosen a long time ago not to deal with this critical national policy, but to play politics on something that the public cries out for a solution.

As a result of that, when the Chief of Staff of the White House, Leon Panetta, on July 15, submitted a letter, a veto threat, on S. 1936, many of us looked at that in an effort to analyze it to see whether the White House had in fact began to engage in this most critical policy issue. I must tell you, Mr. President, that the answer to that is no. The letter that comes from the White House is not a policy statement; it is in every regard a political statement. It is tragic at a time when many, many States of this Nation demand that this be a solution to a critical problem that the White House would only play politics. That is very frustrating to me, and I am sure it is frustrating in a bipartisan way to a good many of my colleagues here in the Senate.

The legislation now before us, S. 1936, is not something cooked up by the chairman of the Energy and Natural Resources Committee or this Senator from Idaho. We sat down with the ranking member of that committee, BENNETT JOHNSTON, and our staffs. We brought consultants in from all over the world to see how we bring about the beginning of the movement of a solution to the problem of the handling of high-level nuclear waste.

In all fairness to the administration, but more important to Hazel O'Leary, she began to aggressively move the issue by speeding up the activities on the exploration development and certification process that must go on at Yucca Mountain. But even as that timetable speeds up, it does not solve the problem. It does not answer the problem that this country must address.

Mr. President, I ask unanimous consent that Senators ABRAHAM, JEFFORDS, SMITH of New Hampshire, WARNER, KEMPTHORNE, ROBB of Virginia, KYL of Arizona all become sponsors of this legislation.

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

Mr. CRAIG. Through the course of the debate, Mr. President, a lot of the issues that have been propounded by our colleagues from Nevada will be clarified. For the Record, because of an allegation that I believe is patently false and that results from the exploration and the understanding of how these materials get transported across our country, I ask that the International Association of Fire Chiefs letter in support of this legislation be printed in the RECORD.

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

INTERNATIONAL ASSOCIATION
OF FIRE CHIEFS,
Fairfax, VA, June 21, 1996.

Hon. LARRY E. CRAIG,
Senate Office Building,
Washington, DC.

DEAR SENATOR CRAIG: S1271, the Nuclear Waste Act of 1995, has been reported out of the Senate Committee on Energy and Natural Resources and is awaiting consideration on the Senator floor. The International Association of Fire Chiefs (IAFC) fully supports this legislation and urges prompt passage.

Enclosed for your information is a resolution adopted by the IAFC which states our concerns about the storage of nuclear fuel and the compelling reasons to enact this legislation now.

We appreciate your consideration of this very important issue.

Thank you.

Very truly yours,

ALAN CALDWELL,
Director, Government Relations.

Enclosure.

RESOLUTION BY THE INTERNATIONAL ASSOCIATION OF FIRE CHIEFS HAZARDOUS MATERIALS COMMITTEE TO SUPPORT SENATE BILL #1271, ''NUCLEAR WASTE ACT OF 1995''

Wherefore: Nuclear fuel has been accumulating and temporarily stockpiled since 1982 at numerous staging locations throughout the United States; and

Whereas: Many of these locations are provided a security system which is less than desirable; and

Whereas: The stockpiling of nuclear waste in so many removed locales renders them most vulnerable to potential sabotage and terrorist attacks; and

Whereas: Prolonged exposure to the elements of time and weather will perpetuate deterioration and invite infrequent inspections; and

Whereas: A plan to remove this nuclear fuel and coordinate its transport to a single secure designated interim storage facility at Yucca Flat, NV, in accordance with prudent planning, training, and preparation can be a safe, logical and acceptable alternative: Therefore, let it be

Resolved that the International Association of Fire Chiefs:

1. Urge members of the U.S. Senate to support Senate Bill 1271.

2. Urge members of the U.S. Senate to ensure that:

a. Only specified rail and highway transportation routes are designated for transport;

b. Only specified days and hours of day are designated for transport to assure local authority readiness and preparedness; and

c. All appropriate local emergency services (fire, law) are notified in writing of such designated movement through their jurisdiction not less than 30 days before such involvement, and said notification shall include the specified route, quantity, number and type of transportation vehicles/containers, date, time of day, point of project contact, and 24-hour emergency contact.

3. Urge members of the U.S. Senate to ensure that:

a. Prior to any movement, prudent and detailed plans for route design, route designations, and inspection of all routes for safety, acceptability, and ease of access by emergency response agencies be completed with solicited participation from the emergency response agencies.

b. Prior to any movement, consideration—including support—be provided to train the local emergency response agencies in suggested procedures to be followed in case of an emergency, to include proper protocols, notification, scene security, agency responsibilities and authorities; and

c. Prior to any movement, a detailed analysis is completed to analyze and list all probable types of accidents that may be likely, and document a suggested intervention protocol that the local emergency response agencies can review, study, and employ.

Mr. CRAIG. Mr. President, what is important for all of us to understand—and I think for our colleagues to appreciate as we debate over the next good number of days S. 1936—is that we have employed all of the science of the known Western World to assure that the management and the handling of nuclear waste be done in a safe and effective way. And the legislation that is now before us simply begins to expedite all of that.

Mr. President, I see my time is up. I would like to yield 5 minutes to the Senator from Louisiana, the senior Senator, BENNETT JOHNSTON.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, if one would pick this issue based on personalities I would never have been involved in the nuclear waste debate because my two colleagues from the State of Nevada are two of the most popular Senators, two of my best friends, and two of the most capable Senators in this body. But the fact of the matter is, Mr. President, I began working on nuclear waste in 1979 when I introduced the first bill. I believe that was before my two colleagues even came to the Senate. And I did so because, Mr. President, it is a problem that the Nation must solve. And it fell my lot as a member of the Energy Committee, and as chairman of the Energy and Water Appropriations Subcommittee, to deal with this very troublesome issue.

Today we find ourselves, Mr. President, with about 40,000 metric tons of nuclear waste spread around 34 States in this country, and it cries out for solution. And every year, Mr. President, we hear, ''Don't do it this year. This is an election year.'' You hear this privately. ''It is an election year. One of my colleagues is up.'' It is always an election year. Either one of my two colleagues from Nevada or the President is up for election. And there is always some reason to put it off.

But, Mr. President, we have spent $5 billion on this issue of nuclear waste. And we are nowhere near getting it solved. That is not just because of mishandling by the Department of Energy. The responsibility, Mr. President, lies to a large extent right here in the Congress because we have been, at least up until this time, unwilling to act decisively and to do what we know must be done.

I have a letter here from the White House, Leon Panetta, for whom I have not only great affection but great respect. But I must tell you, Mr. President, Mr. Panetta's letter in opposing this bill is written about the last bill—not this bill. One thing he points out, and perhaps most importantly, he says, ''The enactment of this bill will destroy the credibility of the Nation's nuclear waste disposal program by prejudicing the Yucca Mountain permanent repository decision.''

Mr. President, when this bill was in the committee I proposed an amendment which said that you may not begin construction on the temporary or interim facility until a decision is made as to the suitability of the permanent repository. That amendment was not agreed to. I think that is an appropriate amendment. I do not believe you ought to begin construction on the interim facility until you make a decision with respect to the permanent repository. But, Mr. President, that was rejected in committee. But since then we have negotiated the matter out with the chairman, Senator MURKOWSKI, and my friend Senator CRAIG. And now the provision is written into this bill now being considered that you may not in fact begin construction until you make a decision as to the permanent repository.

So the principal complaint in Leon Panetta's letter is no longer valid. And I hope and I trust that, when and if this bill passes, the President and Mr. Panetta will relook at this matter in light of those changed circumstances.

Mr. President, the reason we need interim storage now—at least the reason we need to pass this bill now—is because that reactor sites around the country are running out of room in what they call swimming pools. The nuclear waste rods are taken out of the reactor and put in literally swimming pools of water, and those have been reracked over the years; that is, made more dense. And one by one utilities are running out of space. Northern States Utilities up in the State of Minnesota has already run out of space and has had to purchase what they call dry cask storage at very expensive cost.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

UNANIMOUS-CONSENT AGREEMENT

Mr. MURKOWSKI. Mr. President, on behalf of the leader, I ask unanimous consent that the cloture vote occur at 10:10 a.m. this morning and that the mandatory quorum under rule XXII be waived.

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

Mr. MURKOWSKI. I thank the Chair.

Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Three minutes; the other side has 8½ minutes.

Mr. MURKOWSKI. I reserve the remainder of my time.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I want to address the broad policy implications of S. 1936. I want to emphasis that my comments apply directly to the bill before us, not 1271. There has been some suggestion that 1936 represents improvement over 1271, its predecessor. It is my view that there are some changes but the changes make no policy difference at all.

First, I want to make the point again with respect to the necessity for interim storage. My colleague has pointed it out. I want my colleagues who are watching the debate in the office to look at this report entitled ''Disposal and Storage of Spent Nuclear Fuel, Finding the Right Balance, a Report to Congress and the Secretary of Energy.'' This is March of this year, 1996. ''The Board sees no compelling technical or safety reason to move spent fuel to a centralized storage facility for the next few years.''

Mr. President, what is occurring is a familiar pattern. This technical review board was created by Congress in 1987 after the original 1982 act. So, if you do not like what you asked for in a report in the nuclear utility industry—and its advocates obviously do not—then you reject the report. But this represents the consensus of scientific opinion as chosen by individuals who have no personal interest in terms of any parochial concerns. Their conclusion emphatically is that there is no need.

That is the issue which the letter of the President's Chief of Staff addresses in part, and that is why the Washington Post editorial of this morning makes the contention that this is too important of an agenda to be jammed through the latter part of Congress on the strength of the industry's fabricated claim that it faces an emergency.

So no Member of this body ought to be misled that there is some crisis. The only crisis is in the mind of the nuclear power industry which for the last 16 years has tried to engender such a crisis to get interim storage.

Second, the reason this is such an abomination in my view is that it effectively emasculates a body of environmental laws which have been enacted over the past quarter of a century.

To name but a few: the Safe Drinking Water Act, Clean Water Act, RCRA, Superfund, FLPMA, the National Environmental Policy Act, the Endangered Species Act. I make that contention and invite my colleagues' attention to page 73 of the legislation.

It is very clever, I concede that. But this is the language that effectively guts the environmental law of America as it applies to this process:

> If the requirements of any law [any law] are inconsistent with or duplicative of the requirements of the Atomic Energy Act and this Act, the Secretary shall comply only [only] with the requirements of the Atomic Energy Act and this Act in implementing the integrated management system.

So, we clearly, in effect, supersede any provisions in any of the environmental laws that would be in conflict with this current act. The effect of that is to bypass them. It has been asserted in some correspondence that has been circulated that, indeed, there is a requirement for the National Environmental Policy Environmental Impact Statement Review. Let me just, again, specifically invite my colleagues' attention to the language on page 36 of the legislation. Yes, it talks about an environmental impact statement, but then, in a series of restrictions, it emasculates such language by saying:

> Such Environmental Impact Statement shall not consider the need for the interim storage facility, including . . . the time of the initial availability of the interim storage facility, any alternatives to the storage of spent fuel . . . and any alternatives to the site of the facility. . . .

That is the essence of what an environmental impact statement is, to consider other alternatives that might be available. So the effect that would have is to completely emasculate it.

Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator from Nevada has 10½ minutes remaining.

Mr. MURKOWSKI. I am sorry, I did not hear the President on the time?

The PRESIDING OFFICER. The Senator from Nevada has 10½ minutes on this side, 3 minutes on the Senator's side.

Mr. BRYAN. I yield myself 7 additional minutes and ask the Chair to alert me when there are 3 minutes remaining on our time.

Mr. President, another public policy disaster is the statutory provision in this S. 1936 we are debating this morning that provides for a 100-millirem standard for us in Nevada. There is an international consensus that somewhere between 10 and 30 is a reasonable basis. Indeed, the safe drinking water

standard is 4 millirems. Our friends from New Mexico, who have been on the floor to discuss WIPP, the transuranic facility in their own State, have a 15-millirem standard, but we would have a 100-millirem standard established by statute. There is no justification for that. I am aware of no considered body of scientific opinion that suggests that, from a sole source, an additional 100 millirems be added. I must say, this is part of an ongoing effort to constantly reduce the levels of health and safety in placing nuclear waste in the State of Nevada.

Finally, let me briefly talk about a public policy issue that ought to concern every Member of this Senate. Everybody has talked about balancing the budget, unfunded mandates and unfunded liability. This piece of legislation represents one of the largest unfunded liabilities that would ever be passed by a Congress, because what this legislation effectively does is to shift the financial burden from the nuclear utilities to the American taxpayer. It does so in a very clever and ingenious way. It puts a limitation on the amount of mill tax that can be assessed to the utilities based upon the kilowatt hours produced at 1 mill.

In the report to Congress by the Nuclear Waste Technical Review Board, they make it clear that if interim storage is to be pursued in addition to the permanent repository, that it will require an additional mill levy, in addition to the 1 mill, and currently indicates that, with the permanent repository program alone, there is an unfunded liability of between $3 and $5 billion.

So the effect of this legislation is to shift the burden and make a major policy departure from what historically was acknowledged from the time that the 1982 act was passed to the changes in 1987 and all of the iterations in between that. In effect, it is the utilities which ought to bear the financial burden.

One can understand why they clearly would like to avoid that burden, but much like our Social Security system today, it is taking in more money than is being paid out, and in the outyears, sometime in the next century, that will reverse. Precisely the same scenario is mandated in S. 1936, because although currently the amount of revenue coming in may be adequate to deal with the permanent repository program alone, as these reactors close—and they are licensed for periods of 40 years—less money will be coming into the fund at a time when the burdens and responsibility of handling the storage will continue on through an indefinite period of time. So this represents a financial disaster for the country as well.

I will just summarize by saying the legislation is not necessary, and those are not the assertions or conclusions of the Senators from Nevada. That is Congress' own Nuclear Waste Technical Review Board, the board that was created by an act of Congress in 1987.

Second, it effectively guts the environmental laws. A policy of dubious merit, in my judgment, mandates a health and safety standard that no other nation in the world has established.

Finally, it would shift the cost from the utilities to the taxpayers, and that is bad news for the American taxpayers.

I yield to the distinguished Democratic leader.

Mr. DASCHLE. Mr. President, I thank the distinguished Senator from Nevada. I will not be long. I commend him for his comments this morning. I think, as we come to a close in this debate, both Senators from Nevada have served not only their State well, but this body well as they have contributed to this debate in a very positive way.

Mr. President, a couple of things have occurred over the weekend that I feel deserve the attention of the Senate with regard to the issue of nuclear waste. I would like to address both of them, if I could, briefly.

This morning, in the Washington Post, the main editorial made quite a point of saying that the bill we are considering today is wasteful because, in a sense, we are rushing to a decision that the Post argues ought to be considered with greater care.

The editorial makes a couple of very important points. I will quote one in particular:

> . . . the nuclear lobby is pushing a bill to designate an ''interim'' storage site in Nevada that would not have to meet all the standards of a permanent facility.

Mr. President, that is an issue that I think does not get the attention it deserves from our colleagues as they are considering this matter. Clearly, if we are considering a site of any magnitude, for any length of time, that site ought to be required to meet the same high standards of public health protection as the permanent site.

The editorial is right on point. Under this bill, the interim site would not have all the standards required of it that a permanent site would. That is one of many issues that we ought to be considering very carefully.

Finally, the editorial ends by saying it is,

> . . . too important a decision to be jammed through the latter part of a Congress on the strength of the industry's fabricated claim that it faces an emergency. On this one, members should imagine the worst—that bunching and storing the waste will produce the eventual environmental disaster that some of the critics predict. Then ask themselves, which among them want to sign their names to that?

Mr. President, I ask unanimous consent the entire editorial be printed in the RECORD at this point.

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

[From the Washington Post, July 16, 1996]

WASTE MAKES HASTE

Nuclear power has not turned out to be the blessing the advance men said it would. Among much else, they presented it as clean—no more burning of gritty coal—but in the matter of cleanliness, it has a ghastly problem of its own. The nuclear issue is waste disposal—what to do with the enormously toxic spent fuel rods for which there currently is no long-term home.

The idea was that the utilities would store the spent fuel in the short run, while the government created a permanent storage facility. To put it charitably, the government has been slow to fulfill its part of the bargain. Technology has been one reason; it's hard to determine how best to deal, over what will likely be many generations, with a product as nasty as this. Politics also have been a problem; for obvious reasons, no one wants the stuff.

In the 1980s Congress fastened on Yucca Mountain in Nevada as a likely permanent repository. Nevadans resisted the idea, but Texas and Washington, the other candidates, were more powerfully represented in the House and able to duck. The necessary work to settle definitely on Yucca Mountain has gone slowly, however. The judgments are hard, and the Energy Department over the years has been less than a model of efficiency. So now the industry is trying to force the issue.

Anxious to rid itself of the accumulating waste and the liability that it represents, and fearful that the federal studies could bog down, the nuclear lobby is pushing a bill to designate an ''interim'' storage site in Nevada that would not have to meet all the standards of a permanent facility. Nevadans see the proposal as a stalking horse to create what would amount to a permanent facility by another name. The state's two senators have been holding up other legislation to keep the storage measure from coming to a vote. A cloture vote will be held today to cut off their filibuster; they expect to lose. But the president also has threatened a veto, and that the Nevadans think they could sustain.

We hope they do, if necessary. The interim bill is the wrong way to solve what is not yet a fully urgent problem. It may well be that there is no alternative to permanent storage—some people think a timely way may yet be found to detoxify the waste instead. It also may be that Yucca Mountain is the best available site. But this is too important a decision to be jammed through the latter part of a Congress on the strength of the industry's fabricated claim that it faces an emergency. On this one, members should imagine the worst—that bunching and storing the waste will produce the eventual environmental disaster that some of the critics predict. Then ask themselves, which among them want to sign their names to that?

Mr. DASCHLE. Mr. President, I simply ask, who among us would want to sign our names to that? Who among us feels the need to rush to judgment, to make a decision on an interim site based upon what I consider to be faulty logic, recognizing that we are not subjecting the interim site to the same standards as a permanent site?

This issue is of such great concern to the President that he has sent a letter on it to all of us. I ask unanimous consent to have the letter from the administration be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, July 15, 1996.

Hon. THOMAS A. DASCHLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: I would like to express the Administration's position on S.

1936, a bill to create a centralized interim high-level nuclear waste storage facility in Nevada. The Administration cannot support this bill, and the President would veto it if the bill were presented to him in its present form.

The Administration believes it is important to continue work on a permanent geologic repository. According to the National Academy of Science, there is a world-wide scientific consensus that permanent geologic disposal is the best option for disposing of commercial and other high-level nuclear waste. This is why the Administration has emphasized cutting costs and improving the management and performance of the permanent site characterization efforts underway at Yucca Mountain, Nevada. The Department of Energy has been making significant progress in recent years and is on schedule to determine the viability of the site in 1998.

Designating the Nevada Test Site as the interim waste site, as S. 1936 effectively does, will undermine the ongoing Yucca Mountain evaluation work by siphoning away resources. Perhaps more importantly, the enactment of this bill will destroy the credibility of the Nation's nuclear waste disposal program by prejudicing the Yucca Mountain permanent repository decision. Choosing a site for an interim storage facility should be based upon objective science-based criteria and should not be made before the viability of the Yucca site is determined in the next two years. This viability assessment, undertaken by the Department of Energy, will be completed by 1998.

Some have alleged that we need to move spent commercial fuel rods to a central interim site now. According to a recent report from the Nuclear Waste Technical Review Board (NWTRB), an independent board established by Congress, there is no technical or safety reason to move spent fuel to an interim central storage facility for the next several years. The Nuclear Regulatory Commission (NRC) has determined that current technology and methods of storing spent fuel at reactors are safe. If they were not safe, the NRC would not license these storage facilities. Also, the NWTRB assures us that adequate at-reactor storage space is, and will remain, available for many years.

In S. 1936, the Nevada Test Site is the default site, even if it proves to be unsuitable for the permanent repository. This is bad policy. This bill has many other problems, including those that present serious environmental concerns. The bill weakens existing environmental standards by preempting all Federal, state and local laws and applying only the environmental requirements of this bill and the Atomic Energy Act. The results of this preemption include: replacing the Environmental Protection Agency's authority to set acceptable radiation release standards with a statutory standard considerably in excess of the exposure permitted by current regulations; creating loopholes in the National Environmental Policy Act; and eliminating current licensing requirements for a permanent repository.

I hope that you will not support S. 1936. It is an unfair, unneeded, and unworkable bill. We have the time to develop legislation and plan for an interim storage facility in a fairer and scientifically valid way while being sensitive to the concerns of all affected parties. This includes those in Nevada, those along the rail and roadways over which the nuclear waste will travel, and those who depend on and live near the current operating commercial nuclear power plants.

Thanks you for your consideration of these views.

Sincerely,

LEON L. PANETTA,
Chief of Staff.

Mr. DASCHLE. The letter says, ''The Administration cannot support this bill, and the President would veto it if the bill were presented to him in its present form.''

He goes on to say, ''According to a recent report from the Nuclear Waste Technical Review Board, an independent board established by Congress, there is no technical or safety reason to move spent fuel to an interim central storage facility for the next several years.''

The President also notes, ''The bill weakens existing environmental standards by preempting all the Federal, state, and local laws and applying only the environmental requirements of this bill and the Atomic Energy Act.''

He summarizes the letter by saying, ''I hope you will not support S. 1936. It is an unfair, unneeded and unworkable bill.''

I do not know how you can say it any better than that. I think we can do better than this. We ought not be rushing to judgment. We ought to be applying the same standards. We ought to realize there are very serious consequences associated with the decisions some would have us make.

So I hope that cooler heads will prevail, that we recognize the importance of this decision and that we let the process work its will. That is not too much to ask to make the right decision. The President believes that, the Washington Post believes that, and I hope that most of the Senate believes it too.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I believe the Senator from Idaho wants to make a statement for the RECORD.

Mr. CRAIG. Mr. President, as we reach the final days of the 104th Congress, an urgent environmental problem remains unresolved. However, unlike many issues, fortunately the question of how to deal with this Nation's high-level nuclear waste has an answer that is responsible, fair, environmentally friendly, and supported by Members of both parties.

Today, high-level nuclear waste and highly radioactive used nuclear fuel is accumulating at more than 80 sites in 41 States. Each year, as that increases, our ability to continue storage of this used fuel at each of these sites in a safe and responsible way diminishes. The only responsible choice is to support legislation that solves this problem by safely moving this used fuel to a safe, monitored facility in the remote Nevada desert. This answer will lead us to a safer future for all Americans.

To facilitate our consideration of such legislation, Senator MURKOWSKI and I, introduced S. 1936, a bill to amend the Nuclear Waste Policy Act of 1982. Bill, S. 1936, retains the fundamental goals and structure of the substitute for S. 1271 that was reported out of the Energy and Natural Resources Committee in March.

However, S. 1936 contains many important clarifications and changes that deal with concerns raised regarding the details of that legislation by Members of this body. In addition, we took into account the provisions of H.R. 1020, which was reported out of the House Commerce Committee on an overwhelming bipartisan vote last year. We adopted much of the language found in H.R. 1020 in order to make the bill as similar to the bill under consideration in the House as possible.

I would like to describe some of the most significant of these changes. S. 1936 eliminates certain provisions contained in S. 1271 that would have limited the application of the National Environmental Policy Act to the intermodal transfer facility and imposed a general limitation on NEPA's application to the Secretary's actions to only those NEPA requirements specified in the bill. This was to allay the concern that sufficient environmental analysis would not be done under S. 1271.

S. 1936 clarifies that transportation of spent fuel shall be governed by all requirements of Federal, State, and local governments and Indian tribes to the same extent that any person engaging in transportation in interstate commerce must comply with those requirements. S. 1936 also allows that the Secretary provide technical assistance and funds for training to Unions with experience in safety training for transportation workers. In addition, S. 1936 clarifies that existing employee protections in title 40 of the United States Code only addresses the refusal to work in hazardous conditions apply to transportation under this act. It also provides that certain inspection activities will be carried out by carmen and operating crews only if they are adequately trained. Finally, S. 1936 provides authority for the Secretary of Transportation to establish training standards, as necessary, for workers engaged in the transportation, storage, and disposal of spent fuel and high-level waste.

In order to ensure the size and scope of the interim storage facility is manageable in the context of the overall nuclear waste program, and yet adequate to address the Nation's immediate spent fuel storage needs, S. 1936 would limit the size of phase I of the interim storage facility to 15,000 metric tons of spent fuel, and the size of phase II of the facility to 40,000 metric tons. Phase II of the facility would be expandable to 60,000 metric tons if the Secretary fails to meet her projected goals with regard to site characterization and licensing of the permanent repository site. In contrast, S. 1271 provided for storage of 20,000 metric tons of spent fuel in phase I and 100,000 metric tons in phase II. I would like to clarify that the new volumes are sufficient to allow storage of current spent naval fuels.

Unlike S. 1271, which provided for unlimited use of existing facilities at the

Nevada test site for handling spent fuel at the interim facility, S. 1936 allows only the use of those facilities for emergency situations during phase I of the interim facility. These facilities should not be needed during phase I and construction of new facilities will be overseen by the Nuclear Regulatory Commission for any fuel handling during phase II of the interim facility.

S. 1271 would have set the standard for releases of radioactivity from the repository at a maximum annual dose to an average member of the general population in the vicinity of Yucca Mountain at 100 millirem. The 100 millirem standard is fully consistent with current national and international risk standards designed to protect public health and safety and the environment. While maintaining an initial 100 millirem standard, S. 1936 would allow the Nuclear Regulatory Commission to apply another standard, if it finds that the standard in the legislation would pose an unreasonable risk to the health and safety of the public.

S. 1936 contains provisions not found in S. 1271 that would grant financial and technical assistance for oversight activities and payments in lieu of taxes to affected units of local government and Indian tribes within the State of Nevada. S. 1936 also contains new provisions transferring certain Bureau of Land Management parcels to Nye County, NV.

In order to ensure that monies collected for the nuclear waste fund are utilized for purposes of the Nuclear Waste Program, beginning in fiscal year 2003, S. 1936 would convert the current Nuclear Waste Fee, that is paid by electricity consumers, into a user fee that is assessed based upon the level of appropriations for the year in which the fee is collected.

Section 408 of S. 1271 provided authority for the Secretary to execute emergency relief contracts with certain eligible utilities that would provide for qualified entities to ship, store, and condition spent nuclear fuel. This provision concerned some Members who feared it could be interpreted to provide new authority for reprocessing in this country or abroad. This provision is not contained in S. 1936.

S. 1271 contained a provision that stated the actions authorized by the bill would be governed only by the requirements of the Nuclear Waste Policy Act, the Atomic Energy Act, and the Hazardous Materials Transportation Act. S. 1936 eliminates this provision and instead provides that, if any law is inconsistent with the provisions of the Nuclear Waste Policy Act and the Atomic Energy Act, those acts will govern. S. 1936 further provides that any requirement of a State or local government is preempted only if complying with the State or local requirement and the Nuclear Waste Policy Act is impossible, or if the requirement is an obstacle to carrying out the act. This language is consistent with the preemption authority found in the existing Hazardous Materials Transportation Act.

S. 1936 authorizes the Secretary to take title to the spent fuel at the Dairyland Power Cooperative's La Crosse reactor, and authorizes the Secretary to pay for the onsite storage of the fuel until DOE removes the fuel from the site under terms of the act. This is a provision that I felt was necessary to equitably address concerns in Wisconsin and Iowa.

S. 1936 contains language making a number of changes designed to improve the management of the Nuclear Waste Program to ensure the program is operated, to the maximum extent possible, in like manner to a private business. I feel this will improve the overall management of the spent fuel program.

Finally the bill contains language that addresses Senator JOHNSTON's concerns. The language in S. 1936 provides that construction shall not begin on an interim storage facility at Yucca Mountain before December 31, 1998. I am most pleased to now have Senator JOHNSTON's support of this legislation.

The bill provides for the delivery of an assessment of the viability of the Yucca Mountain site to the President and Congress by the Secretary of Energy 6 months before the construction can begin on the interim facility. If, based upon the information before him, the President determines, in his discretion, that Yucca Mountain is not suitable for development as a repository, then the Secretary shall cease work on both the interim and permanent repository programs at the Yucca Mountain site. The bill further provides that, if the President makes such a determination, he shall have 18 months to designate an interim storage facility site. If the President fails to designate a site, or if a site he has designated has not been approved by Congress within 2 years of his determination, the Secretary is instructed to construct an interim storage facility at the Yucca Mountain site.

This provision ensures that the construction of an interim storage facility at the Yucca Mountain site will not occur before the President and Congress have had an ample opportunity to review the technical assessment of the suitability of the Yucca Mountain site for a permanent repository and to designate an alternative site for interim storage based upon that technical information. However, this provision also ensures that, ultimately, an interim storage facility site will be chosen. Without this assurance, we leave open the possibility we would find in 1998 we have no interim storage, no permanent repository program, and—after more than 15 years and $6 billion spent—we are back to where we started in 1982 when we passed the first version of the Nuclear Waste Policy Act. That is within the 50 States in the Union we must locate a site to dispose of spent nuclear fuel.

This issue provides a clear and simple choice. We can choose to have one, remote, safe, and secure nuclear waste storage facility. Or, through inaction and delay, we can perpetuate the status quo and have 80 such sites spread across the Nation. It is irresponsible to shirk our responsibility to protect the environment and the future for our children and grandchildren. This Nation needs to confront its nuclear waste problem now. I urge my colleagues to vote for cloture and support the passage of S. 1936.

Mr. MURKOWSKI. Mr. President, much has been made here of the so-called nuclear lobby relative to this bill and the status of the issue we have before us.

Let's not be misled. We have letters from 22 States to the President and Members of Congress; 11 from Governors and 12 from attorneys general urging action on the nuclear waste legislation, and that action is now. Governors of Florida, Georgia, New Mexico, North Carolina, Pennsylvania, South Carolina, and Vermont have all written to the President; attorneys general from Illinois, Iowa, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Ohio. Others who have written to Congress include Arizona, Massachusetts, Virginia, Wisconsin, Rhode Island, Arkansas, Delaware, Maryland, and Oregon.

So this is not the nuclear lobby we are talking about. We are talking about Governors, attorneys general in 41 States who are concerned about a problem that Congress has ignored. They have collected from the ratepayers $12 billion. We have expended over $1 billion on this process.

The Washington Post tells us it is not an urgent problem. Well, the Washington Post does not have any nuclear waste next to them. They do not have any in Washington, DC. But it is a problem in Illinois. It is a problem in California. It is a problem throughout the United States.

We have heard the statement from the Washington Post, and the minority leader suggested that we heed the Washington Post editorial relative to the issue that environmental laws are not being adhered to. All State and local transportation safety laws apply to the Department of Energy exactly as they apply to private carriers of hazardous materials. Other environmental laws are only preempted to the extent they conflict with this act.

This act sets forth very stringent environmental standards that apply only to this very unique facility. There are no environmental laws that apply specifically to this facility because there is no other facility like this. This provision simply ensures that we do not have conflicting laws governing this facility. We have the laws, though, Mr. President. A provision regarding NEPA simply states that the environmental impact statement that will be prepared will not have to address alternatives that Congress has eliminated from consideration. This is really only a clarification that the EIS need not reconsider issues that we are deciding here

today, like the fact that an interim facility should be built or how the site for that facility will be chosen. In all other respects, NEPA will apply under its own terms.

Mr. President, the President has not taken a position on this to rectify it. He simply has condemned every effort by Congress to address the situation. He and the administration have a responsibility to respond positively with a suggestion instead of negatively to everything that Congress proposes to address the problem.

I urge my colleagues to vote cloture.

The PRESIDING OFFICER (Mr. INHOFE). The Senator's time has expired.

Mr. REID. Mr. President, I remind everyone in this Chamber of the charts Chairman MURKOWSKI showed us earlier. They show nuclear waste stored in 80 sites across America. They show another chart with one site, the Nevada test site, and they claim that all the waste will be moved from these many sites to this one site. This simply is wrong, and it is misleading.

Nuclear waste will remain at the nuclear reactors for as long as these nuclear reactors operate and long afterward. Nuclear waste will be stored in these cooling ponds at these reactors during their operation and after they shut down. Dry cask storage will be required at many of these reactors, whether or not S. 1936 passes.

Those Senators who believe that S. 1936 will get nuclear waste out of their backyards are misinformed, and they are wrong. The first chart of the junior Senator from Alaska, the chart with waste stored across the Nation, represents our future under S. 1936, as well as our past. In addition to waste in the backyards that it is already in, it will be in the backyards of places all over this country along the transportation routes.

Remember, Mr. President, we have already had seven nuclear waste accidents, 1 for every 300 trips. We are going to have thousands of trips; 12,000 shipments alone will go through the State of Illinois; thousands through Massachusetts; almost 12,000 through Nebraska and Wyoming.

This legislation is wrongheaded. I repeat from the editorial this morning in the Washington Post:

> But this is too important a decision to be jammed through the latter part of a Congress on the strength of the industry's fabricated claim . . . .

This is legislation that is unnecessary. It is based upon one fabrication after another. It should be soundly defeated. We ask the motion to invoke cloture not prevail.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

PRIVILEGE OF THE FLOOR

Mr. MURKOWSKI. Mr. President, on behalf of the leader, I ask unanimous consent that William Murphie be granted the privilege of the floor during the consideration of this bill, S. 1936, a bill to amend the Nuclear Waste Policy Act of 1982.

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

Mr. MURKOWSKI. Mr. President, I believe all time has expired.

The PRESIDING OFFICER. The Senators from Nevada still control a few minutes.

Mr. REID. We yield back the time.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived, under rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 1936, the nuclear waste bill:

Trent Lott, Larry E. Craig, Fred Thompson, Dan Coats, Don Nickles, Ted Stevens, Craig Thomas, Richard G. Lugar, Slade Gorton, Spencer Abraham, Frank H. Murkowski, Conrad R. Burns, Dirk Kempthorne, Alan K. Simpson, Bill Frist, Hank Brown.

CALL OF THE ROLL

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

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1936, the Nuclear Waste Policy Act, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Mississippi [Mr. COCHRAN] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote.

The yeas and nays resulted—yeas 65, nays 34, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—65

Abraham	Gramm	Levin
Ashcroft	Grams	Lott
Bennett	Grassley	Lugar
Bond	Gregg	Mack
Bradley	Hatch	McCain
Breaux	Hatfield	McConnell
Brown	Heflin	Moseley-Braun
Burns	Helms	Murkowski
Chafee	Hollings	Murray
Cohen	Hutchison	Nickles
Coverdell	Inhofe	Nunn
Craig	Jeffords	Pressler
D'Amato	Johnston	Robb
DeWine	Kassebaum	Roth
Domenici	Kempthorne	Santorum
Faircloth	Kohl	Shelby
Frahm	Kyl	Simon
Frist	Lautenberg	Simpson
Gorton	Leahy	Smith
Snowe	Thomas	Warner
Specter	Thompson	Wellstone
Stevens	Thurmond	

NAYS—34

Akaka	Dodd	Kerry
Baucus	Dorgan	Lieberman
Biden	Exon	Mikulski
Bingaman	Feingold	Moynihan
Boxer	Feinstein	Pell
Bryan	Ford	Pryor
Bumpers	Glenn	Reid
Byrd	Graham	Rockefeller
Campbell	Harkin	Sarbanes
Coats	Inouye	Wyden
Conrad	Kennedy	
Daschle	Kerrey	

NOT VOTING—1

Cochran

The PRESIDING OFFICER. On this vote, the yeas are 65, the nays were 34.

Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, so that we will be aware of what we are trying to do, the Senator from Pennsylvania wishes to speak on another matter for 5 minutes. Then, after he concludes, it is my intent, at least for a time, to put in a quorum so that we will have an opportunity to talk to all the Senators involved in this issue and the Democratic leader and see if we can come to an agreement.

We want to accommodate Senators on both sides of this particular issue. We want to find a way to move as early as possible to the Department of Defense appropriations bill. It is my intent to move forward with both of these issues in the best way we can. We would like to talk to the Senators from Nevada to see what their wishes are and to Senator MURKOWSKI and the Senator from Idaho. We will do that, and we will let the Senate know exactly what is agreed to when we come to a conclusion.

I want to put the Senate on notice that I would like for us also to see if we cannot work out the stalking bill so that we can get a unanimous consent agreement on that. I would like to see if we can get an agreement on the gambling commission so that we would have an understanding on how to proceed on that. We might have a couple of judges that we can get a clearance on today. We would also like to see if we cannot go to conference on the health insurance reform package. So I will be talking to Senators on both sides of the aisle on a number of issues to see if we can get an agreement as to how and when we might bring them up. For right now, we will talk to Senators on how to proceed on nuclear waste.

I yield to the Senator from Pennsylvania.

SENATOR SPECTER'S SPEECH TO THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Mr. SPECTER. Mr. President, I sought recognition to comment briefly on a speech I gave yesterday to the International Brotherhood of Teamsters.

It was even more difficult to speak on the floor of the Philadelphia Convention Center yesterday at the meeting of the International Brotherhood of Teamsters than it is to speak sometimes on the Senate floor, having had substantial experience speaking without order. It was a new experience for me. It was a different experience. I want to comment about the International Brotherhood of Teamsters meeting yesterday, which was disrupted by a demonstration. There was a very hotly contested political election going on in the Teamsters Union.

When the convention was convened at 2 o'clock in the afternoon, the chair was unable to obtain order, and I finally spoke over the din of that crowd, and made the basic point that when there is a dispute, wherever that dispute exists in America and the resolution of the dispute is subject to democratic processes, I said that the matter ought to be decided by ballots and by an exchange of free speech, without demonstrations interrupting other speeches. I made the very basic point that, even in Russia, where there was recently an election, the contesting parties had more of an opportunity to exercise freedom of speech and to have the matters heard in an orderly and systematic way.

During the course of the speech that I gave, a large number of the delegates moved down to one section in front near the podium. During the course of the presentation, the large group moved down to one section of the hall and continued the demonstration. I made the very basic point that that was not a credit to the Teamsters, it was not a credit to the labor movement, and it was not a credit to America to continue that kind of a demonstration. I said that it did not help the individual whose cause the demonstrators were trying to articulate.

It seemed to me then, and it seems to me now, that the leader of that group had an obligation, when his partisans were demonstrating in that manner, to appear and do his utmost to bring them to order so that the convention could proceed. The point that I had intended to make—and I said at the convention yesterday that I was returning to Washington on the 4 o'clock Metroliner and would make the speech on the Senate floor, but we were not in session yesterday—was to congratulate the Teamsters Union for being willing to look at the political process without being tied to one political party or another, but to make judgments and decisions based upon the merits and based upon the facts.

The example of the British Empire was, I think, a very good one. Speaking about the British Empire, the point was made that, in Britain, they maintained a consistency of interest, but not necessarily a consistency of allies. The Teamsters have demonstrated a significant degree of political independence with supporting political candidates on both sides of the political aisle, supporting President Nixon, supporting President Johnson, supporting President Reagan, supporting President Clinton. My point was to commend them for their kind of political independence, and especially where there seems to be a declaration of war of a sort between labor and the Republican Party which I think is bad for everybody—bad for the parties who are participants in the war. And it is really bad for America that there is not more independence and more analysis of the individual merits as opposed to blind political loyalty. The words of John Kennedy, President Kennedy, have been quoted with some frequency when he said that ''sometimes a party asks too much.''

My point in speaking yesterday—and I now make these comments on the floor of the Senate—is to congratulate the Teamsters in the past for their political independence. It is my hope that as that political convention moves forward in Philadelphia today that there will be order there so that there can be an exchange of political ideas. Whether the election is one for a President of the United States or the president of the International Brotherhood of Teamsters, the orderly way to proceed is to hear everyone out, and then to make a judgment and a decision at the ballot box which the Teamsters will be afforded.

It is no secret that the Teamsters have had a troubled past in the course of the past four decades. The Senate McClellan committee conducted a very extensive investigation years ago in the 1950's. When I was an assistant district attorney in Philadelphia I got the first convictions of Teamsters for conspiracy to commit fraud in local 107 of the Philadelphia Teamsters Union. All the defendants were convicted. Six of them, and all went to jail. That local was cleaned out but profited from the mistakes of the past, and the International Teamsters is currently under trusteeship.

So that it is more important perhaps than in any other single instance when the Teamsters convention convenes that there will be order, decorum, and due process so that those who are invited to speak can exercise the constitutional right to freedom of speech, and that there will be an appropriate way to resolve the differences there at the ballot box instead of with demonstrations.

Mr. President, I ask unanimous consent that the text of my speech yesterday at the Teamsters convention in Philadelphia be printed in the RECORD.

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

REMARKS OF THE HONORABLE ARLEN SPECTER

Ladies and gentlemen, I will try to say a few words over the din of noise.

In America we have a democracy.

(Applause)

In America we decide our controversies by voting and not by shouting.

(Applause and shouting)

This demonstration does not bring credit to the Teamsters. This demonstration does not bring credit to the American labor movement.

(Booing from the Convention floor.)

This demonstration does not bring credit to those who back Mr. Hoffa.

(Applause and shouting)

Right now the eyes and ears of America are on this hall. Right now the eyes and ears of America want to see if the Teamsters Union can have a civilized meeting and a civilized election, and this demonstration does not do credit to that process.

(Applause and shouting)

They just had an election in Russia. They just had an election in Russia, and in the Duma, the Russian parliament, you did not see this kind of a repudiation of a democracy and you did not see this kind of demonstration against freedom of speech.

(Applause and shouting)

Right now the Congress of the United States—right now the Congress of the United States and the United States Senate, of which I am a member, is trying to decide what to do for the American working man and the American working woman. And when they see what is happening in this hall, that is not a credit to the American labor movement. That is not a credit to democracy, and it does not do credit to those who support Mr. Hoffa.

(Applause and shouting)

There is important business to be transacted at this Convention. You men and women have come from all over the United States to transact business of the International Brotherhood of Teamsters. And what is happening by that small group is a black mark on the Teamsters and a black mark on the American labor movement.

(Applause and shouting)

If there cause is right and if their cause is just, let us hear what they have to say.

(Applause and shouting)

They are setting back the labor movement and they are setting back the Teamsters and they're setting back Mr. Hoffa by this kind of unruly, undemocratic behavior.

(Applause and shouting)

I'm going to be on the 4:00 train back to Washington, D.C.—

(Applause and shouting)

And my report to my colleagues in the Senate will not be too good. Let me once again—let me once again ask this group of demonstrators to stand aside and to wait for their turn to speak and to wait for their turn to vote.

(Applause and shouting)

Ladies and gentlemen, I have a very significant speech to make to this Convention. What I intend to do is to be on the 4:00 train to Washington and to make that speech on the floor of the Senate. You can catch me on C-Span.

When I leave this podium, I'm going to walk right out of this hall through that group of demonstrators.

(Applause)

Mr. SPECTER. I thank the Chair.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CAMPBELL). Without objection, it is so ordered.

NUCLEAR WASTE POLICY ACT OF 1996—MOTION TO PROCEED

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

Mr. LOTT. Mr. President, after discussion with the Senators who are involved in this nuclear waste issue, I believe we have reached a consent agreement as to how we can proceed for the remainder of today and into tomorrow.

Therefore, I ask unanimous consent that notwithstanding rule XXII, that Senators REID and BRYAN each be granted 3 hours for debate; that there be 2 hours for debate under the control of Senator MURKOWSKI and 1 hour under the control of Senator JOHNSTON; and that the vote occur on the motion to proceed to S. 1936 at 1 p.m. on Wednesday, July 17.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, and I shall not object, I want to make sure I understand the unanimous consent agreement. Senators REID and BRYAN, between them, would have 6 hours; is that right?

Mr. LOTT. Each would be granted 3 hours. So, yes. Then there would be 2 hours, as I said, under the control of Senator MURKOWSKI; 1 hour under the control of Senator JOHNSTON. I think it is a fair agreement of time for all involved.

In the meantime, we can see if we can work out an agreement on how to deal with the gambling commission. We also will begin working on how to proceed at some point, hopefully early tomorrow afternoon, to the DOD appropriations bill.

Mr. DORGAN. Will the Senator yield for a question?

Mr. LOTT. Yes, for a question.

Mr. DORGAN. Will there be additional record votes today?

Mr. LOTT. I was going to make that announcement once we got the agreement.

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

Mr. LOTT. Mr. President, in view of the agreement that has been reached, so that Senators can proceed with the debate, I announce that there will be no further recorded votes during today, Tuesday. The first vote then will occur tomorrow at 1 o'clock.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I state to the majority and minority leaders my appreciation for allowing this orderly process. I think everyone recognizes that the end result is the same. We could have done a lot of parliamentary things and exhausted the Senate, but I think what the two leaders have come up with is fair. In effect, the point was made earlier today when we got 34 votes that we felt were critical on this issue.

Mr. President, this issue is important. It is important for a number of reasons, not the least of which is the issue of transportation of nuclear waste.

We have heard a lot about transportation, as well we should. The fact of the matter is that those States that have nuclear waste, if they think by some stretch of the imagination by this bill passing it is going to get nuclear waste out of the States, it is not going to do it. The nuclear reactors have nuclear waste in them now, and they will continue to have nuclear waste in them as long as they are producing energy, and long thereafter.

The fact is that the transportation of nuclear waste is a difficult issue. In 1982, when the Nuclear Waste Policy Act passed, there was discussion at that time that there was no way to transport the nuclear waste. There was no way to transport it. In the 14 years since the Nuclear Waste Policy Act passed, scientists have been working, trying to develop a means of transporting nuclear waste. What they have come up with is something called a dry cask storage container. I really do not know how it works. It is scientifically above my pay grade. But it works to this extent: It is certainly a lot better than what we had in 1982, and they are working on it all the time to make it better. The reason the environmental community and this administration, among other reasons, thinks this legislation is so bad is that there is no way to safely transport nuclear waste today.

Right now, these dry cask storage containers are set up so that if there is an accident that occurs and the vehicle carrying the canister is going 30 miles an hour or less, then it will be safe. But if the vehicle is going faster than 30 miles an hour, the canister will be breached, and the product within this canister will spew forth.

The canister is also set up to withstand heat, but the only thing they have been able to do, to this point, is make sure that if a fire is less than 1,400 degrees and burns for only a half hour, the canister will be safe. But if the canister burns for more than a half hour at temperatures—it is actually 1,380 degrees—then the canister, again, will be breached.

The reason that is so important, when we talk about transportation, is the fact that we all know that trains and trucks, which will be the vehicles carrying these canisters, use diesel fuel. Diesel fuel burns as high as 3,200 degrees. The average temperature of a diesel fire is 1,800 degrees. So that is more than 325 degrees higher than these canisters are set up to protect.

So that is why people are saying, we are glad we have made the progress with these canisters, because you can put spent fuel rods in a canister, put it in this room, drive a truck into it going 30 miles per hour, setting a fire, and you are in pretty good shape. But you try to transport these nuclear spent fuel rods in these canisters, it will not work.

We know that we have already had seven nuclear waste accidents. We know that there is one accident for about every 300 trips. If you multiply this, Mr. President, this is going to be traveling all over the United States—the rail is in blue, the highway is in red. We are going to have a lot of accidents. Very rarely do you see a truck with a load going less than 30 miles an hour. Very rarely do you see a fire in a train—truck fires you can put out pretty quickly—but train fires we know last year we had one that burned for 4 days. So people are extremely concerned.

Mr. President, we have here a chart that is quite illustrative. This is, of course, a train accident. We know that there is an average of about 60 train accidents a year. Last year was an especially bad accident time. There were accidents all over the United States. We had one that we were very familiar with in Nevada because on the heavily traveled road between Los Angeles and Las Vegas there was a train track located more than a mile from the freeway. A train caught fire, and the freeway was closed, off and on, for 3 days, totally closed, as a result of this accident.

So accidents do happen. We have 43 States at risk where there are going to be huge amounts of nuclear products carried through the States. Alabama, 6,000 truckloads, 783 trainloads. Colorado, 1,347 truckloads, 180 trainloads. Remember, Mr. President, when we talk about trainloads, we have some trains that are almost 2 miles in length—2 miles worth of train. So when we talk about a State like Maine that is going to have 100 trainloads, that is a lot of stuff that is going to be carried.

Our Nation's nuclear powerplants, Mr. President, are operating. We have not had any new nuclear powerplants in a long time. We will probably never in our lifetime have another one. So what are we talking about? We are talking about 109 nuclear powerplant reactors. These reactors operate in about 34 different States. The nuclear waste that is produced from these powerplants presently is placed in one of two places. First of all, they go into cooling ponds. Then after they take the product out of the cooling ponds, in that they have developed dry cask storage containers, then they put them in

the dry cask storage containers. There is a nuclear powerplant in Maryland where they have a dry cask storage facility at the nuclear plant. It is very inexpensive to maintain. It works extremely well. As a result of that, scientists have said this is not a bad way to go.

The reason that dry cask storage containers onsite is so attractive is that, as I indicated, Mr. President—I misspoke. I am sorry. I did not have my notes in front of me. Train accidents—I said 60 train accidents a year. I was way low on that. There are 2,500 train accidents a year. Rail crossings alone, we have 6,000. An accident is deemed to be something where the damage is in excess of $6,300. I do not know where they came up with that figure, but that is how they list a train accident. There can be a train accident where the damage is only $5,000. That is not listed. Hazardous material accidents, there are about 30 each year.

The reason that a number of persons are concerned about S. 1936—I would indicate, Mr. President, that the 34 votes, I believe, is a low-water mark. We have a number of Senators who always vote on motions to proceed. We have a number of Senators who stated that no matter what happens in the substantive debate on this issue, they will vote to sustain the President's veto. So we are doing fine there.

I want to go over a few things that I think are important. S. 1936 really tears apart the existing law as it relates to the environment of this country. S. 1936 sets aside clean water, clean air, Superfund, all the environmental laws that we have developed during the past 25 years. I believe, Mr. President, that it is corporate welfare at its worst. It will needlessly expose people across America to the risk of a nuclear accident, as we have indicated on this chart and on the previous chart. It is providing an inadequate framework.

Let me also say this, Mr. President. I do not like the permanent repository. I wish it were not being characterized in Nevada. But the fact of the matter is, it is. And even though initially the State of Nevada filed lawsuits and did everything we could to oppose it—we put up a fair fight, and the powers to be have prevailed in that instance—the siting of the permanent repository in Nevada is going forward.

They expect to determine by 1998 or early in 1999, at the very latest, as to whether that site is viable, whether that site will be something that scientists say you can place nuclear waste at Yucca Mountain. But that is a fair fight. It is a fight where there were rules, and people got in the ring and they sparred, and the round ended and they went back and rested and came back and fought some more. It is a fair fight being determined by science.

That is why the end run of the nuclear power industry has been so unfair here. S. 1936 would effectively end the work on the permanent repository and compromise the health, safety, and environmental protections the citizens deserve and they currently enjoy. It would create an unneeded and costly interim storage facility and expose the Government and the citizens to enormous financial risk.

I stated previously that the President stated he will veto this bill in its present form since it will designate interim storage at a specific site before the viability of a permanent repository has been determined. The President said that in a letter that he wrote to Senator DASCHLE today.

The technical review boards commissioned by our Government—and I say that plural—technical review boards have consistently found there is no immediate or anticipated risk in continuing at-reactor dry cask storage for several decades.

In 1987, the Congress set up the Nuclear Waste Technical Review Board, a group of scientists with no political aims, goals, or aspirations. They are pure scientists that were asked to make a determination as to whether or not there should be offsite storage; that is, should they take it from the site and move it to an interim storage facility? These individuals said, definitely no.

S. 1936, in a backhand—I should not say backhand—just a slap in their face, in effect. It takes their power away from them, which is what has happened in this interim storage battle. In effect, what they have done is they have said, ''If you don't do what we say you should do, then we're going to get rid of you legislatively.'' And that is wrong.

Mr. President, S. 1936 directly contradicts the nonpartisan Nuclear Waste Technical Review Board. In March of this year, the Nuclear Waste Technical Review Board, a nonpartisan oversight body established by Congress under the Nuclear Waste Policy Act, issued a report entitled ''Disposal and Storage of Spent Nuclear Fuel, Finding the Right Balance.'' In the report the question was asked whether a centralized interim storage facility is necessary.

They said, unequivocally, a centralized interim storage facility is not necessary. The board found that there was no compelling technical reason for moving nuclear waste to a centralized storage facility at this time. This is not the Senator from Idaho or the Senator from Nevada making a decision as to what should be done with spent nuclear fuel. This is a nonpartisan Nuclear Waste Technical Review Board that said emphatically there is no compelling technical reason for moving nuclear fuel, nuclear waste to a centralized storage facility. ''The methods now used to store spent fuel at reactor sites are safe,'' a direct quote from the report, ''and will remain safe for decades to come.'' That is from the technical review board.

Furthermore, the board concluded that it makes technical, managerial, and fiscal sense to wait until a decision is reached on Yucca Mountain before beginning development of a centralized storage facility. It is clear that we are not prepared to open a centralized storage facility. The board noted that establishing a transportation system requires the acquisition of trucks, railcars and casks, the establishment of transportation routes, and the development of emergency preparedness plans at the affected State and local levels. The Federal Government could not begin accepting spent fuel before well after the turn of the century, and maybe not even then in significant amounts.

My colleague, Senator BRYAN, this morning talked about the report, ''Disposal and Storage of Spent Nuclear Fuel—Finding the Right Balance.'' That is the report by the Nuclear Waste Technical Review Board. They gave this report March 20, 1996. What was this report? It was not a report to a Senator from New Hampshire or a Senator from Vermont, a Senator from Massachusetts, Kansas, California, Nevada, Idaho or anywhere else. It is a report to Congress and the Secretary of Energy where these scientists went through great pains to come up with an appropriate decision.

Now, the people that made this decision, saying there is no reason to move spent nuclear fuel, are people with some pretty strong credentials: Doctor John E. Cantlon, chairman, Michigan State University; Dr. Clarence R. Allen, California Institute of Technology; Dr. John W. Arendt, he is a private consultant; Dr. Garry D. Brewer, University of Michigan; Dr. Jared L. Cohon, Yale University; Dr. Edward Cording, University of Illinois at Urbana-Champaign; Dr. Donald Langmuir, Colorado School of Mines, emeritus, one of the premiere scientists of America, from the Colorado School of Mines. He has associated with the Mackay School of Mines over the years and is somebody who people really understand in the technical disposal of waste, mine waste, other kinds of waste; Dr. John L. McKetta, University of Texas at Austin, emeritus, another person who is a scientist who is retired and is noted for his scientific expertise; Dr. Jeffrey J. Wong, California Environment Protection Agency; Dr. Patrick D. Domenico, Texas A&M University; Dr. Ellis D. Verink, Jr., University of Florida; Dr. Dennis L. Price, Virginia Polytechnic Institute and State University. These are the men that came up with this report. These are people who did not just drop by and say, ''I have credentials, will you let me be on the board?'' These are people that were chosen because of their expertise. They would be nonpartisan. We do not know if they are Democrats, Republicans or Independents. Their report certainly indicates that they did what they felt was the right thing from a scientific standpoint.

Summary of board recommendations: ''Developing a permanent disposal capability should remain the primary

goal.'' That is what the President said in his letter. The board recommends the next several years that we not be concerned about interim storage. We cannot lose sight of what the goal is because siting of a centralized storage facility may be difficult. The board recommends that they continue with their characterization at Yucca Mountain.

That is, in effect, what scientists have told us. That there is no reason for this legislation, that we do not have to worry about the safety, we do not have to worry about what is going on, onsite. They have said that everything is going to be better if we leave it where it is than if we try to move it.

Mr. President, we have had a significant number of groups take a look at this. As the Presiding Officer knows, I have not always agreed with environmental groups. The Senator that is presiding and I have been in some knockdown drag-out battles where we have opposed the environmental communities because we felt they have been wrong and the issues are important to the western part of the United States.

On this issue, there has not been a single environmental group that supports S. 1936—not one. They have all opposed this. It is unnecessary and it is absolutely wrong. We can look at, for example, Public Citizen. They say they oppose it for a lot of reasons, but this group is representative of the entire environmental community. S. 1936 opens the door to the unprecedented transportation of high-level waste and fails to address concerns about shipment safety. They are not saying that someday there might not have to be shipments of high-level nuclear waste. All they are saying is that before we do that, address the concerns about shipment and safety.

Mr. President, here is a map of the United States. Most of the nuclear waste is produced in the eastern and southern part of the United States. That is why these groups and others are saying, ''Slow down, leave it where it is.'' There are certain places in the country, like St. Louis, Denver, Salt Lake, Atlanta, and all these places become crossroads of hauling nuclear waste.

Why do we continually talk about nuclear waste? Why do we talk about how bad nuclear waste is? We talk about how bad it is because it is the worst product that man has devised. Mr. President, when we are dealing with the issue of spent nuclear fuel, we are dealing unquestionably with an issue of great risks and significant danger. It is not something that we should deal with lightly. We have taken for granted here that everyone understands why we are concerned about nuclear waste—not why we in Nevada are concerned about nuclear waste, but why the country is concerned about the transportation of nuclear waste. Why Public Citizen and all other environmental groups are saying that this bill fails to address the concerns about shipment safety. We tend, I guess, to take for granted that everyone understands how poisonous, how dangerous, this substance is.

Without being repetitive, and I have not talked about this since I have been able to speak on this bill, let me talk a little bit about the dangers of this product, spent nuclear fuel. It is not a topic we should be rushing through here. The topic deserves our attention. In fact, Mr. President, the Washington Post indicates today that this legislation is extremely important. I will read from part of this article.

> Anxious to rid itself of the accumulating waste and liability that it represents, and fearful that the Federal studies could bog down, the nuclear lobby is pushing a bill to designate an ''interim'' storage site in Nevada that would not have to meet all of the standards of a permanent facility. . . A cloture vote will be held today to cut off their filibuster; they expect to lose. But the president has also threatened a veto, and the Nevadans think they could sustain.
>
> We hope they do, if necessary. The interim bill is the wrong way to solve what is not yet a fully urgent problem. It may well be that there is no alternative to permanent storage—some people think a timely way may yet be found to detoxify the waste instead. It also may be that Yucca Mountain is the best available site. But this is too important a decision to be jammed through the latter part of a Congress on the strength of the industry's fabricated claim that.

This is an emergency. It really is, Mr. President. This is a fabrication. There is no emergency.

We are concerned. In our environmental laws, there is a right to know. If there is a plant in your town belching out smoke, you have a right to know what it is belching out. The people of this country have a right to understand how deadly nuclear waste is. A typical spent fuel rod assembly, when removed from a reactor, has hundreds of pounds of uranium, tens of pounds of other nuclear fissionable products, and pounds of plutonium. It is deadly. Being exposed for just seconds to an unshielded fuel rod is lethal. You do not have to be exposed to it for hours or days. The casks of spent fuel that will be shipped under the provisions of S. 1936 will contain most, if not all, of these assemblies. All of these fission products are extremely dangerous.

The radioactive iodine causes thyroid cancer. The radioactive strontium causes bone cancer. Cesium, plutonium, uranium all lead to their own forms of cancer. We know how dangerous uranium is. We had a man who came from the State of Colorado in the sixties, when uranium was such a big deal. He came to Nevada, and he was so wealthy because he had uranium mines in Colorado. He came to Nevada because he wanted to mine uranium in Nevada. He spread money around like it was going out of style. We did not know. My dad was a miner. Nobody knew, and he did not know of the dangers of working in a mine where you mined uranium, dirt, and rock. We learned later that it killed people, made them very sick. It did not kill them quickly, but it made them sick and killed them. We know that uranium leads to all forms of cancer.

Those who doubt these risks only need to look at Chernobyl. That is what we are talking about. We are talking here about transporting nuclear waste. We have heard it referred to as a ''mobile Chernobyl.'' Childhood cancers at Chernobyl are at an extremely elevated level, and other cancers can be expected soon.

Again, without talking at great length about the Presiding Officer—he is easy to talk about—the Presiding Officer had the opportunity to go to the Olympics. We have the Olympics coming up soon, starting this Friday. I remember that great little gymnast from Russia that we all admired. She weighed less than 100 pounds and had the strength of a 500-pound person. She could bound through the air. Her name is Olga Korbut. She is now sick. She lives in the United States, and she is sick as a result of Chernobyl. She lived 100 miles away, and she now has an incurable form of cancer from Chernobyl.

The result of exposure to these same nuclear fission products will make you sick. Some will say the spent fuel is not the same as the fuel in the Chernobyl reactor, and the amounts of fuel in the shipping containers and in the reactor are very different. Generally, that is true—not that the stuff in the container is not bad. It is bad. But, remember, when you breach one of the canisters—and you can do it in an accident going more than 30 miles an hour and in a fire that lasts more than 30 minutes and is hotter than 1,475 degrees. There are other subtle differences. The aggregate fuel to be shipped is a fuel from many reactors, the equivalent of thousands of reactors of fuel. Therefore, the risks are extremely significant. These nuclear fission products are the same kind of fission products that spread from Chernobyl. They are no different.

Spent fuel is deadly. Even fuel that has been cooled in ponds for decades is deadly. People know that. That is one reason they want to get the stuff out of their backyards. Mr. President, I said earlier today, and I say it now, S. 1936 is not going to get all the spent fuel out of the yards. It is going to create more problems in the State where you are going to try to transport it, until we can do it safely. Yes, S. 1936 will put this deadly waste on the highways earlier than is necessary, before we have had time to assure that it could be moved safely. We know it is safe where it is. We have not had, in the United States—thank goodness—a single accident where someone has gotten hurt as a result of spent fuel stored in a cooling pond; not a single accident. That is why this group of eminent scientists said everybody should cool it, take it easy, we do not need to rush into transporting nuclear waste. Leave it where it is. We know it can be kept safely where it is for the next 10 years. If it is

put in the dry cask storage containers, it can be kept up to 100 years. This is no time to send this dangerous material down the highways and railways. Let us remember that this is not like a garbage barge traveling down the Mississippi or another great river system.

Mr. President, I also want to comment on a vote cast by the junior Senator from the State of Indiana. The Senator voted against the motion to proceed today. His vote and the vote of the Presiding Officer made the difference in our being able to get 34 votes, which was the magic number we sought today. I have not spoken to the Senator from Indiana, but I am certain the reason he made that courageous vote is because he, being from the State of Indiana, knows what it means to accept garbage and to be forced to accept it. I have joined arm in arm with the Senator from Indiana in years gone by, saying I agreed with him that he should not be forced to accept huge truckloads of garbage. Well, he voted in a very courageous way, for which I will always be grateful. I will tell him that when I have the opportunity. His vote made the difference today.

This product is not like the garbage that the junior Senator from Indiana complains of. It is garbage, but it is much more dangerous than the garbage that the Senator from Indiana has attempted, and done quite well, to keep out of his State. This is not like the garbage barge that they could not figure out where to put and nobody would accept the garbage. This waste kills people. If there is an accident, just by being around it can make you sick. This is not just some stinking, repulsive, foul waste. This is deadly waste—deadly in the true sense of the word.

Mr. President, one of the things I wanted to talk about today for a little while is States rights. The reason I want to talk about States rights is this. We talk a lot about States rights in this body. This Congress, I think, has done a great job, Democrats and Republicans, in recognizing that there comes a time when you have to back off from having the Federal Government do everything. There comes a time in this Federal system when we recognize that there is a central whole, Federal Government divided among the three branches, and the States. That is what we have. In the last several decades, we have kind of forgotten about the self-governing parts and focused everything on the central whole. If we have done nothing else in this Congress, we have said we are going to try to get more power back to the States. We have done it with unfunded mandates. We have done it with, hopefully, the welfare reform bill that I hope will pass. Things are sounding real good about that, returning power back to the States. S. 1936 tramples on States rights.

Here is, for example, what it says. This is right from the bill:

> If the requirements of any law are inconsistent with or duplicative of the requirements of the Atomic Energy Act and this Act, the Secretary shall comply only with the requirements of the Atomic Energy Act and this Act in implementing the integrated management system. Any requirement of a State of political subdivision of a State is preempted if—
>
> (1) complying with such requirement and a requirement of this Act is impossible; or
>
> (2) such requirement, as applied or enforced, is an obstacle to accomplishing or carrying out this Act or a regulation under this Act.

What does ''obstacle'' mean? Does that mean the Secretary of Energy does not want to spend another $1,000 traveling to wherever it might be? It is simply really stretching things to say that States rights will be done away with, abrogated, finished if there is an ''obstacle'' to accomplishing this act. That is not how we operate in this country. It has not been in the past how we operated.

Remember the 10th amendment.

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

I hope, Mr. President, that people can see this proposed legislation for what it is. It tramples on States rights. This bill denies due process and the States rights to protect their citizens. It denies due process by legislating illegal injunctions against intrusive activity.

The sponsors will say, ''Well, you will get your day in court.'' That is like saying you will get your day in court after we have spent 2 weeks with the jury alone giving them our statement of facts, and then go ahead and try to change their minds. The bill says not until a lot of the actions have assured that a done deal has been instituted. In fact, what they are saying is, ''Sure, you are going to be able to go to court, but only after we accomplish what we set out to accomplish in the act.''

It reverses the Nation's progress toward assuring our offspring a safe and nurturing environment. It does this by delaying the assessments of the consequences until the groundwork has already been done. The sponsors will say, ''Well, we have not started construction yet.'' But the bill mandates land withdrawal and acquisitions of rights-of-way and development of rail and roadway systems prior to the development of an environmental impact statement. Damage has already been done to communities and their economic opportunities before the assessment is executed.

These abuses of legislative powers, which would relieve the nuclear-power-generating industry of its serious responsibility to manage and fund its business affairs, are outrageous. On that basis alone, we should not allow this legislation to proceed forward. It is amazing to see such an attack on States rights—from a Congress that professes, and I think has shown by action, to be working to enhance States rights—is allowed to proceed. Past efforts to craft a nuclear waste policy for the Nation have honored States rights.

That is one of the things that we in Nevada have been proud of, that we have had the ability to fight the permanent repository. I think one of the things we have done in ''fighting''—for lack of a better word—the Senator from Alaska and the senior Senator from Louisiana, has been to allow us States rights. We have been able to effect most of what we have wanted through these efforts legislatively. We have not liked everything, but, generally speaking, we have been able to protect the rights of the States.

In 1982 and again in 1987, legislative action assured NEPA protections for all States. This is no longer true under this bill.

In 1982 and again in 1987, legislative action assured that there would be no double jeopardy for individual States. Under this proposed legislation, this is no longer true. Under this bill, this is no longer true.

In 1982 and again in 1987, States were assured that they would be informed of all actions related to the Federal Government's efforts to site an interim storage facility in their State. This is no longer true under this legislation.

In 1982 and again in 1987, States were afforded the opportunity to disapprove Federal efforts to site waste repository in their States. This is no longer true under this legislation.

In 1982 and again in 1987, there were limits on interim storage in an effort to keep the storage truly interim. In effect, they said that you cannot have an interim storage facility or a permanent repository in the same State. It is no longer true under this bill.

Under this bill, the first phase of interim storage of up to 15,000 metric tons will satisfy the industry's storage needs for 20 years or more. With the expansive provisions in this legislation to go up to 60,000 metric tons, this will be an interim facility for well over 100 years. This is hardly a bill about interim storage. This is a permanent storage bill hidden in interim storage language. Why would anyone propose interim storage for 100 years if they were truly dealing with the interim storage problem?

This is just what Nevadans have always feared—a back-door attempt to site permanent storage under the guise of interim storage.

Mr. President, we have talked today briefly—and it is part of this RECORD—about the President stating in writing, as he has before, that he is going to veto this bill. The first time I ever met with the President was when he was then Governor of Arkansas approximately 4 years ago. One of the discussions that the two Senators from Nevada had with the person running for President was, What about nuclear waste? We explained it to him and spent 40 minutes with him at National Airport the first time I ever met him. My colleague had met him. They had served as Governors together. But he focused on this issue. He understood this issue. He said we should go forward with the permanent repository

and find a place to locate this. He was not aware of nuclear waste. He is from Arkansas, and they have a nuclear power facility in Arkansas. But he said it is unfair to short-circuit the system.

That is, in effect, what he says in the veto message.

> The administration cannot support this bill. The administration believes that it is important to continue working on a permanent geologic repository. The Department of Energy has been making significant progress in recent years, and is on schedule to determine the viability of the site in 1998.

Now, my friend, the senior Senator from Louisiana, knows how we have fought the permanent repository. But it has been a fair fight. It has been fair to the extent that science has directed and dictated what we have done, what has occurred at Yucca Mountain. For those who say this permanent repository is going nowhere, try to tell that to the people who are working at Yucca Mountain. They have bored a hole in the side of a mountain that is bigger than this room and it is 2 miles deep. The permanent repository is being characterized as they put this huge auger through this mountain. They are continually running core samples to find out where the faults are and what the water tables are. There is tracking going on to determine about earthquakes, about potential volcanic action in those mountains—characterization of Yucca Mountain is going forward, and that is what the President is talking about. Designating the Nevada test site as an interim waste site as S. 1936 effectively does will undermine the ongoing Yucca Mountain evaluation work by siphoning away resources. Perhaps more important than that, this bill will destroy the credibility of the Nation's nuclear waste disposal program.

Some have alleged we need to move spent commercial fuel rods to a central interim site now. I repeat, for the third or fourth time today, ''According to a recent report from the Nuclear Waste Technical Review Board, an independent board established by Congress, there is no technical or safety reason to move spent fuel to an interim central storage facility * * *.'' The Nuclear Waste Technical Review Board assures us that ''adequate at-reactor storage space is and will remain available for many years.'' That is what the President of the United States says, Mr. President.

Mr. President, we need to take a look at what was stated in the Washington Post today. I will close this part of the discussion by stating what the Washington Post has said today:

> (T)his is too important a decision to be jammed through the latter part of a Congress on the strength of the industry's fabricated claim that it faces an emergency.

That is a direct quote. It is not the statement of the Senator from Nevada, even though I totally agree with it.

At this time, Mr. President, I reserve the remainder of my time and yield the floor to the Senator from Louisiana.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Louisiana [Mr. JOHNSTON] is recognized.

Mr. REID. I say to my friend, I am going to depart the Chamber and he is going to talk until 12:30 or thereabouts?

Mr. JOHNSTON. Or thereabouts. I thank my friend from Nevada for making it possible for me to speak now, which does comport well with my schedule.

Mr. President, one of the most curious things about this whole debate to me is how my friends from Nevada can be so opposed to the storage of nuclear waste when they have not only countenanced but welcomed and sought the explosion of nuclear tests in Nevada. What Nevada has done through the years is sought and received hundreds of nuclear tests.

The technology for those nuclear tests in the past has been: You drill a deep hole and you explode this nuclear test which, in turn, leaves the full spectrum of nuclear waste we are talking about, nuclear waste from civilian nuclear plants. Cesium 137, strontium 90, plutonium—all of it is contained in what amounts to big, bulbous holes down deep in the ground. Some of those tests were actually detonated in the water table. And there are hundreds of them. When the Nevadans sought to oppose the limitation on nuclear testing, they made the case that the country needs the tests and that they need the jobs. They were unsuccessful in maintaining that a couple of years ago, here on the floor of the Senate, because of the Senate's concern with nonproliferation. But it was not their fault. And they have never yet stated there is any problem at all with having hundreds of these round domes caused by explosions containing strontium, cesium, plutonium, and the full spectrum of nuclear waste.

How could that be? Mr. President, I suggest they were right in the first instance; that the geography of Nevada in this particular area, which is the same area where we want to store the civilian nuclear waste, is so dry and so rocky and so devoid of people that it is, in fact, a safe place to conduct these nuclear tests. And, believe me, if it is safe to conduct hundreds of nuclear tests it is much more safe to store civilian nuclear waste under Yucca Mountain in containers which themselves pose quite a barrier to any contamination, and I believe the storage area is at least 200 meters through solid rock above the meager water table which you have, which, as I say, has already been, to the extent it can be contaminated—already been contaminated by the nuclear explosions.

Mr. President, this bill deals with both interim storage and permanent storage, or the repository. Why do we wish to have interim storage mentioned, and what does the bill do? The bill says this, and this is the new bill. It says you shall proceed to do design and long lead-time items for the interim storage facility, but that construction on the interim storage facility may not begin until December 31, 1998, over 3 years from now. But, in the meantime, those long lead-time items like design, like the environmental impact statement, can proceed.

It further states that the suitability determination must be made by December 31, 1998—suitability of the repository. This, in fact, was and is the chief objection of the administration to this bill. They have said all along you should not locate an interim storage facility at a place unless it also was the place at which the permanent repository shall be located. They should be colocated. You should have an interim and a permanent storage at the same place. And they have made the argument all along that, suppose the Yucca Mountain site is not suitable for the repository, then you should not put the interim storage facility there.

I proposed an amendment in the Energy Committee that said you may not begin construction until that suitability determination is made. Unfortunately, my amendment was not agreed to. The bill was reported out. But in the ensuing weeks, Senator MURKOWSKI and Senator CRAIG and I came to an agreement where we put the essential parts of the Johnston amendment back in the bill, and in effect a substitute bill has been filed and is now here for consideration. So the chief complaint of the administration all along, the chief complaint in Leon Panetta's letter today, has been answered by this legislation. Obviously, Mr. Panetta was not aware of this substitute bill, the provisions of which incorporate the Johnston amendment, because that criticism of the White House has been answered.

Why do we need to do, however, the long lead-time items now? Because it saves 3 years, Mr. President, in the building of the interim storage facility. If you wait to determine suitability before you design the interim storage facility, and before you do the environmental impact statements, you have lost 3 years unnecessarily on the ability to receive waste at the interim storage facility.

What is the problem with that? Why do we care whether you have an interim storage facility 3 years earlier? You care because all of these reactors around the country, at some 76 sites in 34 States, are using up, seriatim, one by one, their space in their so-called swimming pools.

The nuclear waste is taken and put literally in what looks like a swimming pool, a deep pool. But, as that gets filled, the nuclear facilities must, if they have no place to transport their waste, build dry cask storage on site. That dry cask storage is very expensive. We received testimony it would cost about $5 billion to build the dry cask storage if you do not have interim storage facilities in the meantime.

Mr. President, an expenditure of $5 billion for dry cask storage on site

would stick the ratepayers of this country with a very heavy load, and it is a totally unnecessary expense. For that reason, we must get on with this business of designing the interim storage facility and proceeding to do the environmental impact statements, which will take most of the time during that 3 years.

We also deal with the permanent facility. We have heard complaints from our friends from Nevada that we are short-circuiting the science. I can tell you, Mr. President, if the EPA comes up with the same rules for the permanent facility that we have for the waste isolation pilot plant in New Mexico, then we will not be able, in my judgment, to build a permanent facility anywhere, anyplace in the world. Let me tell you why and let me tell you why their requirements are really not scientific. They are estimates of, I do not know whether you call it history or human conduct or whatever.

One of the most difficult requirements in the WIPP facility is what we call human intrusion. They say that after the first 100 years—keep in mind that this facility must prove itself to be safe over 10,000 years or more—they say that after the first 100 years, you may not assume that people even know where this is; that all records are lost, all the signposts that say ''danger, nuclear waste facility,'' are all gone and nobody knows. How they came to this conclusion, how they thought that you could go backward in history—sure, we do not know where the ancient city of Mycenae is, but does anybody seriously think that you would lose the records of where this nuclear waste facility is? I mean, that literally is what they have determined in their rules for the waste isolation pilot plant.

They also say that you must assume that they will come out and start drilling holes down through the facility. Quoting from section 194.33 of the Federal Register of Friday, February 9, 1996, they say—I am quoting now to give you a little flavor of this:

> In determining the drilling rate or the amount of waste released from such drilling, performance assessments should not assume that drill operators would detect the waste and then cease the current drilling operations or otherwise mitigate the consequences of their actions.

In other words, they say that you assume the holes—and you have to assume when they penetrated the waste package that they did not stop. Further quoting, it says:

> Similarly, drill operators should not be assumed to cease further exploration and development of the resources as a result of the drillers detecting the waste.

What does that mean? That means these drillers get out there, they did not know this waste facility was there, but they drill down through a waste package and they finally detect it, but you cannot assume that they stop drilling. Mr. President, I am not making this up, that is from what EPA has said.

Can you imagine anything more silly than people putting these drill rigs on top of Yucca Mountain and drilling right down through it and penetrating a waste package and saying, ''Well, I detect nuclear waste down there, but I'm not going to stop drilling, I'm going to keep on drilling''? Mr. President, that is what it says.

In the case of the waste isolation pilot plant, it is located in New Mexico in a salt formation, in about 2,000 feet of salt. With the WIPP facility, it is probably not going to be fatal, because in the case of salt, it is very plastic. You can drill a hole through salt and that hole closes up in a matter of, I guess, weeks, months. It is a very plastic sort of thing under pressure, and it closes up.

In the case of WIPP, that is not a big problem. If they have this same kind of test with respect to Yucca Mountain, which is a tuff or volcanic sort of rocky formation, and you have holes drilled down through it, how can you ever assume it is going to be safe if you drill these holes? You cannot.

And then you combine that with the fact that they come up with, in the case of WIPP, a 15-millirem protection level for radioactivity, and I just do not think you can build a repository anywhere in the world.

In our bill, we set the standard of radioactivity at 100 millirems. Why 100 millirems? Because the natural variation in background radioactivity varies by more than 100 millirems. The natural background radiation in Washington, DC, is about 345 millirems. Let me explain that, Mr. President, because we will be debating this question of radioactivity and exposure a great deal in this bill.

A millirem—or a rem—which is one thousandth of a rem—is a measure of the amount of damage that radioactivity does to the body. Radioactivity comes from several sources—alpha, beta, gamma rays, each of which reacts differently on the body. But millirems, or rems, are able to convert the kind of radioactivity, whether it is alpha, beta or gamma radiation, and convert the pathways of that radiation, whether it is a radiation that comes through as an x ray or something you ingest by mouth or something you are exposed to from the air. It is able to convert all of those pathways and all of the different kinds of radiation to one standard measurement of harm to the body. That is what they call a rem, or a thousandth of a rem is a millirem. So it does not matter whether you are drinking water or whether you are exposed to an x ray; it can convert that into one standard convertible measure.

Each of us—and this would surprise a lot of Americans—are living in a soup of radioactivity, about 345 millirems here in Washington, DC. That comes from natural radioactivity of the body. There is potassium, there is phosphorous in the body, which is radioactive and which accounts for about 30 millirems a year. If you dance with your wife, or with anybody, you are exposed to radioactivity from their body and, indeed, from your own body.

A very big source of radioactivity is from radon, which is caused by the decay of radium in the soil and in the rocks, and it comes out as radon, which is a gas.

There is also radioactivity from carbon 14, which comes from a bombardment of the carbon 12 atoms in the atmosphere. And that produces about, I think it is about 40 millirems a year.

Then there is radioactivity from rock and from the granite. Here at the Capitol, on the front steps of the Capitol, I think there is something like an additional 80 millirems of radioactivity, as I recall. Yes. Here it is. On the front portico of the Supreme Court there are 75 millirems. In the interior of the Lincoln Memorial there are 75. The sidewalk in front of the White House has 90 to 115 millirems. Beside the reflecting pool there are 115 to 150 millirems. Get this, the hearing room in the Dirksen Building is 250 millirems. Worst of all, the doorway of the Library of Congress has 380 millirems.

Or to put it another way, if you fly from Washington to Colorado, you increase your millirems by over 100 because the natural background radiation in Colorado or Wyoming or New Mexico or Utah or most any of those mountain States is over 100 millirems greater than that which you receive here in Washington. By the way, the pilot who flies that one flight to get there, he receives an additional 5 millirems. So we are in a soup of millirems. The body is subjected to literally millions of intrusions of radioactivity each day.

So why did we set the limit at 100 millirems? First of all, because there is absolutely no scientific danger in this amount of radioactivity. To quote from the Health Physics Society's statement of position in January 1996, they stated that ''There is substantial and convincing scientific evidence for health risks at high dose. Below 10 rems''—that is 100 times the 100 millirem measure we are talking about—''risks of health effects are either too small to be observed or are nonexistent.''

Let me repeat that. ''Below 10 rems,'' which is 100 times the limit we propose in this bill, ''. . . health effects are either too small to be observed or are nonexistent.'' That is according to the Health Physics Society in January 1996. It is based on a wealth of studies.

For example, in 1991, a study by the Johns Hopkins University of 700,000 shipyard workers showed that cancer deaths were significantly lower among workers exposed to more than 500 millirems than among workers exposed to less than 500 millirems or among the general population. The 700,000 workers, if they were exposed to more than 500 millirems, are more healthy, with less cancer than those exposed to less.

Why is this? Well, the scientific world believes there is a phenomenon whereby exposure to low levels of radioactivity excite enzymes in the body

which, in turn, are protective of the body from further radioactivity, called hormesis, the phenomenon which they describe. We are not basing our limits here on the phenomenon of hormesis; however, it is in fact a well-documented scientific theory at this point.

In any event, the 100-millirem amount which we propose here is well within the natural variations. As I say, it is less than the change you would get just by moving to Colorado or to Wyoming. Believe me, there are no signs at the Denver airport—I was just there—that say, ''Warning. Danger. You are now getting more than 100 millirems more than you would get in Washington, DC.''

Why is this so important? Because the question is, can you build a repository if you make these assumptions of drilling these drill holes down that they go down into the water table and then you have these minuscule amounts at 15 millirems? Then the assumptions you make make it unachievable. There are also other assumptions that would be very important; that is, where you assume the drill hole would be drilled. Is it through the mountain or is it where people would farm or how far away? But we do not deal with that question. But we do deal with that amount, which we believe makes this entirely safe and within the normal limits to which people are exposed.

I also point out, Mr. President, that the 100-millirem amount is the same amount which has been adopted by the Nuclear Regulatory Commission as the amount which you should limit nuclear plants to. The International Commission on Radiological Protection in 1990 recommended that the annual effective dose from practices be limited to no more than 100 millirems per year. The National Council on Radiation Protection on Measurements also adopted the 100-millirem limit. As I said, the U.S. Nuclear Regulatory Commission had 100 millirems. Indeed, the EPA in their Radiation Protection Guidance for Exposure of General Public in 1994 recommends an effective dose from all manmade sources to be no more than 100 millirems a year.

So, Mr. President, I believe it is entirely proper to set this level at that amount, and it is entirely necessary in order to get this facility built.

Mr. President, I remember when we first passed the Nuclear Waste Policy Act. At that time the act called for characterizing three different sites. Characterizing means determining the suitability of three different sites for selection of a final facility. The three sites at that time were in the State of Washington, in the State of Texas, and Yucca Mountain. The estimate of the cost of that characterization at that time was $60 million per site, which seemed to me to be an extraordinarily expensive amount just to determine the suitability of the site.

In the ensuing years, Yucca Mountain was selected legislatively as the site to use, but the cost of characterization kept going up. By 1984, I believe it was, the cost had risen to $1.2 billion to characterize that site. The cost has now gone, according to the latest estimate, to $6.3 billion to characterize the Yucca Mountain site. Over $5 billion has been spent. I must tell you, Mr. President, that a great deal of that money has been really wasted. I mean, they have gone to such incredible lengths.

There is the desert tortoise. I care about the desert tortoise. It is a threatened species. But they have environmentalists that put radio collars and have satellites checking on where the desert tortoise is going, spending millions of dollars; people, especially dedicated environmentalists, working out there on the desert tortoise. You know, when you do that across the board, with some of the other heroic things they have done, it is just incredible. What we are saying, Mr. President, is we need to get on with the business of building this facility or making a decision on what we are going to do on the facility.

People have criticized the Department of Energy for waste in this facility. I believe, Mr. President, much of the blame for these escalating costs for this tremendous waste lies right here with the Congress.

We have not been willing to learn what this whole issue is about. We have been willing to accept any scare story that anybody says, and in the process keep putting it off year after year. For the editorials and some of the criticism to say we are rushing to judgment on this issue, when we have known the solutions for years and we keep putting it off because each year is somebody's election year—this year it is a Presidential election year. Last year, one of the Senators was up for reelection. It is that way every time.

Mr. President, we have reached a crisis situation, politically, on this issue. Now pending in the D.C. Court of Appeals is litigation which seeks to declare invalid the contracts underlying whole Nuclear Waste Policy Act, the 1-mill fee that is collected on nuclear plants in order to build these facilities, and it puts at risk—I think we have about a $5 billion accumulated fund which would be at risk if the D.C. circuit is waiting to see what Congress does. Frankly, it is my guess that is exactly why they have been delaying this decision past what is their normal schedule of rendering decisions. If they are waiting for the Congress to act or to determine whether the Congress acts, and if we fail to act in Congress, then we may have a full-scale crises on our hands, because they may well declare the contracts to be invalid.

If they do that, then it is 76 sites around the country in 34 States and, in turn, we would see a real reaction from the people in 34 States that begin to realize they are being victimized as having a site for nuclear waste.

Mr. President, what we propose is a system that will work. Construction on the interim facility would not begin until 1999. Construction on the permanent facility would not begin until considerably after that. We have high confidence Yucca Mountain will be considered suitable. If it is not, we need to determine that just as soon as possible and move on to another permanent facility.

Mr. President, what we propose in this legislation is reasonable. It is necessary. Believe me, Mr. President, it would be irresponsible to do otherwise. The problem is not going to go away. There are upwards of 40,000 metric tons of nuclear waste around the country today and additional nuclear waste is being generated each and every day. It is not a problem that goes away. It is not a problem that is being dealt with today. The interim storage facility would be much safer than keeping it on site. The permanent facility will be better still.

Mr. President, we need to get on with this process and pass this legislation. I hope the Congress will do the responsible thing, and I hope we will pass this legislation at the appropriate time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:29 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

NUCLEAR WASTE POLICY ACT OF 1996—MOTION TO PROCEED

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

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, over the course of the last good number of days, I believe the American public has grown increasingly aware of the fact that the Senate has been brought to a near halt by Senators who have made every effort to use the rules, as they are entitled to in the Senate, to not allow this Senate or this Congress to consider a very important piece of national policy. That policy rests on how we, as a country, will deal with the issue of nuclear waste.

Every other country in the world that uses nuclear energy to fuel its factories and light its lights has determined that a critical part of the whole of the use of nuclear energy is to adequately handle and manage the waste

stream that comes from it, so that their public can be aware and confident of the fact that all comes together in a total picture. Interestingly enough, most of those countries who do this use the very technology that has been developed in our country to manage their waste. Yet, in our country, that has simply not been the case. We, for whatever reason—and mostly political, and certainly not as a result of science and technology—have argued that this waste should be allowed to build up in a variety of storage facilities around the Nation at the numerous sites—some 80 sites—within 41 States.

As a result of this policy, or absence of policy, today, we are charting a course that will throw nearly a third of our electrical-generating capacity at some time in the future into jeopardy, because it will be impossible, or nearly impossible, for utilities who have been granted the permission by their public to build nuclear-generating facilities to allow those to continue to generate if they cannot manage their waste stream or be allowed to manage it within the technology available.

Senate bill 1936 is legislation that we now have before us that moves this issue. It says to the American public, and to the generating companies of our country, that we believe a sound, continuous policy in our country, by our Government, is critical for the long-term future of this generating capacity, but, beyond that, for the wise and responsible management of the waste stream that is generated.

Through all kinds of environmental laws over the last two decades, we, as a Government and as a people, have said very clearly that certain kinds of waste or certain kinds of issuances that could result in some sort of environmental degradation are to be handled in strict, responsible ways. Yet, with the issue of nuclear energy and nuclear high-level waste, we have simply walked away from it.

In the mid-1980's, we finally said: Here is a policy and we are going to ask those who are the benefactors of the nuclear energy—the ratepayers—to pay a certain amount into the trust fund for the purpose of developing a long-term storage policy, a managed storage policy, in the sense of a deep geologic repository. Yet, because of lawsuits, because of the politics of the issue, very little has been done to keep the promise made to the ratepayers of our country and, at the same time, to make sure that at some point, whether it is the President or myself, we can turn to the American public and say that we have done the right and responsible thing.

And we as a nation all have to share in it. But we know what we are doing is sound scientifically, it is sound engineering, and we believe that S. 1936 is a reflection of that growing attitude.

As a result of that, I introduce this legislation, a bill that amends the Nuclear Waste Policy Act of 1982. S. 1936 retains the fundamental goals and structure of the substitute which was Senate bill 1271 which we were able to report out of the Energy and Natural Resources Committee in March. However, S. 1936 contains many important clarifications and changes that deal with concerns raised regarding the details of that legislation by a number of Members of our Senate.

In addition, we took into account the provisions of H.R. 1020 introduced by our counterparts in the House Commerce Committee, and that passed the House by an overwhelming bipartisan vote a year ago. We adopted much of the language found in H.R. 1020 in order to make the bill as similar to the bill under consideration in the House as we possibly could. I have already begun discussions with House Members who are principals in the development of H.R. 1020. We think we can come to agreement very quickly on the differences between these two separate pieces of legislation.

So I would like to describe what I think are some of the important significant changes we have made. S. 1936, the bill before us that we are debating today, eliminates certain provisions contained in the legislation that came from the committee that would have eliminated the application of the National Environmental Policy Act to the intermodal transfer facility and impose a general limitation on NEPA's application to the Secretary's additions to only those NEPA requirements specified in the bill.

What am I saying? In short order, I am saying no environmental laws are shortcut. While we believe we clearly are at a time when this issue must be dealt with, we also are going to say to the American people and to the Senators who want to vote on this legislation and support us, ''No environmental laws are shortcut.'' This will allay the concern that sufficient environmental analysis would not be done under 1271.

S. 1936 clarifies that the transportation of spent fuel shall be governed by the requirement of Federal, State, and local governments.

I know that my colleague who is now presiding in the Chair has a very real concern about transportation of this waste item. What we are saying—and what I am saying to the Presiding Officer at this moment—is that State and local communities will have full participation under the Federal law and the Federal Hazardous Waste Transportation Act of being full participants in deciding how this waste moves there with this particular jurisdiction in concert with the Federal Government.

S. 1936 also allows that the Secretary provide technical assistance to fund training of the unions, with the expertise and safety training for transportation workers. We want to make sure that what is being done right today is done right in the future, and that the American public can have the kind of satisfaction in knowing that literally thousands and thousands of shipments of high-level nuclear waste that we have had in our country over the last number of decades with only seven accidents—none of them jeopardizing the containers in which the nuclear waste was being transported; not a one of them ever putting the public in jeopardy—is the kind of professionalism and expertise that we are going to have in the future.

In addition, S. 1936 clarifies that existing employee protection in title 40 of the United States Code only addressing the refusal to work in hazardous conditions apply to transportation under this act. It also provides that certain inspection activities will be carried out by car men and operating crews, only if they are adequately trained.

Finally, S. 1936 provides authority for the Secretary of Transportation to establish training standards as necessary for workers engaged in the transportation, storage, and disposal of spent fuel and high-level waste.

Mr. President, what is important in this legislation now in the area of transportation—and why it ought to become law now—is that we have the kind of adequate time necessary to go through what I have just talked about—effective and responsible training of those critical crews that will be managing the units of transportation that move the high-level waste to a permanent repository. If we wait another decade, if we wait until the lights in the Northeast start going out, if we wait until public pressure is so great because we are having brown outs because nuclear reactors have been shut down because the public will not allow for additional storage space on site, are we going to have the lead time, the kind of responsible, cautious time necessary to make sure that which we do is as professional as it has been in the past and it is today? My suggestion is we will not have that time. All of a sudden we will be in a panic nationwide because we failed to act responsibly, and as a result of that kind of failure we are now in a catch-up mode to handle these kinds of issues so that these reactors can stay on line so that nearly a third of our power source can continue to light the lights of our cities and our factories.

In order to ensure that the size and the scope of the interim storage facility is manageable in the context of the overall nuclear waste program, and yet adequate to address the Nation's immediate spent fuel storage needs, S. 1936 would limit the size of phase 1 of the interim storage facility to 15,000 metric tons of spent fuel and the size of phase 2 of the facility to 40,000 metric tons. Phase 2 of the facility would be expandable to 60,000 metric tons, if the Secretary fails to meet her projected goals with regard to site characterization and licensing of the permanent repository site.

In other words, if all goes well, as it should so that we honor our commitment and our promises in the law that

we are now working under and in the new legislation being proposed, basically we are talking about a facility that would never expand beyond 40,000 metric tons and would begin to reduce that size the moment the permanent geologic repository comes on line, in contrast to the legislation that we have taken from the table, S. 1271. It provided for storage of 20,000 metric tons of spent fuel in phase I and 100,000 metric tons in phase 2.

So, Mr. President, what we have done is a substantial downsizing of the interim facility that would be the primary recipient location for fuels coming in to be characterized ready to go to the permanent repository. I would like to clarify that the new volumes are clearly sufficient to allow storage of current spent Navy fuel.

Mr. President, something that a lot of people do not realize as we debate these issues—certainly as it is true with commercial reactors—we know this legislation is largely geared to remove the spent fuel, or the nuclear high-level waste from the site of the reactor to take it to permanent repository. But what we have also done from the act of the mid-1980's which began this whole process, we have now included defense, or Federal waste. In my State of Idaho, for example, we are the recipient of every spent fuel rod that comes out of a Navy reactor; the nuclear Navy. We have been the recipient of those since the very first beginning of the Rickover nuclear Navy. As a result of us receiving them, studying them, and researching them, we have created phenomenal efficiencies and safety for the nuclear crew. But for any State that enjoys a nuclear Navy, enjoys it docked within their States, enjoys the revenue and the employees of a nuclear Navy, Idaho, my State, is the recipient of the fuel rods that come from those States. Other States also have Federal high-level nuclear waste, and we have expanded the authority of the law by these amendments to assure that the permanent repository site in Nevada at Yucca Mountain will not be just for commercial fuel but will be for Federal Government's high-level waste and Federal Government high-level waste fuel. It is important to understand that.

Unlike S. 1271, which provided for unlimited use of existing facilities at the Nevada test site for handling spent fuels at the interim facility, S. 1936 allows only the use of those facilities for emergency situations during phase 1 of the interim facility. So, in other words, we built some flexibility in there for emergency situations, but it is so designated within that 1,500-metric-ton requirement. The facility should not be needed during phase 1, and construction of new facilities will be overseen by the Nuclear Regulatory Commission for any fuel handling during phase 2 of the interim facility.

S. 1271, the old bill that came from the committee, would have set standards for release of radioactivity from the repository at a maximum annual dosage to an average member of the general public in the vicinity of Yucca Mountain at 100 millirems. There is a lot of debate about what 100 millirems of exposure is. But I would hate to tell you that you and I receive that kind of exposure on an annual basis by simply being in the city of Washington, DC. If you want to live in Denver, CO, on an annualized basis you are going to receive substantially more exposure than the 100 millirems.

What am I talking about? I am talking about a measurement of radioactivity that is so low that anyone in or around the Yucca Mountain storage facility would in no way ever find themselves at risk as a result of this exposure. Clearly, the Federal Government, under the auspices of all of the engineering and the science that is available, has every intent to build a facility that is as safe as can humanly be built and to meet international standards, national and international risk standards designed to protect public health and safety and the environment.

I said in some of my comments on the floor this morning, this ought to be called the No. 1 environmental legislation of the 104th Congress. I believe it is just that, because I think it acts in a responsible way to assure that the human environments in which we all find ourselves are never put at risk by exposure to high-level nuclear waste materials.

While maintaining an initial 100-millirem standard, S. 1936 would allow the Nuclear Regulatory Commission to apply another standard, and I think this is very important for the record to show. If it finds that the standard in this legislation—let me repeat—if the Nuclear Regulatory Commission, under new science and new findings, found that what we are proposing is inadequate, then they would be allowed to advance that proposition and to deal with it in a way that would change it, modify it to bring it down to a lower standard or a different standard. In other words, we are not closing the door or turning off the lights to the idea that science advances itself, and if we find reason to believe that science would argue that 100 millirems, under the current national and international safety standards, is not adequate, then we allow the Nuclear Regulatory Commission to apply another standard.

S. 1936, the legislation before us, contains provisions, not found in S. 1271, that would grant financial and technical assistance for oversight activities and payments in lieu of taxes to the affected units of local government and Indian tribes within the State of Nevada. I know, while my colleagues from Nevada are making every argument possible to block this legislation because of the political consequences that they recognize might be the case in their State, we have also been dealing openly with local units of government in the State of Nevada. There are local units of government who believe this is positive, from the standpoint of the economics it brings and the long-term employment, and because they have done their homework and they recognize the very real safety involved in this kind of management approach. So what I am telling you is we recognize the Indian tribes involved, and the local units of government, and the payment in lieu of taxes to their affected communities as a result of their willingness to work cooperatively with the Federal Government. S. 1936 also contains new provisions transferring certain Bureau of Land Management parcels in Nye County, NV.

In order to ensure that moneys collected for the nuclear waste fund are utilized for purposes of the nuclear waste program beginning in fiscal year 2003, S. 1936 would convert the current nuclear waste fee that is paid by electrical consumers into a user fee that is assessed based upon the level of appropriations for the year in which the fee is collected. In other words, those who are the beneficiaries of nuclear power pay for the facility and continue to pay for the facility. This has always been the understanding. We are not reaching out to taxpayers in States that are not the beneficiaries of the kind of abundance that is brought through a nuclear reactor producing power in their State; only those who are the recipients of it.

That is not to say there will not be Federal expenses. There are clearly some as it relates to the Nuclear Regulatory Commission and its management responsibility and the Department of Energy and its ongoing management responsibility. But, Mr. President, you and I both know that we, as a government, our Nation's Government, has always kept its arms around the whole of the nuclear issue. It has been something that has not been automatically farmed out in toto to the private sector.

As a result of that, I, once again, return to what I believe is a fundamental responsibility of good government and that is we have an endgame for the nuclear issue. To date, we have not decided, as a country, to do that. We can fuel our Navy ships, we can light the lights of our cities, we can protect the world by the use of the atom, we can treat sick people by the use of the atom. But when it comes to the waste product created by those kinds of activities, we said: ''Go away. Not in my backyard. I am frightened of it, or my people are frightened of it.'' Yet, interestingly enough, there literally is not a basis for fear but the fear itself, because we know how to handle it, and science has argued that we handle it very, very well.

Section 408 of S. 1271 provided authority for the Secretary to execute emergency relief contracts with certain eligible utilities that would provide for qualified entities to ship, store, and condition spent nuclear fuel. This provision concerned some Members who feared it could be interpreted

to provide new authority for reprocessing in this country or abroad. This provision is not contained in 1936. In other words, let me repeat, any fear that could have been argued that there might be an effort to reprocess fuel, there might be an effort to expand the ability that could create proliferation in our country, is now taken out of the legislation. S. 1936 has none of those provisions within it.

S. 1271 contained a provision that stated the actions authorized by the bill would be governed only by the requirements of the Nuclear Waste Policy Act, the Atomic Energy Act, and the Hazardous Materials Transportation Act. S. 1936 eliminates this provision. Again, I recognize the concerns the chairman has expressed. We have gone directly at those concerns. Instead, we provide that for any law that is inconsistent with the provisions of the Nuclear Waste Policy Act and the Atomic Energy Act, those acts will govern. In other words, when it comes to hazardous material's transportation, we take nobody out of the loop. We short-circuit no one, and we allow local units of government and States to be direct participants.

S. 1936 further provides that any requirement of a State or local government is preempted only if complying with the State and local requirements and the Nuclear Waste Policy Act are beyond current law, and are impossible. In other words, we cannot, by this law, simply walk away from roadblocks that are intended to be put up for the purposes of blocking the road. That cannot be allowed. Certainly, under the interstate commerce clause of the Constitution, I think we all recognize that is so, understanding that we clearly are saying we want it to be the safest possible, as it is today. We want the American people to know that what we are doing is safe and responsible, and that is exactly what the act requires.

This language is consistent with the preemption authority founded on the existing Hazardous Materials Transportation Act. In other words, we have taken the law today that makes our highways safe in the use or transporting of hazardous materials and we said, ''no exceptions to the rule.''

S. 1936 authorizes the Secretary to take title to spent fuel at the Dairyland Power Consumers La Crosse reactor, and authorizes the Secretary to pay for the on-site storage of the fuel until DOE removes the fuel from the site under terms of the act. This is a provision that I felt was necessary to equitably address concerns in Wisconsin and Iowa. Of course, that goes back to previous Government actions that place the Government in a position of responsibility for those stored fuels.

S. 1936 contains language making a number of changes designed to improve the management of the nuclear waste program, to ensure the program is operated, to the maximum extent possible, in like manner to a private business. I feel this will improve the overall management of the spent-fuel program.

Finally, the bill contains language that addressed Senator JOHNSTON's concerns. The language in S. 1936 provides that construction will not begin on an interim storage facility at Yucca Mountain before December 31, 1998. In other words, for those who are concerned about transportation, we are giving phenomenal lead time through the year 1999 to make sure that all of the systems are in place, because the facility, to receive those shipments, could not be ready before that with construction beginning on or after December 31, 1998.

I am most pleased we have been able to work with Senator JOHNSTON. He has led on this issue for years and is clearly one of the leading authorities in this body, if not in the country, as it relates to current policy on nuclear waste and nuclear waste management, and we have worked very closely with him in assuring that this bill met a large number of his concerns.

The bill provides for the delivery of an assessment of the viability of the Yucca Mountain site to the President and to Congress by the Secretary of Energy 6 months before the construction can begin on an interim facility. In other words, we are not destroying existing law. We are simply expediting the activities that would have to start after the certification of the facility or the site at Yucca Mountain.

We are saying, in essence, get your engineering studies done, get your design studies done, get yourself ready to go so that by 1999, construction can begin if, in fact, the site has been certificated. If, based upon the information before him, the President determines in his discretion that Yucca Mountain is not suitable—and he may find that, the studies might indicate that, for the development of the repository we are talking about—then the Secretary shall cease work on both the interim and permanent repository program at the Yucca Mountain site.

The bill further provides that if the President makes such a determination, he shall have 18 months to designate an interim storage facility site. If the President fails to designate—in other words, this is something you cannot pass go on, the clock is still ticking, the lights are still on, but they could still be dimming, Mr. President—whomever is the President at that time, they simply have the responsibility, as does the Congress, to deal with this issue in a forthright manner.

We say, if the President fails to designate a site or the site has not been approved by Congress within 2 years of its determination, the Secretary is instructed to construct an interim storage facility at the Yucca Mountain site in Nevada or at the test site 51 out in the deserts of the national test area in Nevada.

The provisions ensure that the construction of an interim storage facility at Yucca Mountain site will not occur before the President and Congress have had ample opportunity to review the technical assessments of the suitability of the Yucca Mountain site for a permanent repository and to designate an alternative site for interim storage based upon technical information.

However, this provision also ensures that ultimately an interim storage facility site will be chosen. In other words, what we are saying, Mr. President, is ''you can't pass go.'' At some point and in the future, in the very near future, we as a Government must act responsibly for the sake of our Nation, for the sake of our energy base and for the sake of our environment. Without the assurance, we leave open the possibility we would find in 1998 we have no interim storage, no permanent repository program, and after more than 15 years and $6 billion spent, we are back to where we started in 1981 when we passed the first version of the Nuclear Waste Policy Act. This is within the 50 States of the Union. What we are saying is, we must find a facility to store the waste in a safe and responsible way.

Coupled with that, Mr. President, are a variety of other agreements. For example, in my State, my Governor has negotiated under a Federal court order an agreement with the Department of Energy that by certain dates at the turn of the century waste begins to leave our State. If we do not have the facility built, then the Governor has the power of the Federal courts to say, ''No more shipments.'' In this instance, no more shipments of spent-nuclear fuel.

What happens to our nuclear Navy at that time that has no other place for repository? Does waste pile up on the docks at the refueling sites around on the east and west coasts? I doubt that happens.

Yet, at the same time, the State of Idaho and the Federal court says that if the Federal Government fails to respond and fails to react in prescription with the agreement and certainly consistent with the legislation that we are debating this afternoon, then there are no more shipments.

What happens at that point? That is why we are here. That is why we are asking our colleagues to act responsibly in working with us and with the American public to assure we move legislation, law, policy and, therefore, end result, the development of an interim storage facility and a permanent repository on the timely basis that we all want to see happen.

This issue provides a clear and simple choice: We can choose to have one remote, safe, and secure nuclear waste storage facility, or, through inaction and delay, we can perpetuate the status quo and have 80 such sites spread across our Nation.

As I have said in my earlier comments, what happens when the sites fill and the public in the 80 locations say,

''We don't want additional storage at that location''? What does the State government do? What does the public utility of that State do? Do they turn to the utility involved and say, ''Turn it off, shut it down''?

Twenty-five percent or so of the power capacity largely in the Northeast and Midwest is dependent upon this kind of energy production. I do not think that is what we want to happen. That is why the majority leader, when he read the facts, looked at it and saw this was a time when clearly it was important for this Congress to move, that the legislation was ready, that it stood in a bipartisan fashion that we had worked out and negotiated all of the necessary changes to make sure we were able to do this.

It is irresponsible to shirk our responsibility to protect the environment and the future of our children and our grandchildren. This Nation needs to confront nuclear waste management and the problem facing it is now. I do urge my colleagues to vote for cloture as we move down the line, as we did today, by a large number. It is time we expedite getting this to the floor for a final vote, that we work with our colleagues in the House, and that we ask our President to share with us in this national responsibility.

We have contacted the executive branch of Government time and time again over the course of the last 2 years. Chairman FRANK MURKOWSKI, chairman of the Energy and Natural Resources Committee, in four different pieces of correspondence has said, ''Mr. President, if you don't agree with us, then show us what you can agree with so that we can work together to assure a responsible end to this very, very critical problem.''

As a result of that, nothing. The answer back was nothing. The answer today was political. Mr. President, this is an issue that goes beyond politics. It must go to policy, it must go to action, it must go to a public that knows that this Senate and the House and the President together have acted in a responsible way to assure the effective and the appropriate management of high-level nuclear waste in our country, both commercial and Government-generated waste. S. 1936 gives us that.

After over a year and a half of compromise in building this key piece of legislation, we are now to the floor and asking our colleagues to participate with us in passing this legislation.

I see no one else on the floor at this time, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. 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. CRAIG. Mr. President, for a few moments I want to discuss the issue of transportation safety. This morning I went back to my office after there had been some debate on the floor about transportation safety in this country. I know that it is a key concern to a good many Senators, including yourself, as waste moves from across the country to a central location, as to how that waste will be handled.

I saw something that surprised even me even though I have had the privilege over the years to see some of the containers in which nuclear waste is transported. What I would like to enter into the RECORD now and show for the Senators is some of what I watched on the videotape.

Scary statements have been made by the Senators from Nevada that there would be risk. I think they were using a term that was of their invention called a mobile Chernobyl. That is a dramatic statement that absolutely has no basis of truth because we have been transporting waste for a good number of years, and simply it does not exist. I will suggest why.

As a matter of fact, there have been 2,400 shipments of spent nuclear fuel by the nuclear energy industry, and others, over the past 25 years. No fatality, no injury or environmental damage has ever occurred because of radioactive cargo. There have been accidents, yes, but the casks have performed as designed.

What I saw this morning, Mr. President, in the video was exactly what happened. Here is one of the pictures. This picture is of a flatbed truck over here with one of the casks on it. And that flatbed truck went down a roadway and it struck a solid concrete wall, a 700-ton concrete wall, at 80 miles an hour. If you saw this on videotape, you can begin to understand the dramatics of it.

The truck's cab literally disappeared. This bright orange object, which is the container itself, bounced up against the concrete wall, because by then the cab of the truck had been pulverized, and it bounced back. Afterward, technicians were beginning to peel off from the face of this orange cask an object of metal. And your first reaction is, Mr. President, well, that is the cask. It was damaged. It was the cab of the truck that had literally been peeled around this object, this cask that holds the spent nuclear rods. The cask was undamaged.

Another picture is of a similar flatbed truck that is parked across a railroad crossing. Of course, this material can be transported both by truck and by rail. The naval waste that comes to Idaho is transported by rail. The truck is parked in the middle of a railroad crossing. As a result of that, a locomotive, traveling at 80 miles an hour, broadsides it. And the weight is a 120-ton locomotive. Again, the orange object itself is the cask that stores the nuclear objects. It bounces literally as this locomotive hits it. Again, test after test after test.

This container was originally designed to be dropped from the air. The reason was because we anticipated aerial transportation. So all of the designs required by the Nuclear Regulatory Commission said that is what it has to do. How about dropping it from 30,000 feet, originally? Well, that is what it was designed to do. Here is a drop from 30 feet now on to an unyielding surface.

Mr. President, it is important to remember that every other surface is yielding. The ground itself is a yielding surface because when you hit it with heavy impact, it gives, it bounces, it breaks away. In this case, the surface is solid concrete. It was dropped 30 feet on to a solid concrete surface with a steel spike sticking up out of it with the intent of penetrating the container itself. What happens? The container bounces off. As a result, again, no damaging of the container.

Here is an example. It is engulfed in 1,475 degrees Fahrenheit, a fire for 30 minutes; submerged under 3 feet of water for 8 hours. All of those are part of the video test. The container, again, was never ruptured. There was no jeopardy. There was no leak of radioactivity.

The reason I bring these issues to the floor is because my colleagues keep saying, ''high-risk transportation.'' That is why we have had over 2,400 shipments over the last several decades, Mr. President, and no one—no one—has been injured as a result of the release of radioactivity. Simply because—guess what?—our Government did it right.

Admiral Rickover did it right. The industry and the Nuclear Regulatory Commission did it right. They required that the containers that transport this high-level waste be so impenetrable that nothing could happen to them. And that is exactly what has happened. In all the tests, as in seven real-world accidents, the transportation containers retained their integrity and would have kept their radioactive material sealed safely inside. That is extremely important for the record.

Whether it is the 30-foot or the 100-foot drop, whether it is the raging locomotive at 80 miles an hour at 120 tons, whether it is the truck itself going at 80 miles an hour into a solid concrete wall, the bottom line, Mr. President, is in no instances have we had jeopardy and release of radioactivity.

I hope we are able in some way to allay the concerns that a lot of our citizens have that while this material is being transported through the countryside to a safe and permanent location, that we would not, nor would this law ever allow, nor certainly in the case of current law does it allow, our citizens to be at risk.

Transportation is an issue, and it will always be one. It is very easy to stand on the floor of the U.S. Senate and talk about a catastrophe, talk about a situation that could create a safety problem for millions of Americans. Now, Mr. President, if that situation exists, I do not know where it exists. The reason I do not know where it

exists is because this country has been in the business for well over three decades now of transporting high-level nuclear waste across the Nation, into our State of Idaho, from all points where naval vessels are refueled. We have transported it in other forms from commercial reactors to Federal facilities for purposes of tests and research, and all instances they have tracked with similar containers to these shown in the pictures, and there has never been an accident in which radioactivity is released.

Let me make sure the record is perfectly clear: There have been accidents. I understand there have been seven-some accidents out of the 2,400 shipments. Those accidents resulted in, I am sure, damage to property and probably injury to individuals, but there was no environmental injury. There was no release of radioactivity. That, of course, is the test here. That is the argument of my colleagues from the State of Nevada that somehow 50 million Americans are going to be put in jeopardy. Not so, Mr. President. It just ''ain't'' so, or we would not be here today talking about legislation. There is not a Member of the U.S. Senate who would want to or who in any knowing way would ever put any of their citizenry or those people whom they serve and represent in jeopardy.

The thing that is exciting for me to stand on the floor of the U.S. Senate after we have researched it, after we have studied and understood what the industry is about, what DOE has done, what the Navy is doing, what the Nuclear Regulatory Commission requires, is that I can stand here and believe with all of my energy that what we offer is the safest possible approach for the movement and the transportation of this waste to a permanent repository. That is the way all of these issues ought to be handled. That is what the American public deserves, a fair and honest debate and the assurance of the kind of safety that is provided now by industry, by defense, and by our Government.

This legislation in no way short-circuits any of that. In fact, we have assured that all of the environmental laws, all of the transportation laws, all of that in S. 1936, all fit together and in no way do we bypass existing law or existing protection. Those are the facts. Now, you can choose to judge them in different ways, but you cannot dispute the simple fact. The simple fact, in 2,400 shipments over the course of the last 30 years, 2,400 shipments in containers like the container I have shown you in these pictures and charts this afternoon, never once was one ruptured or jeopardized in a way that caused an environmental release that would have, had people been near it, placed them in jeopardy. Those are the facts. That is the reality of how we handle this issue.

I am pleased I have had an opportunity to be part of what is a very critical debate and a very important piece of public policy to our country. I yield the floor.

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

Mr. MURKOWSKI. Mr. President, I have listened carefully to the Senator from Idaho relative to the merits of addressing once and for all the disposal of our high-level nuclear waste.

Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Alaska has 76 minutes remaining, the Senator from Louisiana, Mr. JOHNSTON, has 22 minutes, the Senator from Nevada, Mr. REID, has 121 minutes, and the Senator from Nevada, Mr. BRYAN, has 180 minutes.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I will discuss with my colleagues a number of items relative to disposition of the nuclear waste debate that is going on. The first item would be a letter dated July 15, 1996, by Mr. Panetta. Mr. Panetta, of course, is the President's right-hand man. I ask unanimous consent the letter be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, July 15, 1996.

Hon. THOMAS A. DASCHLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: I would like to express the Administration's position on S. 1936, a bill to create a centralized interim high-level nuclear waste storage facility in Nevada. The Administration cannot support this bill, and the President would veto it if the bill were presented to him in its present form.

The Administration believes it is important to continue work on a permanent geologic repository. According to the National Academy of Science, there is a world-wide scientific consensus that permanent geologic disposal is the best option for disposing of commercial and other high-level nuclear waste. This is why the Administration has emphasized cutting costs and improving the management and performance of the permanent site characterization efforts underway at Yucca Mountain, Nevada. The Department of Energy has been making significant progress in recent years and is on schedule to determine the viability of the site in 1998.

Designating the Nevada Test Site as the interim waste site, as S. 1936 effectively does, will undermine the ongoing Yucca Mountain evaluation work by siphoning away resources. Perhaps more importantly, the enactment of this bill will destroy the credibility of the Nation's nuclear waste disposal program by prejudicing the Yucca Mountain permanent repository decision. Choosing a site for an interim storage facility should be based upon objective science-based criteria and should not be made before the viability of the Yucca site is determined in the next two years. This viability assessment, undertaken by the Department of Energy, will be completed by 1998.

Some have alleged that we need to move spent commercial fuel rods to a central interim now. According to a recent report from the Nuclear Waste Technical Review Board (NWTRB), an independent board established by Congress, there is no technical or safety reason to move spent fuel to an interim central storage facility for the next several years. The Nuclear Regulatory Commission (NRC) has determined that current technology and methods of storing spent fuel at reactors are safe. If they were not safe, the NRC would not license these storage facilities. Also, the NWTRB assures us that adequate at-reactor storage space is, and will remain, available for many years.

In S. 1936, the Nevada Test Site is the default site, even if it proves to be unsuitable for the permanent repository. This is bad policy. This bill has many other problems, including those that present serious environmental concerns. The bill weakens existing environmental standards by preempting all Federal, state and local laws and applying only the environmental requirements of this bill and the Atomic Energy Act. The results of this preemption include: replacing the Environmental Protection Agency's authority to set acceptable radiation release standards with a statutory standard considerably in excess of the exposure permitted by current regulations; creating loopholes in the National Environmental Policy Act; and eliminating current licensing requirements for a permanent repository.

I hope that you will not support S. 1936. It is an unfair, unneeded, and unworkable bill. We have the time to develop legislation and plan for an interim storage facility in a fairer and scientifically valid way while being sensitive to the concerns of all affected parties. This includes those in Nevada, those along the rail and roadways over which the nuclear waste will travel, and those who depend on and live near the current operating commercial nuclear power plants.

Thank you for your consideration of these views.

Sincerely,

LEON E. PANETTA
Chief of Staff.

Mr. MURKOWSKI. According to Mr. Panetta, the President opposes our bill since it would designate Nevada as the interim site without determining the viability of Yucca Mountain, NV, as a permanent repository.

Let me provide the White House with a little factual information. Senate bill 1936, which Senator CRAIG and I have proposed, prohibits, specifically prohibits, the construction of an interim facility in Nevada until December 31, 1998. That is after the determination of Yucca's suitability. That is as a consequence of Senator JOHNSTON's input.

The Panetta letter says that ''the bill weakens existing environmental standards by preempting all Federal, State, and local laws.'' The facts of the matter, Senate bill 1936 does not provide NEPA waivers and other provisions in our earlier bill, Senate bill 1271. We do not permit, however, environmental laws to be misused or to have to go back and revisit decisions made by Congress in this bill, decisions such as the fact that we will have an interim facility and that will be in Nevada after the Yucca Mountain site has been shown to be viable.

Mr. President, everybody should understand the permanent repository effort continues at Yucca Mountain. The merits of Yucca Mountain to be ascertained as a permanent repository depend primarily on two issues: One is licensing; the other is suitability.

That is an issue ongoing, an issue that will be addressed. In the meantime, we have waste accumulating at more than 80-some-odd sites in 41

States. What we propose here is we have an interim facility to take that waste from those States and put it at Yucca until such time as it can be determined that Yucca meets the requirements of a permanent repository.

Now, I do not know who wrote the letter at the White House for the Chief of Staff, but I am inclined to think that person was reading the old bill, Senate bill 1271, rather than the new bill, Senate bill 1936. We attempted to address concerns by the administration and others in the new bill, Senate bill 1936, which was more or less a composite, if you will, of many of the things that people felt were wrong in Senate bill 1271. We put together what amounts to a chairman's mark or a consensus to move this bill forward.

I will provide my colleagues with a little background on our efforts to address this with this current administration. I personally worked for the past 15 months, upon achieving the chairmanship of the Energy and Natural Resources Committee, to bring the administration into a constructive, into a bipartisan dialog, to try to address responsibly this problem.

As you know, Mr. President, being from Alaska, I do not have a dog in this fight, so to speak. Alaska, while we are interested in solving the problem, does not currently have any nuclear waste and is not looking for a repository. But I have a responsibility, just as the other 99 Senators, to address what is an environmental problem for this country, and this is an opportunity to correct an environmental deficiency with some positive legislation—legislation that would move from these sites this material to one site in Nevada that has been used for over 50 years for all types of nuclear testing.

Nobody wants the waste, Mr. President. I am sympathetic to my friends from Nevada relative to the position they are in. On the other hand, it has to go somewhere. It is a simple deduction of where are you going to put it if nobody wants it? We created it in this country. The consequences of it speak for themselves: on the positive side, generating power. Also on the positive side, contributing toward a lasting peace and breaking up the Soviet Union in an arms race. These were all part of the nuclear commitment of this country.

On the downside, of course, is the waste associated with this, whether it be weapons grade or waste that comes from our nuclear reactors. We currently depend on nearly a third of our power generated to come from nuclear energy. We simply have to address it with a resolve.

On April 7, 1995, I wrote a letter. That letter was directed to our President. At that time, I was the newly elected chairman on the Committee on Energy and Natural Resources. I indicated that ''one of my top priorities was to help meet this challenge facing the Nation''—I am quoting here—''in developing a safe, scientific, sound means of managing spent fuel.''

Given the Department of Energy's announcement that it recently had made in that timeframe of April 1995 that it could not meet its obligations to begin accepting nuclear waste in 1998, I indicated to the President that we must address this issue in an aggressive and forthright manner.

So there we were, Mr. President, back in 1995, and the Department of Energy announced they would not have the capability of accepting the nuclear waste they had contracted for many years earlier, and they collected some nearly $12 billion from the ratepayers of this country. They could not meet their commitments.

Now, I indicated further that ''judging from the attention on this matter by the Secretary of Energy, I had assumed it was a top priority for the administration.'' But I indicated that the President, in recent letters the President sent to Senator BRYAN and the Nevada Governor, Governor Miller, seemed to suggest otherwise.

Further, my letter reads:

While you acknowledge, Mr. President, there are national security interests involved, your letter states that you can't support any current legislation to fix the problem at this time.

I further stated in my letter to the President:

If you cannot support current legislative proposals at this time, members of my committee, the Energy and Natural Resources Committee, would like to know how and when you plan to offer an alternative proposal.

Again, April 17, 1995, I further stated:

You are no doubt aware that the environmental and security implications of failing to reach a solution in the not-too-distant future are significant. With all due respect, Mr. President, I and many members of my committee believe it is time for you to become an active participant in efforts to resolve this pressing challenge. We urge you to either support the concepts in several current legislative proposals, or to offer a plan of your own. We have already held hearings on the spent fuel programs and continue to work toward a solution. Your advice and involvement would be greatly appreciated.

Copies went to Secretary O'Leary and Senator BENNETT JOHNSTON.

So we put, if you will, the President of the United States on notice that if he did not like the proposal that we were working on, to come on up with some constructive suggestions on how to change it. He has that obligation, if he is opposed to what we are trying to address, to resolve the problem so that we can move on with our responsibility.

Well, Mr. President, the disposition of that letter of April 7, 1995 to the President was that 4 months passed and there was simply no answer from the President or the White House.

Well, not being one to give up, the Senator from Alaska, on August 7, wrote another letter to the President. I will read it as follows:

AUGUST 7, 1995.

DEAR MR. PRESIDENT: I last wrote you on the subject of managing the Nation's spent nuclear fuel on April 7, 1995. In my prior letter, I made reference to the fact that you, in a letter to Senator BRYAN, stated that you could not support any spent fuel management legislation currently before the Congress at this time. Your position raised a number of questions. One, if you cannot support any pending legislation, what can you support, Mr. President? If you will not support legislation now, when might you support it?

I wonder if it is after the election. That is an insert, I might add, and not from the letter:

If all the comprehensive spent fuel management legislation before Congress is unacceptable, will you provide us with draft legislation that is acceptable? I further refer to my letter of April 7. I challenge the administration to become an active participant in either supporting the concepts in pending legislation or by offering a comprehensive plan of its own.

I further explain in my letter to the President:

Unfortunately this has not yet occurred. In fact, neither you nor your office has ever responded to my letter.

That was my letter of April 7:

Are we to conclude that you will simply continue to remain critical of all the pending proposals without offering constructive, comprehensive alternatives? Recently, a House subcommittee marked up its legislation to address the spent fuel management problems. Floor action may yet occur in the House this year. Meanwhile, our committee continues its deliberations with industry, consumer groups, regulatory authorities, and others, with a view toward achieving a broad consensus. Even the Appropriations Committee is anxious to see some progress and is inserting provisions in their bills to promote action. Everyone seems to be working on the issue except your administration. Further, I believe that the spent fuel management problem is one that best can be solved by working in a bipartisan, collaborative manner.

Unfortunately, your administration has failed to provide meaningful guidance at this important stage in our deliberations. I would again urge you to submit comprehensive legislation to address this important problem, or voice your support for concepts embodied in legislation currently before us. The courtesy of a reply would be appreciated.

I enclosed the letter of April 7 in my letter, which I read, of August 7.

Well, this time, we did get an answer, and the answer came back on August 18. That letter was signed by Alice Rivlin, Director, Executive Office of Management and Budget.

It is rather interesting to reflect on this letter which I ask unanimous consent to be printed in the RECORD along with my letter of August 7.

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

U.S. SENATE, COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, DC, August 7, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: I last wrote to you on the subject of managing the nation's spent civilian nuclear fuel on April 7, 1995.

In my prior letter, I made reference to the fact that you, in a letter to Senator Bryan, stated that you could not support any spent fuel management legislation currently before Congress at this time. Your position raised a number of questions:

If you cannot support any pending legislation, what can you support?

If you will not support legislation now, when might you support it?

If all the comprehensive spent fuel management legislation before Congress is unacceptable, will you provide us with draft legislation that is acceptable?

In my April 7 letter, I challenged the administration to become an active participant by either supporting the concepts in pending legislation or by offering a comprehensive plan of its own. Unfortunately, this has not yet occurred. In fact, neither you nor your office has even responded to my letter. Are we to conclude that you will simply continue to remain critical of all the pending proposals without offering constructive, comprehensive alternatives?

Recently, a House Subcommittee marked up its legislation to address the spent fuel management problem. Floor action may yet occur in the House this year. Meanwhile, our Committee continues its deliberations with industry, consumer groups, regulatory authorities and others with a view toward achieving a broad consensus. Even the Appropriations Committees, anxious to see some progress, are inserting provisions in their bills to promote action. Everyone seems to be working on this issue, Mr. President—except your administration.

I believe the spent fuel management problem is one that can best be solved by working in a bipartisan, collaborative manner. Unfortunately, the opportunity for the administration to provide meaningful guidance at this important stage in our deliberations is quickly being lost.

I again urge you to submit comprehensive legislation to address this important problem, or voice your support for concepts embodies in legislation currently before us. This courtesy of a reply would also be appreciated.

Sincerely,

FRANK H. MURKOWSKI,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, August 18, 1995.

Hon. Frank H. Murkowski,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter to the President concerning the civilian nuclear waste program. As you know, the Administration is devoting its full efforts to complete the site characterization and other technical aspects of the permanent repository on the earliest possible schedule.

With respect to proposals that would crease an interim storage facility at Yucca Mountain, the Administration is conducting an internal policy review, as we do with all legislation in Congress. The Office of Management and Budget is leading this review, in its usual role. The Department of Energy is centrally involved, since it manages the nuclear waste program. Other agencies and offices are participating as appropriate to their programs.

We expect to be in a position to communicate an Administration policy recommendation to you by the time you return from the Labor Day recess. I apologize for the delay in responding to your letters, and look forward to providing more information very soon.

Sincerely,

ALICE M. RIVLIN,
Director.

Mr. MURKOWSKI. Mr. President, this letter does not address the question of what the administration proposes as an answer if it does not like what we come up with. It simply acknowledges the two letters of the President. It indicates that:

With respect to the proposal that we create an interim storage at Yucca Mountain, the Administration is conducting an internal policy review, as we do with all legislation pending in Congress. The Office of Management and Budget is leading this review, in its usual role. The Department of Energy is centrally involved, since it manages the nuclear waste program.

All of which are self evident.

The last paragraph addresses the issue in the following way:

We expect to be in a position to communicate an Administration policy recommendation to you by the time you return from the Labor Day recess.

And Ms. Rivlin apologizes for the delay.

So here we started out in April, the first letter; August, the second letter to the President; third, we get a letter saying they are going to take it up after the recess. Time went by. Fall came. The leaves fell. Frost came. Snow came. Snow came down. Christmas passed. Then New Year's. One can only assume that the administration did not want to engage in this issue or try to solve the problem. So being somewhat consistent, on January 10, I decided I could wait no longer. So on January 10, I wrote another letter. Over the past 9 months—one can conceive a child in that timeframe.

Dear Mr. President: I have written two letters to you requesting that the Administration offer a comprehensive plan that would allow the Federal Government to meet its commitment.

What we have now is a program that has spent twelve years and $4.2 billion of taxpayer dollars looking for a site for a permanent high-level nuclear waste repository. By 1998, the deadline for acceptance of waste by the Department of Energy . . . is at hand.

The Yucca Mountain site is not determined at this time to be licensable. We have 23 commercial power reactors that will run out of room in their spent storage pool. By 2010, the DOE's rather optimistic target date for opening a permanent repository, an additional 55 reactors will be out of space. It is estimated that continued on-site storage through 2010 would cost our Nation an additional $5 billion.

I referred to my letters of April 7 and August 7 citing that I had received assurances from Alice Rivlin and an indication that the administration would have a response after Labor Day.

I further advised the President that I have not had that response as promised.

On December 14, Hazel O'Leary testified before the committee and indicated that she would oppose any legislation that would authorize the construction of interim storage at the Nevada test site.

I further indicated to the President that the option of status quo was not acceptable. I further indicated that, if the administration continued to reject congressional proposals, I would ask the President to offer an alternative plan that would allow the Government to fulfill its commitment to the electorate, the taxpayers of this country.

To hear some say—the minority leader—that we are somehow being rushed into this, that this is action taken on the spur of the moment, or the comments from the Washington Post in their editorial that there is no need to rush into this, this has been cooking with the administration since the administration came into office. They simply do not want to address the issue. They do not want to have to make a decision on their watch. They do not want to have to make a decision before the election. Obviously, our friends from Nevada, of the other party, may feel this is certain. This is a legitimate environmental issue of the highest nature. It is an obligation of this body to address it.

We have expended 15 years in the process. We are up against some realities that I think bear further examination. One is that there are some members of the environmental community who are opposed to the continuation of nuclear power generation in this country, even though nearly a third of our power generation is dependent on it. The States license the storage facilities. As the storage facilities begin to fill up, these companies are desperate as to what to do with the spent fuel. The fact that they have been collecting from the ratepayers over $12 billion that has been given to the Federal Government to take that fuel in 1998 is basically incidental to these groups that oppose nuclear power generation. They see this as a way to permanently shut down the nuclear industry in the United States.

I do not think that is the answer, Mr. President. The answer is again to recognize that we have this problem today, and we have the option of storing, until a permanent repository is established, this waste in Nevada in a temporary repository.

I want to conclude my reference with regard to this correspondence because I wrote my letter in January 1996. Then in March 1996, nearly 1 year after the first letter of August 1995, or April 1995, I finally got a reply. The reply said basically the status quo was fine and that the administration opposed everything.

I ask unanimous consent that a letter be printed in the RECORD dated March 1 from Alice Rivlin.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, March 1, 1996.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of January 10th to the President outlining your continuing concern about the direction of the civilian nuclear waste program. He has asked that I respond on his behalf.

The Administration appreciates and shares the concern that you and many of your colleagues have expressed about the time and resources that the government has invested in the search for a suitable site for a geologic repository for spent nuclear fuel and high-level nuclear waste. We also appreciate the concerns that you and others have raised about the costs of extended storage of spent nuclear fuel at reactor sites from the nation's commercial nuclear power plants and about the need for centralized interim storage pending completion of a permanent facility. We share your desire to resolve this complex and important issue. At the same time, as the President has stated, we are committed to doing so in a way that is objective and fair to both the citizens of Nevada and the rest of the Nation.

In response to your concerns, both my October 13th letter to leaders of the Conference Committee on the FY 1996 Energy and Water Appropriations bill and Secretary O'Leary's testimony before your committee on December 14th provide the Administration's views on how the issue should be approached. We believe that the government's long-standing commitment to geologic disposal should remain the basic goal of Federal high-level radioactive waste management policy. Significantly deferring or abandoning that commitment would jeopardize the entire waste management program, with potentially adverse consequences for ratepayers, utilities, the national energy outlook and defense policy, the cleanup of the Department of Energy's nuclear weapons complex, and international nonproliferation and environmental policy. The prospects for timely development of any necessary interim storage facilities could be particularly damaged by any potential weakening of our long-term strategy for disposal. As Idaho Governor Batt indicated in your December 14th hearing, the willingness of any State to accept interim storage is likely to be contingent upon confidence in the availability of a permanent facility. Furthermore, the technical requirements of any interim facility also will be significantly affected by the likelihood that the Yucca Mountain site ultimately will be available as the permanent repository site.

Accordingly, we strongly oppose designating an interim storage facility at a specific site at this time. We believe that any potential siting decision concerning such a facility ultimately should be based on objective criteria and informed by the likelihood of success of the Yucca Mountain repository site. Thus, we feel it is necessary to complete the scientific and other assessments that are now underway to determine the viability of the site at Yucca Mountain, Nevada, to serve as the permanent repository before considering specific options for an interim storage facility. Our current schedule anticipates completing that viability assessment in the 1998–1999 time frame. We hope that the Congress will provide resources sufficient to keep us on that schedule. Any effort expended on an interim facility in the meantime should only focus on non-site-specific design and engineering.

The accelerated progress that the nuclear waste program has made recently results from planning and management innovations begun by this Administration. As Secretary O'Leary made clear in her testimony, we agree with you that the status quo is not an option. Consistent with the principles outlined here, the Department is continuing to make strategic adjustments to maintain and improve performance within anticipated resource levels.

Thank you for your continuing commitment to a sound nuclear waste policy. We look forward to continuing to work with you toward that end in the months and years to come.

Sincerely,

ALICE M. RIVLIN,
Director.

Mr. MURKOWSKI. Mr. President, the letter is rather significant because, while it acknowledges the consequences for the ratepayers and the legitimacy of cleanup of our nuclear waste complex, it does not address anything positive relative to responding to the dilemma associated with finding a site. They strongly oppose designating an interim storage facility at a specific site at this time. It has taken them a year to say that. ''We strongly oppose designating an interim storage facility at a specific site at this time.''

They further believe any potential siting decision concerning such a facility should be based on objective criteria, whatever that means, and informed by the likelihood of success at the Yucca Mountain repository. In other words, they want Yucca Mountain licensed and established before you move this material. There is no indication that is going to be done before the year 2010, or thereabouts. What are we going to do in the meantime—shut down our power sources? Clearly that is not a responsible option.

So, again, Mr. President, the history on this issue shows an administration that simply has no responsibility as far as playing a role in the ultimate disposition of how we work with this waste situation. There has been nothing about working with us to solve the problem, nothing about what they would propose on the legislation to solve the problem; simply do nothing; status quo.

Mr. President, that is irresponsible. I suppose we could have given up at this point but we did not. Because I do not think any of us like a government that breaks its promises, and we have broken our promise to the ratepayers and to the industry because we are not prepared to take it to 1998. I do not agree the ratepayers need to spend an extra $5 to $7 billion creating 80 nuclear waste dumps all around the country when one will do. One will do in an area where we have set off nuclear devices for some 50 years. So we set off to address the problem in S. 1271, that the administration says it did not like. We incorporated in our approach suggestions by my good friend, Senator JOHNSTON, the ranking member of the Energy Committee, to await the interim repository until the viability of the permanent repository was established. We compromised. So this morning we were greeted by the letter from Leon Panetta saying the President would now veto the bill. The ridiculous part is there is no indication they have read the new bill, but they already decided to veto it.

I have been begging you, Mr. President, President Clinton, to get into the game for more than a year. Thus far you simply decided to punt. Mr. President, do not punt yet. There is still time for you to get into the game. You have a responsibility, as we do. We are in the fourth quarter now. Time is running out, but there is still time for you to help us solve the problem.

And, Mr. President, this is not an issue about the nuclear lobby. We keep hearing from the Washington Post, the Nevada Senators, the minority leader, that the bill is for the nuclear power lobby. It is not. I was going to introduce letters of support from the Governors and attorney generals to the President and to Members of Congress from Florida, Georgia, New Mexico, Vermont, North Carolina, South Carolina, Pennsylvania, Arizona, Massachusetts, Virginia, Wisconsin, Rhode Island, Arkansas, Delaware, Illinois, Iowa, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Ohio and Oregon. These are 23 States. They want this problem solved at this time.

Mr. President, these letters are available to Senators through my office. I would ask unanimous consent to print these in the RECORD, but they are too voluminous.

There are numerous misstatements that have been made on the floor that I must address. I am going to take a little time now to do that, but it will not be too much time. I will be very short because I know there are other Senators who want to speak.

What is the truth about S. 1936? The misstatement has been made that S. 1936 would effectively end the work on a permanent repository and abandon the health, safety, and environmental protection our citizens deserve. This came from page S7637 of the CONGRESSIONAL RECORD of July 10.

The fact is, section 205 of S. 1936 directs that work continue on a permanent repository in Yucca Mountain. Fees being paid by American electric customers are more than adequate to pay for both the interim facility and the permanent repository program. Indeed, to help ensure a permanent repository is built and that the interim facility does not become a de facto permanent facility, as the Nevada Senators have contended, reasonable and achievable overall system performance standards are specified in the legislation.

A statement that the transport cask could only survive a 30-mile-per-hour crash was made by one of the Nevada Senators this morning. It is interesting, because there has been a lot of engineering, a lot of money spent on these casks. The fact is, these casks have been tested in 83-mile-per-hour crashes. They have been tested in conditions that the Nuclear Regulatory Commission and the Sandia National Laboratory say encompass the range of accidents that can happen in the real world. At one time they were attempting to design casks that would withstand free fall from 30,000 feet, the theory being they may move some of this nuclear waste by special long-range 747 aircraft.

There have been horror stories about train wrecks. Let us set the record

straight. We have been transporting nuclear waste around the world for 40 years. There have been 20,000 nuclear waste transportation movements around the world. There have been a few accidents, but there has never been a cask failure or radioactive release, because the casks have performed as designed. The transportation is safe and it will continue to be safe.

How many Members of this body are aware of the nuclear waste that moves through their State, whether it be Colorado, whether it be Indiana? It moves to Savannah, it moves to Idaho, it moves to the State of Washington, and it moves responsibly because safeguards are initiated. And this waste will move safely because safeguards will be enacted.

There are other Members I see who want recognition, so I am going to sum up by saying we must act now. One waste site, not 80 waste sites. Let us save the consumers of this country $5 to $7 billion that would otherwise be expended by delay. It can be safe for Nevada. It can be safe for the Nation. I grant it is a political problem. I grant nobody wants it. But I challenge that somebody has to take it, so let us put it where we have had nuclear testing for over 50 years, in the deserts of Nevada. It is not a technical, scientific problem. We have an opportunity and we have an obligation to get the job done. No more stalling. No more excuses. Let us get the administration on board. Let us do it. If we have to override a President's veto, let us do it. Because this is the environmental issue of this Congress and to defeat it is to defeat what is right for the environment. And that makes it wrong. One waste site, not 80.

I reserve the remainder of my time and ask the Chair how much time is remaining on our side?

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Nevada [Mr. REID], has 131 minutes. The Senator from Nevada [Mr. BRYAN], 180 minutes. The Senator from Louisiana [Mr. JOHNSTON], has 22 minutes. The Senator from Alaska has 45 minutes.

Mr. MURKOWSKI. I reserve the remainder of my time.

Mr. JOHNSTON. Nuclear waste legislation needs to do four things.

First, it needs to provide for the storage of nuclear waste between 1998, when a quarter of the Nation's nuclear powerplants will have run out of storage space, and the date, 14 or more years distant, when the permanent repository will open and begin accepting the utilities' waste.

Second, it needs to set the existing repository program on a sounder footing by endorsing the Department of Energy's plan for completing scientific studies at the site and setting forth the licensing standards by which the repository will be judged.

Third, it needs to fill the gap in transportation planning by selecting an appropriate route to ship nuclear waste between existing railroads and Yucca Mountain.

Fourth, it needs to ensure that the program is adequately funded.

The bill before us meets all four of these tests. While it differs from the bill I introduced at the beginning of the Congress and the bill reported by the Committee on Energy and Natural Resources in March, the differences are ones I can live with.

Indeed, the pending bill makes a number of useful improvements over the committee-reported bill.

On interim storage, the new bill goes a long way to meet the administration's concerns about siting the interim storage facility at Yucca Mountain before the site has been found suitable for the repository. The bill bars construction of the interim storage facility until the tests can be completed and sets up a mechanism for the President to pick a different site if Yucca Mountain proves unsuitable. It also reduces the capacity of the interim storage facility to alleviate concerns that the interim facility might otherwise supplant the repository.

On the repository, the new bill gives the Nuclear Regulatory Commission the authority to impose tougher standards than the ones set forth in the bill. While I believe that the 100-millirem standard in the committee-reported bill was scientifically sound, the new bill gives the technical experts at the NRC the ability to set a different standard if a tougher standard is needed to protect the public health and safety.

The new bill drops a number of the more controversial provisions of the committee-reported bill, including a provision that would have permitted utilities to ship their spent fuel to Europe for reprocessing and another that would have preempted a wide range of State and Federal environmental laws.

In addition, the new bill adds a number of helpful provisions designed to give financial and technical assistance to local governments and Indian tribes affected by the program and to ensure that nuclear waste is transported safely.

The new bill adds a number of other provisions that concern me.

For one, I cannot understand why the bill requires the Secretary of Transportation to issue worker-training standards for storage and disposal of nuclear waste. I do not quarrel with giving the Secretary of Transportation the power to set worker-training standards for the transportation of nuclear waste, but the Department of Transportation has no expertise in the storage and disposal of such waste. Storage and disposal are already regulated by the Nuclear Regulatory Commission, which does have the expertise. This provision creates an unnecessary and duplicative bureaucratic requirement and offers more opportunities to delay the nuclear waste program and make it more costly.

Second, I am concerned with the new funding mechanism in section 401 of the bill. I would have retained the existing one mill per kilowatt-hour fee on nuclear electricity and have taken steps to free the funds collected from electric ratepayers for this program from existing budget caps. Instead, S. 1936 takes the course mapped out in the House bill. It ties the amount of fees collected each year after October 1, 2002 to the amount appropriated to the program in that year. While this approach may offer relief after 2002, it does nothing to address the current funding problem and it will work against the use of the funds already collected but not yet spent on the program.

Third, I am troubled by the new water rights provision in section 501. The purpose and effect of this provision are not immediately clear, but I fear that it may give the State of Nevada power it does not now possess to obstruct nuclear waste storage and disposal activities at Yucca Mountain.

Fourth, I am opposed to title VII of the bill, which exempts the nuclear waste program from the civil service laws. Since roughly 90 percent of the people working on the program are already employed by private-sector contractors, I am not convinced that depriving the remaining 10 percent of their civil service protections will dramatically improve the program's performance. I do fear that this provision sets a bad precedent and may prove counterproductive.

Finally, I am concerned by the bill's failure to authorize a rail link between existing railroads and the Yucca Mountain site. I understand the reasons for this. A rail link could cost a billion dollars or more. But the benefits of keeping nuclear waste canisters off the public highways may justify the cost. This issue deserves further consideration.

These concerns do not detract from my overall support for the bill. In the interest of passing a bill this year, I do not intend to offer amendments on these issues at this time. I would hope that consideration can be given to fixing these problems in conference.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, about an hour ago a reporter came up to me outside of these Chambers and said: In light of the fact that we have yet to act on 13 appropriations bills, and the fact there is very little time remaining in this Congress, is it appropriate that you are debating this issue of nuclear waste and where it should be located and disposed of?

I responded to the reporter: In light of all that you have just said, it is long overdue. It is decades in coming, that we finally have this time on the Senate floor where we can discuss what do we do with this nuclear waste. This is not an issue as to whether or not you are pronuclear or antinuclear, because, if you turned off every nuclear powerplant today, we have hundreds of metric tons of nuclear waste sitting

throughout the United States and something has to be done with that nuclear waste.

It has been stated by a number of the speakers here today that we have 34 States that currently have commercial nuclear waste that is kept in those States. Let me also point out that, according to information provided by the Nuclear Energy Institute, there are 32 States that rely on nuclear energy for part of their electrical power. In addition, a number of reports indicate that 23 nuclear utilities will begin to run out of storage space for spent nuclear fuel in 2 years—in 2 years; and in 12 years another 55 reactors are expected to run out of storage space.

As utilities exhaust available storage space for fuel, electrical brownouts will occur as States and local utilities begin to see the Federal Government's inability to address a national problem, a problem that has been here, again, for decades.

Mr. President, we talk about this. We use statistics and numbers. But let me just mention some of the States that rely upon nuclear power for their energy, and what percent of their energy is derived from that nuclear source: Vermont, 81.5 percent; Connecticut, 74.1 percent; Maine, 73.6; New Jersey, 69.8 percent of its energy is derived from nuclear sources; South Carolina, 60.2 percent; Illinois, 52.7 percent, well over half; New Hampshire, 52.2 percent; Virginia, 48.3 percent; Pennsylvania, 39.8 percent; Mississippi, 36.7 percent; North Carolina, 35.4 percent; Arkansas, 35.2 percent; Arizona, 32.5 percent; Minnesota, 29.9 percent; Georgia, 29.3 percent of its energy comes from nuclear; Nebraska, 28.9 percent; New York, 28.2 percent; California, 26.6 percent; Maryland, 25.6 percent; Wisconsin, 23.3 percent. The list goes on. I ask unanimous consent the entire list be printed in the RECORD.

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

STATE ELECTRICAL GENERATION BY NUCLEAR ENERGY, 1994

Ranking by nuclear percent and State	Nuclear generation (million kWh)	Nuclear as percent of State total kWh
1. Vermont	4,316	81.5
2. Connecticut	20,260	74.1
3. Maine	6,632	73.6
4. New Jersey	22,129	69.8
5. South Carolina	44,475	60.2
6. Illinois	72,654	52.7
7. New Hampshire	6,204	52.2
8. Virginia	25,429	48.3
9. Pennsylvania	67,207	39.8
10. Mississippi	9,615	36.7
11. North Carolina	32,346	35.4
12. Arkansas	13,924	35.2
13. Arizona	23,171	32.5
14. Minnesota	12,224	29.9
15. Georgia	28,927	29.3
16. Nebraska	6,345	28.9
17. New York	29,225	28.2
18. California	33,752	26.6
19. Maryland	11,222	25.6
20. Wisconsin	11,516	23.3
21. Kansas	8,529	22.9
22. Alabama	20,480	21.5
23. Louisiana	12,357	20.7
24. Florida	26,682	18.8
25. Michigan	14,144	16.9
26. Missouri	10,006	16.3
27. Tennessee	11,932	15.9
28. Massachusetts	3,895	14.2

STATE ELECTRICAL GENERATION BY NUCLEAR ENERGY, 1994—Continued

Ranking by nuclear percent and State	Nuclear generation (million kWh)	Nuclear as percent of State total kWh
29. Iowa	4,107	12.8
30. Texas	28,067	11.0
31. Ohio	10,952	8.5
32. Washington	6,740	8.2

Source: DOE/EIA, Electric Power Monthly, March 1995.

Mr. KEMPTHORNE. Mr. President, this demonstrates the difficulty that the States in the United States of America are facing. You have a beautiful State, the green State of Vermont; over 80 percent of its energy comes from nuclear. I think the folks in Vermont want to have a solution. I do not think Vermont wants to face brownouts from a power supply. I do not think the people of Connecticut want to face brownouts; Connecticut, which has 74.1 percent of its nuclear energy or energy coming from nuclear.

You have the Governors of these States—in the State of Florida, Lawton Chiles sent a letter to Senators GRAHAM and MACK, and he said:

Florida ratepayers have paid more than $397.4 million into the Nuclear Waste Fund for use by the Department of Energy in managing the spent fuel from Florida's five nuclear powerplants. In spite of these continuing payments from the citizens of Florida, the DOE is still unable to meet its statutory obligations. In fact, Florida, along with numerous other State utility commissions and attorneys general, have sued the DOE over its failure to meet its legal obligations.

Continuing:

A centralized interim storage facility is the only way the DOE will be able to meet its responsibility to begin accepting spent fuel on time, and prevent the creation of three interim storage sites in Florida.

That is from Gov. Lawton Chiles, a Democrat. This is not a partisan issue by any stretch of the imagination. In Vermont, Gov. Howard Dean states:

I am urging you to support changes in the Nuclear Waste Policy Act that would ensure that the Federal Government meets its responsibility to electricity consumers to begin accepting spent fuel from commercial powerplants in 1998. Legislation that would address this situation * * * is now pending in the U.S. Senate.

That takes a look at the commercial aspect of this, the fact we have so many States that derive their power from nuclear powerplants, the fact that you have the spent fuel from those reactors that is beginning to pile up throughout the United States.

But there are other States that we categorize as ''other nuclear material.'' What would be an example of that? A Navy shipyard. Take, again, the State of Connecticut, where they proudly build Navy's nuclear-powered submarines, truly the finest submarines built by any country in the world, the 688 nuclear class attack submarine. They will be building the *Seawolf*. But you know, Mr. President, this is a situation where they build nuclear submarines in Connecticut on behalf of the Government and on behalf of the U.S. Navy, but after some years at sea, they then have to take the spent nuclear fuel rods from those nuclear reactors, and they have to transport those to the State of Idaho.

(Mr. MURKOWSKI assumed the chair.)

Mr. KEMPTHORNE. Mr. President, so you see, Idaho and Connecticut are really tied together in this whole thing. That is why I have had good discussions with the Senators from Connecticut. I know they have to look out for their people who derive such good economic benefit from building these naval nuclear attack submarines in their State, and I know that they realize that with that goes the responsibility of somebody has to come up with the technique to deal with these spent nuclear fuel rods. The last thing we want to do is to say, ''Don't build any more of these nuclear submarines.'' I don't think that is what we want to say. I am sure the folks in Connecticut do not want to hear that.

We can see the dilemma for so many States. A State like Connecticut that is building the submarines but also derives 74.1 percent of their power from nuclear powerplants. This is not just one State that is saying, ''Time out, we have a problem,'' it is the States of this Union that are saying, ''Own up to the responsibility, Government of this land.''

It is time for us to come up with a solution. It is time for us to realize, again, that this is not a pronuclear-antinuclear issue. Not at all. It is an issue about whether or not we are going to be responsible.

I have read some of these other letters, but there is one other letter I would like to read from a citizen from the State of Idaho who lives in Sun Valley, ID, Bernice Paige. This was written to the Secretary of Energy Hazel O'Leary:

This letter is to express my views on Federal responsibility to store spent nuclear fuel. It is incredible that the Federal Government has not only dragged its feet for the past 12 years and failed to get a repository constructed, but now they even are considering breaking their agreement with the nuclear power utilities. I urge you to proceed with construction of storage and disposal facilities to take spent fuel from nuclear utilities as soon as possible.

She goes on to say, and I conclude with this:

I have been retired for 13 years and spend many hours as a volunteer for our Nation's trails and other environmental issues. Nevertheless, I keep abreast of nuclear issues worldwide. We must not fail to provide the needed Federal fuel storage for these utilities that provide 20 percent of our electricity.

So, Mr. President, I think that sums up how many of us feel about this. It is a tough issue. We now have a piece of legislation that directs the Department of Energy to do the job it was directed to do and to build a storage facility for spent fuel. If the Senate rejects this option, we can already see the consequences: forty-one States will continue to serve as long-term storage

sites for spent nuclear fuel, and existing storage facilities for spent nuclear fuel will be used far beyond their design level.

In closing, I commend my colleague from the State of Idaho, Senator CRAIG. I also commend the chairman of the Energy and Natural Resources Committee, the Presiding Officer, Senator MURKOWSKI, the Senator from Louisiana, Senator BENNETT JOHNSTON, for their leadership for months and months, bringing us to this point, so, yes, we are finally dealing with this issue, as we should, as a responsible body, and to say to my friends from Nevada, I understand your concerns, but I think we are all in this together. We have to find a solution.

So, again, that is what this legislation is about. Mr. President, I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the Chair.

Mr. President, I want to begin this afternoon by trying to give a graphic example of what it is that we fear if we do not have the adequate safeguards and protections, which, in my view, and in the view of the administration and many of my colleagues, are simply not present in the legislation before us, S. 1936.

We frequently speak of nuclear waste in the abstract, as if it is something that is esoteric and scientific, and, indeed, the very description of what constitutes nuclear waste is a bit convoluted.

So I want to describe the situation that occurred in the State of the distinguished Senator from Idaho to give you an idea just how lethal and deadly this stuff is. We are not talking now just about something that is kind of distasteful, kind of unpleasant, a little bit risky, something that we do not want any mishap to occur because it would be terribly inconvenient or expensive to clean it up. We are talking about something that is life threatening, something that lasts for tens of thousands of years—tens of thousands of years.

A very tragic accident occurred in Idaho Falls in January of 1961. There were three young servicemen who were working on a reactor. Nobody contemplated that there would be a serious problem. They were adjusting some control rods. All of a sudden, the reactor went critical. The alarms were set off. All kinds of security measures were initiated. The emergency response team, such as they were, responded. The search began for the three men who had been working with the reactor. Wearing protective clothing, they entered the facility. What they found was a horrifying situation. I will just talk about one of the three because I think it makes the point.

One of the men who was missing was a gentleman by the name of McKinley. Upon looking into the building, they found that he was pinned to the ceiling by a control rod. He was dead. His body was highly contaminated with nuclear waste. The others were found saturated with highly contaminated water from the reactor. Particles of fuel had penetrated their skin resulting in large open wounds due to the blast effect. In trying to extricate these men from their entombment, everything had to be treated as if it were high-level waste because it in fact was high-level waste. So all of the protective gear had to be employed.

Even the solemn act of burying, paying last respects to a loved one involved some extraordinary procedures, because as a result of this explosion—an accident; nobody wanted it to happen. Nobody thought it would happen. It had never happened before. How many times have we heard that about an accident? ''It never happened before. We did not think it would occur. We never dreamed this could happen. How in the world could something like this have happened? How could we have foreseen the consequence?'' So this accident that occurred in early 1961 clearly falls within that.

But the body of the deceased had itself become high-level nuclear waste. In the cemetery in which he was emplaced, it was encased in 12 inches of poured concrete and placed in 3 feet of packed Earth around it because the remains, decomposed, of that body would remain highly contaminated, dangerous, itself per se high-level nuclear waste, for all intents and purposes to the end of time, for thousands and thousands of years.

So when we talk about the dangers of nuclear waste, we are talking about some of the most dangerous stuff in the world, in the history of civilization. When we are talking about strategies to provide for its storage and ultimate disposal, it seems to me that we ought to, when in doubt, err in favor of the most stringent standards. We are not just talking about this generation. Our time here, by nuclear waste deterioration standards, is a finite period of time. We are just kind of a microspeck on that graph of timespan that it takes for high-level nuclear waste to ultimately deteriorate over tens of thousands of years.

So when we are asked, why do we fight? We fight because we believe that the health and safety, indeed the very lives, of the citizens of our State are at risk. No Member of this body, whatever his or her political affiliation may be, wherever they place themselves on the ideological scale, from liberal to conservative or in the political center, could live with himself or herself for 1 day if they did not do everything within their power to fight to protect the health and safety of the citizens of that State.

My colleague from Nevada and I have undertaken this task because we believe it is a matter of, potentially, life or death for Nevadans under this ill-conceived scheme that is embraced in S. 1936.

We have all seen our colleagues on both sides of the political aisle go to the so-called political mat to advance their State's interests. I think all of us, whether we agree or disagree with the proposition, have a good measure of respect for that. People say, ''By golly, Senator X or Senator Y is a great advocate,'' whether it is to secure an additional appropriation for a project that is deemed worthy in that State or whether it is to protect a State from part of these ongoing series of base closures we have experienced in the recent years. We all recognize the nature of that.

But what we oppose here today is something that is totally different. This is not to secure an additional appropriation for our State for some project that is near and dear to Nevadans. This is not to prevent the closure of some base in our State. This is something, in my experience as a Member of the U.S. Senate, that is really without peer. As the lawyers would say, this is a case sui generis. I know of nothing like it—nothing like it—because what we simply try to do is to protect the health and safety of our citizens.

We believe there is a far broader issue than just the concerns that we have as Nevadans about our own citizens. We believe that there is a major policy flaw in this legislation. I believe that, as Oliver Wendell Holmes once commented, ''A page of history is frequently more instructive than a volume of logic.'' So I think it is somewhat helpful to review a little bit of the history of this.

I remember as a youngster, in the dawn of the nuclear age, tritium had been detonated, as a matter of fact, on this very day, 51 years ago, July 16, 1945. I remember that because of the fortuitous circumstance of my own birth. Today happens to be my birthday. So I always remember that.

In the aftermath of the success of the Manhattan Project, and what it did to accelerate the end of World War II—and let me just say, parenthetically, not related to this debate, I believe that President Truman's decision was sound. I believe that we spared the lives of hundreds of thousands of Americans and brought that tragic war to a conclusion, as we properly should have.

But in the aftermath of that, there was great excitement engendered about the future of nuclear power. What did it portend for America? I was a youngster in grade school. I acknowledged that if there be any academic strengths that I have, it would not lie in the field of science. But how well I recall, as a youngster each week we used to get, as schoolchildren in my time did, a Weekly Reader. It kind of talked about some of the things that were occurring that would transform and change the future. Because even as youngsters in grade school, we understood that we were going to be a part of that future.

In the period after World War II, technology was exploding in so many

different areas. I recall distinctly that there was talk about nuclear power, too cheap to meter, that there would be some kind of a nuclear thing right outside of everyone's home and the traditional sources of energy would be relegated to the dustbin of history. I remember all of that as a kid.

This mentality, this boosterism on behalf of the industry, understandable in its initial phase because nuclear energy was the product of a military necessity in World War II, the Manhattan Project, that mentality continued long after the end of World War II. In that desire to transform nuclear energy into its civilian purpose, no thought, Mr. President, no thought was given to the byproduct, the issue that confronts this Senate on this very day and has for many years—how do we dispose of the high-level nuclear waste, the byproduct, essentially, the spent fuel rods that come from nuclear reactors?

It is interesting to note some of the things that were discussed over the years. From 1957 to 1982, various Federal agencies sought to build geologic repositories and the National Academy of Sciences was brought into it. Great debate raged as to whether it should be buried in subseabeds off the coastal shores of our country. At one point, the scientific community was quite excited after the birth of the space age, that somehow we could send this lethal, deadly stuff, put it in space. Somebody thought after a while, that may not be such a good idea because there could be an accident, and if there was an accident, this stuff would be spread all over creation. So wiser heads, cooler heads, more reasoned sober minds concluded that certainly is not a very good idea. So that was rejected.

That kind of brings us into the 1960's, when all of a sudden, Kansas, a State that has brought to this Chamber our former distinguished majority leader, that Kansas would be an ideal site. The Atomic Energy Commission, which is the historical progenitor of the Department of Energy, has kind of gone through several iterations over the years, but we are talking about the folks who would be the ancestors to the present occupant of the energy policy arm of our Federal Government, the Atomic Energy Commission said the great place for this is Kansas. They went hell for leather. Kansas was where it was going to be. Indeed, everything was moving along. It was assumed that would be a great site. All of a sudden, somebody realized when they punched bore holes into the repository areas that were being proposed, they penetrated into the aquifer. I think most of us know that the largest aquifer in America, maybe the world for all I know, is the Ogalala Aquifer. It runs, literally, from north to south, from the upper Great Plains in the United States down into the panhandle. Lo and behold, the idea of contaminating an aquifer kind of got people's attention, particularly the good folks in Kansas. Their congressional delegation got energized and they responded and said, ''My God, this cannot be true. This cannot be possible.'' The AEC cannot be serious, having been now advised that we may contaminate an aquifer, they cannot be serious about that.

Let me say, entrenched views, bureaucratic inertia, a little bit of the pride of authorship, a scientist saying to those of us who are laymen, ''We know what is best for you, let us make these decisions. We understand you all cannot begin to understand the complexity of this.'' The AEC, the Atomic Energy Commission, did not abandon its choice of Kansas notwithstanding this evidence.

Now, if you are not from Nevada that may strike you as astonishing. Here is a public policy body, no question that there are distinguished, very capable scientists in it. One would assume they would act in a rational and responsible manner, that once presented with this kind of evidence it would be all over, and the response would be, ''Ladies and gentlemen, you are right. We ought not to proceed along these lines.'' That did not happen, Mr. President. Only when Kansas' congressional delegation got energized and inserted a clause into the reauthorization bill which blocked further study at the Lyons, KS, site did this come to an end.

(Mr. THOMPSON assumed the chair.)

Mr. BRYAN. That is the 1960's into the early 1970's.

We heard a lot about the so-called WIPP site, waste isolation pilot project. Sometime in the early 1970's, the former Governor of New Mexico invited the Atomic Energy Commission to study sites in New Mexico for a siting, locating of transuranic nuclear waste. This was at a time when the processing was still considered viable. So the interest was in handling a destination for transuranic waste, and the belief was that a salt dome formation had geologic advantages and we should place the storage there.

Over the years, that facility has been much troubled in terms of some of the scientific and technical concerns. My colleagues from that State, one a Republican and one a Democrat, have called to the attention of this body fairly recently their concerns about the levels of radiation, because it would be New Mexicans who would be affected. They did as any colleague worthy of his or her salt would do. They have made, I think, some very persuasive arguments. By and large, the body has yielded to their concerns about those standards. This is not an unfamiliar argument that one hears on the floor of the Senate.

Well, 1982 comes around. I remember that year. I was involved in a hotly contested race for Governor of my State. There was a lot of discussion about the Nuclear Waste Policy Act of 1982. We looked at it in Nevada. I must say that we had some skepticism, skepticism born on the experience that we had from an earlier era when Nevada was chosen as the site of atmospheric nuclear tests. We embraced that with naivete, some enthusiasm, some sense of national pride because we were going to be on the cutting edge.

This time, now, I am almost ready to get into high school and I am caught up in the community sense that, wow, this is a big deal. Some of the merchants in town actually changed the name of their business to ''atomic'' this or ''atomic'' that. The distinguished occupant of the chair would be too young to recall these years, but we even had an atomic hairdo at that period of time that was somewhat of a fashion sensation of the moment. By the time I got into high school we got so enthusiastic that the cover of our high school annual Wildcat Echo had the nuclear mushroom cloud with all of the colors that are generated with that enormous heat and energy that is brought to focus. Nevadans were told, ''This is absolutely safe.'' We were encouraged to kind of get up in the morning and share the experience in silence. We learned—even those of us not agile of mind when it comes to things that are mathematics or scientific—that speed of light travels much more rapidly than does the speed of sound, and that if we were careful and got up and watched this—as we did at 5 or 5:30 in the morning—we could see that flash in the sky, set our watch, and wait for the seismic impact. The seismic impact would hit. I mean, we had a small home, but those windows rattled and the doors shook. At that moment, we could calculate, because we knew what the speed of sound was, how far from our home ground zero was. That was kind of a little assignment we were given in school. We were told, ''Do not worry about a thing, this is great.''

Let me just say that the evidence is quite to the contrary. What is particularly disturbing is that there were some people who knew what the evidence was. We now know that some of those scientists that reassured the Bryan family and our neighbors that it was safe were sending their own families out of State when these tests were occurring. We all know, as responsible Members of this body, that today the Senate and the other body appropriates money each year to provide for those poor, innocent victims who were downwind, who were told, ''There is not a thing to worry about,'' who suffer from genetic defects, who suffer from cancer, whose health may be irretrievably lost. We provide for them.

So that perspective, I think, is helpful, Mr. President, because having been told not to worry about anything, and decades later being a Member of this Chamber, where I, as well as every Member of this body, appropriate taxpayer dollars to compensate those victims downwind, we are particularly sensitive to the issue of health and safety because, as they say, we have been there. We have a little understanding.

Let me get back a little bit to the 1982 act. I looked at the act and I said,

you know, this looks like the Congress has done a pretty good job. In 1982, perhaps the rhetoric was a little lower and the institution was less polarized and Americans may have been less cynical, but, by and large, it was still pretty good sport in the early eighties to beat up on the Congress. But I said, you know, this looks pretty fair.

The general parameters of the 1982 act have been, in my view, prostituted as a result of some of the legislative changes that have been made. The 1982 act said, look, we will search America and look for the best sites for a geological repository for high-level nuclear waste. We will look at different geological formations. There was great interest in granite, which tends to be located in the northeastern part of the States. We will look at the salt dome formations that were so attractive to those who were looking for the transuranic site. We will look at a formation out in Nevada called ''welded tuff.'' We will search the country and look for the best sites, and then we will study, or as the scientific community calls it, ''characterize'' each of those sites, and send that information to the President of the United States. Then the President will make his decision as to which one. It will be regionally balanced. No one part of the country will bear it all. Recognizing that States did not have the financial resources available to the Federal Government, there was an assurance that the States that were being considered would have funding from the Federal Government so they could engage their own technical people, independent and apart from the Department of Energy, as the agency had become known over the years, having changed from ERDA to the Department of Energy. That seemed pretty fair.

That was signed into law, as I recall, by then President Reagan in January 1983. I took the oath of office as Governor in January 1983. Troubled clouds were on the horizon from the very beginning. We had been assured, as a State being considered, that there would be resources available to us to conduct that independent study. That was real important to us. Ours is a small State. It is very important to us. We made the request, as did other States who were being considered, and the Department of Energy stonewalled, refused, rejected, denied, ignored, cut us off.

So the States that were being considered filed suit in district court. You do not have to be a Learned Hand to know that when the law specifically provides that there would be this kind of resources available and spelled out in statute that the States that were being considered had a pretty good case. We won in the district court. Then, again, we went back to the Department of Energy and we requested, we cajoled, and the answer was the same. We were ignored, denied, rejected, shut out.

So then we went to the circuit court, the higher level in the Federal system. Again, the States that were being considered, all a part of this lawsuit, prevailed again, and still the Department of Energy objected, objected, objected. Finally, we came back to the Congress, as Governors, asking only for what was ours. We were not asking for any pork barrel projects. We were just asking for the money to be able to engage technical people so that we could be satisfied that indeed the science being conducted was untainted, fair, objective, legitimate, and that our people—if the day ever came that we might be selected as one of these three sites—would be protected.

To the credit of the Congress, they directed the Department of Energy to release the money. Mr. President, that is not an auspicious beginning—not an auspicious beginning. I may have the sequence slightly out of order. But soon after that, the 1984 campaign began. Lo and behold the incumbent President began assuring the people in the southeastern part of the States that the salt dome formations, which would be looked at, were home free. You did not have to worry about that. That was nothing to be concerned with. So one began to say, wait 1 minute, somebody is ''dealing seconds,'' as we say in Nevada. This is not a fair deal. The premise of the act was to look all over the country and make the decision based on science. Now, here in the context of a political campaign, a region is getting a pass, we are not going to look at you. I must say that that was not only unsettling, it was outrageous, absolutely outrageous.

Then all of a sudden the word was that they were not going to look at anything in the Northeast. Congressman MARKEY, who then chaired a subcommittee, held an oversight hearing sometime. This predates my arrival in the Congress. Lo and behold, after examining documents prepared by the Department of Energy, the internal documents revealed that they were going to abandon any consideration of a site in the northeastern part of the country where granite is situated because the political pressure would be too great. So much for sites.

Then former Secretary Harrington, in effect, unilaterally made the determination that no consideration would be given to a need for a second repository. So it was pretty clear that what we would look at is one area of the country to take it all, a repudiation of the basic premise of the act, which is that there should be regional equity, that there should be a shared responsibility, and that science and the geology of the region, not its political clout—in other words, any political operatives—should be the consideration. That went out the window.

In 1987, the so-called Screw-Nevada bill was not having a real good relationship with the Department of Energy. Our plight was tooth and nail. They were not amenable to any of our suggestions. They had their own strategy for the study process. In 1987—the original bill was to look throughout the country; look at the different regions; look at the different geology and then come up with three sites to be sent to the President. After their studies characterized the present site, all of a sudden that goes out the window; not done in an up-or-down fashion. Nobody had an opportunity to really get into the merits in terms of offering amendments. This came as part of a reconciliation. So the Screw-Nevada bill, infamous in my own State, infamous by any standard in any State, would look only at Nevada.

I frequently hear my colleagues who are great proponents of the nuclear industry—which is certainly their right—exalt their actions in the name of science. This has nothing to do with science. This has everything to do with blatant, naked political power directed against a small State with a very small delegation in the House. We happen to be the victims of that power play.

When I say people were enraged in my State, that is a polite euphemism. So much for science. So much for science. It was that action, frankly, that spurred my own interest for the first time to consider becoming a Member of this body.

It got worse. The nuclear utilities could see that Nevadans were not going to buy into anything that outrageous. No group of people in any State could accept that kind of treatment. It had nothing to do with science. It had nothing to do with merit. The risks were so great that, indeed, all of these nuclear eggs are in one basket. One kind of thinks of that old Rube Goldberg image where somehow we are going to adjust the rules because all of the expectation, all of the energy, is going to be devoted to making that site work.

I will share with my colleagues one of the more outrageous things that the industry did. In September 1991, they commissioned a document called ''The Nevada Initiative.'' Mr. President, this is a lot like the battle plan for Operation Overlord, the invasion of Normandy in 1944. The language is cast in the format of establishing a beachhead and how we can persuade Nevadans to accept this. I mean, it is absolutely outrageous and offensive. It talked about the spending of millions of dollars by the nuclear power industry to persuade Nevadans just how safe this stuff was.

I recall one of these ads quite well. We had a former media personality who kind of let us see, when he had his cup of coffee in the morning, him hold up a ceramic pellet out of the spent fuel rod as if you could replace your cream, or if you had something a little stronger in your coffee in the morning, that would be it as well. I mean, it was so absurd that it became a subject of great ridicule and humor by some of the disc jockeys on some of the Nevada

radio stations. They identify who enemies are; that is, those who are opposed. I am proud to say that my colleague and I made that list. We are in the hall of fame.

They went on to talk about how they could separate and divide us, what their campaign objectives were; in the short term, create the necessary political and public climate to allow further site characterization to proceed within the next 3 years, to build a framework for political media and public awareness. Oh, my. It was quite a document. Key audiences were developed and natural allies; correspondingly, the key opposition. They talk about the need to assemble a media team. Of particular offense to women in my State was the suggestion that the primary target will be women age 25 to 49, a group at the highest statistical potential for affecting polls, if they could be informed, be assured, moved. Media campaign will also target the industry's most sympathetic base, age 35 to 54. They spent millions. The consultants got rich. The airwaves were bombarded.

Mr. President, we are not fools. We know when they are trying to blow on by, pull the wool over our eyes. We understand that.

So the view in Nevada is, as it has been for more than a decade, we do not trust them. We do not have that great sense of confidence.

That is why I think it is so terribly important for us to have that background in mind as my colleague and I continue this discussion as we try to enlighten our colleagues.

In that document, ''The Nevada Initiative,'' not much is said about safety; very little. That is the concern we have—safety. Everything is kind of done in the media; how we will hype this, spin this, get all of this together. I mean, it was a shocking performance, in my opinion.

Let me just mention one other thing that occurred along the road. I mentioned safety because that is our concern—health and safety.

In 1992 we had an energy bill before us. It had great bipartisan support. It was debated extensively in the Senate. Amendments were added, amendments were deleted. At no time was any amendment addressed to reducing health and safety standards at Yucca Mountain. Lo and behold, in the conference—and to those who are listening in this Chamber and who are not familiar with the legislative process, a conference occurs when the Senate version of a bill and the House version of a bill are different and they need to be reconciled. And a conference report is not amendable. So, if you can include it in the conference report, then by and large you have no opportunity to offer an amendment to strike it, to delete it, to remove it.

This was what has now become a very familiar pattern, and that is an attempt to dilute, to reduce, to lower the health and safety standards. It sought to deprive the Environmental Protection Agency, the EPA, of its independent authority and judgment as to what health and safety standards ought to be. I think that is pretty outrageous. That is pretty outrageous. We opposed it. Understandably, we had no opportunity to remove it, it was an up-or-down vote on the bill, and the National Academy of Sciences has selected to make those kinds of recommendations. I believe the proponents of this amendment thought the National Academy of Sciences would provide them with what they sought, and that was a standard that would be much lower, much easier to accomplish.

Let me just say, to the credit of the National Academy of Sciences, they did not take the bait. They did not take the bait. They recommended risk-based standards, something that the proponents of this strategy did not want. They pointed out that the international consensus, in terms of the millirem exposure rate on an annual basis from artificial sources above the natural background level should range from 5 to 30 millirems a year. I will have much more to say about that later on. They recommended protecting the most at-risk individual, and the use of the critical group for application of the standard. That is a scientific measuring standard that I must say I do not completely understand. But, to the credit of the National Academy of Sciences, that is an accepted standard, an accepted approach. And they recommended that standard apply to a period of greatest risk beyond the 10,000 years—beyond.

They further concluded that there is no scientific basis for the assumption that no human intrusion will take place.

Finally, they recommended the broadest possible public comments and participation.

Those observations are relevant because, in S. 1936, those are ignored. So, that is the history and experience that we have had, that brings us to the point we want to discuss some of the specifics of the bill and some of our concerns.

Let me begin with the premise the Nuclear Waste Technical Review Board—we have heard that referred to a lot these days. One of the things in the 1987 amendments, those that produced the ill-named ''screw Nevada'' bill, was a technical review board, the Nuclear Waste Technical Review Board.

I think it is important to understand the context of this. This is not something that was foisted upon this Congress by the Nevada delegation. Congress was seeking advice and guidance on this very complicated issue, and they authorized a technical review board to have some of the most eminent scientists of our time: Dr. John E. Cantlon, chairman, Michigan State University, emeritus; Dr. Clarence R. Allen, California Institute of Technology, emeritus; Mr. John W. Arendt, of John W. Arendt Associates; Dr. Gary D. Brewer, University of Michigan; Dr. Jared L. Cahon, Yale University; Dr. Edward J. Cording, University of Illinois at Urbana-Champagne; Dr. Donald Langmuir, Colorado School of Mines, emeritus; Dr. John J. McKetta, Jr., University of Texas at Austin, emeritus; Dr. Jeffrey J. Wong, California Environmental Protection Agency; Dr. Patrick A. Domenico, Texas A&M University; Dr. Ellis D. Verink, Jr., University of Florida, emeritus; Dr. Dennis L. Price, the Virginia Polytechnic Institute, and State University.

These institutions are widely known and respected in America, as are their graduates or their employers, as the case may be. These are among the most eminent men of science. I emphasize the word ''science,'' Mr. President, because we frequently hear invoked on the floor of the Senate: This should all be done as a matter of science; let science prevail.

May I say, our experience, from the onset of the 1982 Nuclear Waste Policy Act, is that science has always taken a back seat and politics, particularly nuclear politics and the desires of the industry, have taken the front seat. Here is what they said. It has been cited before but I think it needs to be mentioned again. After reviewing two dozen technical and nontechnical issues, the board framed this question:

> Is there an urgent technical need for centralized storage of commercial spent fuel?

The answer, in language that even the layman can understand:

> The Board sees no compelling technical or safety [no technical or safety] reason [none] to move spent fuel to a centralized storage facility for the next few years.

That analysis did not please the nuclear industry. They went critical themselves. So, what has occurred, I think, is interesting. It is a side bar, to some extent, to this bill. But in the bill itself, after having created this technical review board, it is interesting to note in the evolution of this piece of legislation there have been many progenitors to S. 1936. The 1987 act that created the nuclear waste technical review board established its function as follows:

The board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after the date of enactment of the Nuclear Waste Policy Act of 1987, including site characterization activities and activities relating to the packaging for transportation of high-radioactive-level waste or spent fuel.

Follow with me, if you will, Mr. President and my colleagues, the progress of legislation dealing with the issue of high-level nuclear waste in this Congress. In January of 1995, S. 167 was introduced, and it did not change the scope or the responsibility of the Nuclear Waste Technical Review Board in any way.

On February 23, 1995, H.R. 1020 was introduced in the other body; no changes to the authority and the responsibility of the Nuclear Waste Technical Review Board.

September 20, 1995, H.R. 20, reported by the House Commerce Committee, unchanged in this respect.

And even as recently as September 25, 1995, S. 1271, introduced by our colleague, the senior Senator from Idaho, and which was the bill that was originally on the floor until it was superseded by S. 1936, made no change—no change.

In late March 1996, the technical review board issued its report concluding, without equivocation, without reservation, emphatically, that there is no need from a technical or safety perspective at this point to go to an interim storage.

Lo and behold, on July 9, 1996, S. 1936 springs into existence, and now we see the responsibilities of the technical review board being limited.

You do not really have to be a nuclear physicist to see what is happening there. The very board that the Congress created contains some of the most distinguished, eminent scientists in America, produces a finding which the nuclear utilities do not like. They were apoplectic, because if merit were to be the controlling force of this argument, as my senior colleague, who was a distinguished trial lawyer in our State, has often said, if we could argue this case before a fair and objective jury on the merits, it is not a contest; we win overwhelmingly on the merits.

So when this distinguished board created by this Congress reaches a conclusion that is inconsistent with what the utilities want, we spank it: ''You've been a bad boy. We send you to your room, and we limit your authority.''

Mr. President, that is power. That is heady stuff. I can imagine every nuclear utility boardroom in America burned a little extra fuel after the results of this report, because this undermines, destroys, demolishes the argument that there is a necessity for this piece of legislation.

But that is not new. If one goes back to July 28, 1980, on the floor of the Senate, a debate occurred with respect to a piece of legislation supported and favored by the nuclear utilities that has such a familiar ring. I believe that I could quote the context of that debate, and the conclusion would be reached that is something that has been said on the floor of the U.S. Senate in just the past few days.

Then is now. The nuclear utility industry was trying to engender a hysteria that there would be a brownout, that somehow there would be a shutdown and that parts of our country would be deprived of electrical power. In fact, it was asserted that if this piece of legislation were not enacted, that nuclear utility civilian reactors would have to close down as early as 1983 because they did not have the space or the capacity—it sounds familiar, we heard that argument on the floor today. Sixteen years ago that argument was made:

> It is an urgent problem, Mr. President. It is urgent because we are running out of reactor space at reactors for the storage of fuel, and if we do not build what we call away-from-reactor storage—
>
> Another name for interim—
>
> and begin that soon, we could begin shutting down civilian nuclear reactors in this country as soon as 1983.

Sixteen years ago, nearly two decades, almost a score of years, what have the intervening years established with respect to that claim of hysteria? Not a single nuclear reactor in America in 16 years, as those statements were made, ever closed because of lack of storage space.

Today we hear that cry again: ''Reactors will have to shut down; regions of the country will be deprived of power.''

The Nuclear Waste Technical Review Board makes the argument, after examining the evidence, that that is simply not true—is not true.

So I think with respect to the argument of necessity, that is that somehow we need to get this all done, this is a red herring. So if the undergirding premise is that this legislation is before us as a matter of national priority, that there is a compelling national interest, that, indeed, there is an urgency in acting, that Heaven forbid, if we do not enact it, some catastrophic thing could occur to the electrical supply power availability in America, we have heard that before. They were saying that 16 years ago, and it simply is not so.

There is no need. Now I grant you, for the nuclear utilities, it would be Christmas in July; they would love it. That is what they have wanted for years. They have every right to make that assertion, as does any individual or company in America. But making that claim does not make it true, and making that assertion does not make it right, and the claim and the assertion is blatantly false. There is no emergency. There is no crisis. There is no necessity to act. So this whole framework of crisis, urgency before us, simply does not exist. And we ought to understand that. There is no need to take any action.

I have heard it said by my colleagues, who reach a different conclusion than I have on this issue, that this is an important environmental issue. ''We must take action to protect and save the environment. This is the most important environmental issue, the most important environmental votes,'' words to that affect, to paraphrase, to be fair. That has been asserted by our colleagues who are making the arguments on behalf of the nuclear utilities.

Let us examine those arguments. The League of Conservation Voters, in responding earlier this year to S. 1271—it is, with respect to the overall policy in terms of how it deals with environmental issues, in my view, no different than S. 1936. We will go into that in a moment. Here is what one of the premier environmental organizations in America says. ''S. 1271''—just insert S. 1936 in its place—''would severely weaken environmental standards for nuclear waste disposal by carving loopholes in the National Environmental Policy Act and the Safe Drinking Water Act in forbidding the Environmental Protection Agency from issuing radiation standards. Centralized interim storage will be not only hazardous, but unnecessary and expensive.'' The League of Conservation Voters.

The League of Women Voters, expressing its opposition to S. 167, introduced by one of our colleagues earlier in the session, but essentially incorporating the same concept of interim storage with the environmental laws, in effect, being set aside when they are in conflict, ''We believe that the bill's approach is wrong and that the bill creates more problems than it solves.'' And then the league went on to say, ''We fear that the implementation of S. 167, the Johnston bill, will result in long-term, above-ground storage of highly radioactive materials in an unsafe location.'' They opposed the bill.

Mr. ABRAHAM assumed the Chair.

Mr. BRYAN. Mr. President, the Sierra Club is another preeminent environmental organization in the country. The Sierra Club has indicated that the Nuclear Waste Policy Act of 1996, S. 1271, which is now S. 1936—a bill that threatens the health and safety of hundreds of communities nationwide—will soon come to the Senate floor. ''On behalf of the Sierra Club's half-million members nationwide, I urge you to oppose it.'' And then the Sierra Club goes on to observe: ''There is no technical basis for choosing the Nevada Test Site for an interim storage facility for high-level nuclear waste.''

Another organization that has strongly opposed this is Public Citizen:

> The Senate may soon vote on S. 1271, the Nuclear Waste Policy Act of 1996. On behalf of our Nationwide membership, I urge you to oppose this misguided bill and to support the filibusters by Senator Bryan and Senator Reid against the measure.

U.S. Public Interest Research Group:

> We are writing to urge your opposition to S. 1271, the Nuclear Waste Policy Act of 1996. S. 1271 is an environmental disaster and should be rejected. S. 1271 would roll back environmental protections, including most of the National Environmental Policy Act, forbidding EPA from setting radiation release standards—

It goes on to observe, ''preempting all State and Federal environmental protection laws.''

Friends of the Earth expresses its opposition to S. 1936:

> On behalf of the thousands of Friends of the Earth members nationwide, I urge you to oppose 1271.

Citizens Action has written to express its opposition.

Greenpeace has written to express its opposition.

Also opposing this are the Citizens Awareness Network, Military Production Network, Nuclear Information Resource Service, Environmental Action Foundation, Missouri Coalition for the Environment, 20/20 Vision, Native Youth Alliance, Nuclear Waste Citizens Coalition, Prairie Island Coalition,

Safe Energy Communication Council, Nuclear Information Resource Service.

Mr. President, the point has been asserted on the floor that indeed this is a critical piece of environmental legislation. I agree. It is a disaster. It is a disaster. For a quarter of a century with, by and large, bipartisan support, a system of environmental measures has been enacted into law that has cleaned our air, improved the quality of our water, protected endangered resources in America, and that is why every national environmental organization that I am aware of has indicated its strong opposition to the bill.

So when my friends on the other side of this issue argue that this is an important environmental measure—perhaps the most important to be undertaken in this session—and that we need to enact this piece of legislation, S. 1936, because it is important for the environment, there is no evidence by any of the responsible national environmental organizations that share that conclusion. Indeed, their view is quite to the contrary, that this legislation would be a disaster.

Now, I want to take you through some of the key provisions of the bill. S. 1936, like S. 1271, emasculates a number of environmental laws. Let me call my colleagues' attention to the provisions that do this. I have heard it asserted on this floor that indeed we need to protect and retain those environmental provisions that currently are the law. S. 1936, in effect, is a rewrite of the Nuclear Waste Policy Act of 1982. If this were enacted—and I believe that it will not be, based upon the vote this morning. It is clear that there are enough votes to sustain a Presidential veto. But if it were enacted, this would rewrite the Nuclear Waste Policy Act of 1982. It is claimed that S. 1936 is an improvement over its predecessor, S. 1271, because it has been asserted that indeed we protect those environmental provisions of the law. That is not the case, Mr. President. Section 501, at page 73, makes it pretty clear. It is subtle. Give marks where marks are due to the nuclear utilities. They have crafted this very cleverly. But here is what it says:

> If the requirements of any law are inconsistent with or duplicative of the requirements of the Atomic Energy Act and this Act, the secretary shall comply only with the requirements of the Atomic Energy Act and this Act in implementing the integrated management system.

Mr. President, I know the distinguished occupant of the chair is an able and distinguished scholar, and he need not have this Senator interpret the law for him, and I do not in any way denigrate his ability. But there are millions of people watching this Congress and what we are going to do. There has been, in my judgment, a drumbeat of misguided efforts on the part of the new Congress to simply roll back the protections that have been incorporated in our legislative framework for more than two decades. Twenty-five years ago, probably two-thirds of the rivers, streams, and lakes in America were so polluted that you could not swim in them and you could not fish in them. Air pollution problems were unchecked and growing in seriousness.

It is my view that when those who write about our time of the last quarter-century, they will not write favorably about much of what has been done. But one of the great public policy achievements of the 1970's and 1980's is what we have done in the environment. Let me say, giving credit where credit is due, that a Republican President had much to do with that early environmental legislation. Richard Nixon can certainly be faulted—and this Senator does fault him for other conduct unrelated to the environment—but much of what occurred early on enjoyed his very strong support and was bipartisan.

Today we have reversed those numbers. Today it is two-thirds of the rivers and streams and lakes in America are once again fishable and swimmable. One can only recall that a television nightly talk show host had a field day when, I believe, the Cuyahoga River in Cleveland caught fire in the late 1960's it was so polluted; the river that courses by the Nation's Capital, the river that George Washington watched from his home on the banks of the Potomac, so polluted you could not swim in it. You could not fish in it. Today you can.

None of this is to suggest that those rivers or that our air has returned to a pristine condition, but it is a fair analysis and a sound conclusion that the environment today is much better for our children, and if we do not emasculate those environmental laws it will be much better for our children's children as a result of the actions taken by our predecessors in this institution in enacting those major environmental provisions.

So I must say that this Congress does not have a good track record in terms of what some, particularly in the other body, would like to do with the environmental laws.

So that is why the National Environmental Policy Act, the Federal Land Policy and Management Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act that we know as the Superfund, the Clean Air Act, the Clean Water Act, Antiquities Act, the American Indian Religious Freedom Act, Archeological Resources Protection Act, the Endangered Species Act, the Safe Drinking Water Act, Farmland Protection Policy Act, Federal Facility Compliance Act, Fish and Wildlife Coordination Act, Federal Water Pollution Control Act, National Historic Preservation Act, Noise Control Act of 1972, Toxic Substances Control Act, Emergency Planning and Community Right-to-Know Act, and the Pollution Prevention Act of 1990, Mr. President, are part of an elaborate and comprehensive framework of environmental laws designed to protect all Americans—all Americans. They are not restricted to any region. No particular area or community is excluded. That is a right to which all Americans are entitled.

Here is what this act does. As I was sharing a moment ago, if any requirement of S. 1936 is in conflict with any one of these enactments, any one, this bill directs that they be ignored; that if there is a conflict S. 1936 prevails, wiping out the protection of a whole series of environmental laws.

That is one of the reasons the environmental community has advanced such strong opposition. This would be a major public policy disaster, and for the first time we would say in America that some of these environmental laws are not available for the protection of some Americans who happen to live in a particular region of the country.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. REID. Who yields time?

The PRESIDING OFFICER. Who yields time?

Mr. REID. It is my understanding, having spoken with Senator MURKOWSKI, that he wanted to yield some of his time to the Senator from Minnesota.

Mr. GRAMS. Senator MURKOWSKI yields time.

The PRESIDING OFFICER. The Senator may proceed.

Mr. GRAMS. Mr. President, I commend the majority leader for his leadership in bringing S. 1936 to the Senate floor. I also commend my colleagues, Mr. CRAIG and Mr. MURKOWSKI, for their tireless efforts in creating a bipartisan solution to this national crisis, because S. 1936 will ensure a safe solution to the problem of nuclear waste storage for the 21st century and beyond. I believe this is the most critical piece of environmental legislation that Congress will consider this decade, if not for this century.

When our grandchildren look back at this historic debate, they should read that we fulfilled a pledge to resolve this Nation's spent nuclear fuel crisis, and we did it in an economically and environmentally friendly way.

This challenge has eluded us for nearly 15 years, but as the critical 1998 deadline rapidly approaches, Members from both sides of the aisle, from Alaska to my home State of Minnesota to Florida, have come together to devise a national solution. I firmly believe that S. 1936 represents our best hope, and today we stand ready to move ahead with this plan.

Over the last few days, we have heard from some of our colleagues that this legislation is unnecessary. Some have argued that we could leave the spent fuel at its current sites until we find a permanent place to put it. Some have argued that resolving this issue would put the taxpayers on the hook rather than those who are responsible.

But what my colleagues fail to mention in their statements is that the

ratepayers are taxpayers. Every American, directly or indirectly, has benefited from nuclear power, and they are already on the hook, so to speak. After all, ratepayers nationwide have already paid over $10 billion into the nuclear waste trust fund.

Mr. President, I have two letters regarding this point. One comes from Commissioner Kris Sanda of the Minnesota Department of Public Service, and another comes from a CEO of a Minnesota utility. I ask unanimous consent to have both printed in the RECORD immediately following the text of my full statement.

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

(See exhibit 1.)

Mr. GRAMS. Mr. President, anyone who has followed this contentious debate will agree achieving this legislative solution has been a very difficult process, but it is a process that we cannot afford to wait until after the next election to resolve.

The Department of Energy is legally bound to begin accepting spent fuel in the next few years, and yet, until this Congress, we have not identified even a temporary storage location, let alone finish suitability tests on a permanent one. And the pressure by the States for a solution continues to build.

Over 30 States across this Nation have commercial and nuclear waste that is now stored inside their borders. Unless Congress enacts a permanent solution soon, States, like my home State of Minnesota, will lose between 20 and 30 percent of their overall energy supply shortly after the turn of the century. The irony is that the ratepayers of my State have already paid $250 million-plus to the Federal Government for the promise that the waste would be removed.

Nearly two decades later, ratepayers are no closer to getting rid of their nuclear waste than they were before the Department of Energy gave its written promise to remove it.

Mr. President, I would also like to add that that has led Minnesota's Department of Public Service Commissioner Sanda to call for the halting of the ratepayer contributions to this fund.

While this decision is pending before Minnesota's Public Utility Commission, the State of Iowa has also just begun a similar process, announcing a notice of inquiry into such an option. The movement across the Nation has begun. The failure to enact S. 1936 will have a cascading effect across the Nation, and then it will truly require a taxpayer bailout.

But S. 1936 would change that. Under S. 1936, we will put into place the mechanism to begin spent fuel removal and storage. That will happen before the end of this century. This legislation enables the Federal Government to live up to its legal obligations to the taxpayers and also to live up to its moral obligations to the citizens of this country and also to the environment. By naming an interim storage site at area 25 of the Nevada test site, this bill unties the hands of the Secretary of Energy. Since the current Secretary requested such legislative action in a hearing before the Senate Energy and Natural Resources committee last year, one would wonder why this administration remains adamantly opposed to an initiative that fully empowers the DOE to move forward with the program, and particularly since the administration claims to want a permanent solution to this environmental crisis.

This is not the first time that the administration or the DOE has dragged its feet. Last year, I met with the Secretary and members of the Civilian Waste Program to discuss Minnesota's waste problem. While the DOE appeared sympathetic to the plight of Minnesotans, they could not foresee anything near having an interim site completed prior to the year 2003 and for a cost of less than $300 million.

Since this was significantly beyond the cost and the time projections for other private storage initiatives that were under development outside of the DOE, I introduced legislation to privatize the DOE interim storage facility. But then miraculously the DOE's own projections were nearly halved by both time and cost by the time we had the next Senate hearing.

So it is amazing how many tax dollars can be saved by the mere, simple introduction of competition into this process. That is why I was pleased to have the opportunity to work with the author of this legislation, Senator CRAIG, and the chairman of the Energy Committee to ensure the maximization of private-sector participation. Furthermore, Mr. President, I believe it also sets the stage for further privatization of the overall program.

Mr. President, there are many key elements of S. 1936 which have far-reaching benefits, but I believe the greatest benefit of the bill is that it does provide a real workable and environmentally safe solution for Minnesota's and also the Nation's spent nuclear fuel.

Since I came to Congress in 1993, resolving this issue for Minnesota has been one of my highest priorities. Today we begin the process of doing just that. So on behalf of my constituents, the men and women and children of Minnesota, I want to thank the authors of S. 1936 for providing us with a reason to restore the people's faith in their Federal Government. As we put aside the politics and get down to the work ahead of us, I look forward to the remaining debate as an opportunity to also move forward resolving this most difficult crisis. I urge all of my colleagues to support S. 1936 when this body begins full consideration of the measure. Thank you, Mr. President. I yield the floor.

EXHIBIT 1

MINNESOTA DEPARTMENT OF PUBLIC SERVICE, OFFICE OF THE COMMISSIONER,

ST. PAUL, MN, *June 6, 1996.*

Hon. ROD GRAMS,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR GRAMS: I am writing to thank you for your support of Senate File 1271 (S.F. 1271). Passage of S.F. 1271 this session is crucial to our Nation's taxpayers/ratepayers. Entities as diverse as the Nuclear Energy Institute and the National Association of Regulatory Utility Commissioners have calculated cost savings of five to ten billion dollars to United States taxpayers/ratepayers if S.F. 1271 becomes law. We must succeed in our effort to stop the Department of Energy and the Clinton Administration from imposing these unnecessary costs on the Nation.

I has come to my attention that opponents to S.F. 1271 have stated that since not all Americans are served by utilities that own nuclear generating stations, those citizens will not benefit from the cost savings contained in S.F. 1271. As the Commissioner of your home state's lead energy policy agency, I can assure you that argument is flat out wrong. I trust the following discussion will illustrate this point.

For reliability reasons, our Nation's electrical grid is divided into several regional power pools. The Mid-Continent Power Pool (MAPP) serves our home state, North and South Dakota, Nebraska, Iowa, portions of Montana and Wisconsin, and the Canadian provinces of Manitoba an Saskatchewan. In addition to ensuring the reliable delivery of electrical energy, MAPP serves as a clearinghouse for spot and intermediate term market for energy and capacity transactions. MAPP executes transactions between electric utilities that have lower cost generation and those that have higher cost generation. Given that energy produced by Northern States Power Company's Prairie Island and Monticello nuclear plants are among the lowest cost units in the MAPP region, there are certain times of day and seasons of the year when energy from those plants is sold by NSP to other utilities in MAPP. While our records do not allow us to match the sale of energy from specific plants for resale to other utilities, energy from Prairie Island and Monticello formed part of sales made by NSP to the following utilities that serve Minnesota ratepayers in 1995:[1]

Cooperative Power Association;
Interstate Power Company;
Minnesota Power Company;
Otter Tail Power Company;
Missouri Basin Municipal Power Agency;
United Power Association
Minnkota Power Cooperative;
Dairyland Power Cooperative;
Southern Municipal Power Agency;
City of North St. Paul;
City of Olivia;
City of Shakopee;
City of Winthrop;
City of Delano;
City of Glencoe;
City of Truman;
City of New Ulm;
City of Sleepy Eye;
City of Blue Earth; and
City of East Grand Forks.

The utilities listed above have been benefited from the ability to substitute lower cost purchased power from NSP. Had they used their own plants to generate their power, the energy costs would have been higher. Those higher energy costs would translate into higher rates for consumers. I should also note that the Nuclear Waste Fund's (NWF) one mil per kilowatt hour fee

[1] This information is taken from the Northern States Power Company's 1995 Federal Energy Regulatory Commission Form 1.

is included in the price these utilities pay for power purchased from NSP. As a result, ratepayers from the utilities listed above also pay into the NWF. Consequently, it is without question that the vast majority of Minnesotans pay into the Nuclear Waste Fund via their electric rates and that all Minnesotans benefit from NSP's nuclear facilities, regardless of which utility provides their power. The same is true for electric consumers in North Dakota, South Dakota, Iowa and Wisconsin, as well as virtually all consumers across the country, even those whose primary utility does not use nuclear fuel to generate electricity.

Thanks again for your continued support for S.F. 1271.

Sincerely,

KRIS SANDA,
Commissioner.

NORTHERN STATES POWER CO.,
Minneapolis, MN, June 20, 1996.

Hon. ROD GRAMS,
U.S. Senate,
Anoka, MN.

DEAR SENATOR GRAMS: I wanted to take this opportunity to applaud you for your leadership efforts to resolve the commercial spent nuclear fuel disposal issue. Your cosponsorship of S. 1271, the Nuclear Waste Policy Act of 1996 is greatly appreciated. The bill provides the right national policy solution for Minnesota and the nation as a whole. Your support will assure a healthy business climate in our state due to the low cost power Prairie Island produces efficiently and safely.

Time is of the essence to move legislation in this session of Congress. Senate action is critical prior to the July 4th recess. Recently, the Minnesota Department of Public Service (DPS) recommended that customer payments into the Nuclear Waste Fund be withheld and placed into an escrow account. Other states could follow suit. The Minnesota DPS action underscores the growing frustration among state regulators with the Administration's delays in developing an integrated nuclear waste management system. We would appreciate your help in urging prompt floor action on S. 1271.

S. 1271 recognizes the unique funding mechanism for managing the nation's commercial spent nuclear fuel. The Nuclear Waste Policy Act of 1982 created a one-tenth of a cent surcharge on electricity generated by nuclear power plants so that consumers who benefit from the electricity also would fund the nation's radioactive waste management system.

As you have correctly stated, in many cases there is no difference between the consumers of electricity and taxpayers. All consumers of electricity in the Northern States Power Company (NSP) Service Territory System, whether in the Twin Cities or Fargo, North Dakota, have contributed to the nation's radioactive waste management fund. In addition, many other Minnesota citizens are contributing to the waste program. As with other nuclear utilities, nuclear waste fund payments are internalized in NSP's wholesale and retail power sales—making even wholesale customers (which could include cooperatives or municipal utilities) contributors to the nuclear waste fund.

Utility customers to date have committed more than $12 billion to the nuclear waste trust fund. Not only have Minnesota consumers paid $226 million to the fund, they also have paid about $20 million for added on-site storage capacity at the Prairie Island nuclear power plant, and are paying for significant wind development and other costs associated with the Prairie Island legislation.

Each year, more than $600 million from electricity consumers is paid to the U.S. Treasury to fund the program. However, Congress appropriated only $315 million for the Energy Department's civilian high-level waste management program in FY '96, and only $151.6 million of this came from the Nuclear Waste Fund. The remainder comes from the Treasury to pay for defense wastes. The balance in the fund is now more than $5.8 billion, which accrues interest each and every year.

The federal government is responsible for taking title to and managing spent nuclear fuel beginning in 1998 under provisions of the Nuclear Waste Policy Act and contracts signed with utilities who own and operate nuclear power plants. Each component of the waste management system-including the transportation-must meet rigorous Nuclear Regulatory Commission regulations to protect public health and safety.

S. 1271 does not expose taxpayers to an under funded liability. Just the opposite is true. As part of the funding profile for the program, the federal government must pay only the appropriate share for all defense-related nuclear waste that will be disposed at the repository. DOE has recently revised its estimates of the defense program's share of the program costs from 15 percent to 20 percent, and it will probably grow to at least 30 percent. This alone will likely offset any predicted ''unfunded'' shortfalls.

Furthermore, S. 1271 is directly concerned with the costs of the program. Provisions in S. 1271 are specifically designed to provide cost and schedule efficiencies that will ensure the 1.0 mill/kWhr fee, in addition to the defense contribution, will be more than adequate to fully fund this program. Studies that show the fee is not adequate are entirely based on the old DOE program which has been proven to be costly and inefficient.

However, delays will cost. It is estimated that electricity consumers will have to pay an additional $7.7 billion for extended on-site management of spent nuclear fuel if the federal government does not develop a central storage facility by 1998, and the repository does not begin operation by 2015. Like the Nuclear Waste Fund fee, this added cost will be borne by electricity consumers, not taxpayers.

As stated, studies attempting to show that the Nuclear Waste Fund is inadequate to cover the cost of high-level radioactive waste management are based on outdated DOE program data. S. 1271 refocuses the DOE program to provide cost and schedule efficiencies that will ensure that the fee, coupled with the DOE defense payments for the program, will fully fund America's spent fuel management system.

Finally, you are aware of the continuing controversy of nuclear waste in Minnesota. Just last session, efforts were being made to further penalize NSP and its customers for storing nuclear waste at Prairie Island. The federal government's failure to keep its commitments is a direct cause of this controversy, which has only added costs to our customers' bills.

I offer you my encouragement and support to move S. 1271 to the Senate floor for action this year. Many thanks for your leadership efforts on this issue of critical national importance.

Sincerely,

JIM HOWARD.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. I yield myself such time as I may need.

Mr. President, during the course of the debate on S. 1936, as it has resonated across this Chamber today and earlier, a contention has been advanced that indeed S. 1936 is a much improved form of its predecessor, S. 1271, because it has been asserted that there is the full application of the National Environmental Policy Act, one of these very important pieces of legislation which earlier I had described as an essential part of the environmental protection fabric that protects all Americans.

I invite my colleagues to read this bill, as I know they all have or will before casting their vote. Here is what it says about the National Environmental Policy Act, and particularly an environmental impact statement.

It provides for an environmental impact statement. So far so good. Then it goes on to say: But the Secretary shall not consider the need for an interim storage facility, shall not consider the time of the initial availability of the interim storage, shall not consider any alternatives to the storage of spent nuclear fuel and high-level radioactive waste, shall not consider any alternatives to the site of the facility, shall not consider any alternatives to the design of the criteria.

Mr. President, that is what an environmental impact statement is all about, to consider the range of options that may be available and to ascertain which of those may be the preferable course of action. So, for it to be contended that the National Environmental Policy Act is protected and provided for in this bill would be equivalent to asserting that the Bill of Rights is fully applicable, however, we have deleted the right of free speech, we have deleted the right of freedom of religion, we have deleted the right of bail, we have deleted the right to counsel. In effect you have nothing, you have absolutely nothing.

So that, again, Mr. President, is one of the more compelling arguments that brings every national environmental leader in America to the conclusion that enacting this piece of legislation, S. 1936, would savage the environmental protections which Americans have sought and enjoyed for more than two decades. It would, in effect, preempt State and other Federal laws, such as those depicted behind me on the chart. And it would, in effect, so restrict the Environmental Policy Act as to make those kinds of analyses almost worthless.

Let me turn to one other issue, fairly briefly, before I conclude. That is the question of standards. S. 1936, among its more astounding provisions is something that is pretty technical but something that affects the health and safety of every Nevadan. We are talking about the radioactive emissions standards. Those standards are measured, in terms of exposure, in terms of millirems. What this bill provides is for an annual dose of 100 millirems. So 100 millirems is the standard which is set under the provisions of this bill.

Now, 100 millirems—Mr. President, the Safe Drinking Water Act provides for a standard of 4 millirems. The EPA

has set that standard. For WIPP, that is a facility in New Mexico that receives or is scheduled to receive transuranic waste, that provides for a 15-millirem standard. The National Academy of Sciences, in terms of its range of exposures, recommends 10 to 30 millirems. This piece of legislation has the audacity to say that 100 millirems is the standard for those of us in Nevada. Absolutely outrageous.

We have heard earlier in this Congress from our colleagues from New Mexico, who have been concerned about the health and safety of New Mexicans. One can certainly understand that. On the 20th of June of this year, Senator DOMENICI arose and made the comment: ''What is most important to us,'' referring to himself and his colleague, Senator BINGAMAN, ''and what is most important to the people of New Mexico is that as this underground facility proceeds,'' referring to the WIPP facility, ''to the point where it may be opened and finally be a repository, that it be subject to the Environmental Protection Agency's most strict requirements with reference to health and safety.''

Let me make that point again. Senator DOMENICI is absolutely right. What he and his colleague were saying is that before the transuranic waste is received at the WIPP facility in New Mexico, the New Mexico Senators want to be assured, in order to protect the health and safety of their constituents, residents of the State of New Mexico, that the Environmental Protection Agency's most stringent requirements with reference to health and safety be imposed. Now, that strikes me as being very reasonable.

Throughout that particular take, the distinguished senior Senator kept emphasizing the importance of leaving those standards in place and giving the EPA the ability to make such determinations. That, I submit, is sound policy. By what standard of logic, by what reasoning process, what kind of analytical, convoluted reasoning would lead to a conclusion that that is the reasonable standard to be applied in New Mexico— that is, let the EPA set the standard—but somehow in Nevada, which is targeted for high-level nuclear waste, for us, ought to be 100 millirems? That simply makes no sense at all, none, absolutely none, and it is outrageous.

Consistent with an evolving pattern of conduct, in 1992, as I was commenting earlier in my speech today, the nuclear utilities in the energy act that was enacted that year, circuitously sought to deprive the EPA of the ability to set the standard in Nevada should it become the recipient of nuclear waste. To refresh the recollection of my colleagues, that energy bill was processed with a number of amendments both in the House and on the floor of the Senate, and not a day of hearing was held with respect to the standards for nuclear waste in Nevada.

In the conference, where an attempt is made to reconcile differences between the Senate version and the House version, a provision is inserted that did deprive the EPA of setting the standard—the very thing that Senator DOMENICI and Senator BINGAMAN, rightly, and we all agree on the floor, needed for their protection in New Mexico in the transuranic facility. Namely, to make sure that the EPA sets the most stringent standard for health and safety.

Now, under the artifice of the conferenced process, the EPA is deprived of jurisdiction. My senior colleague and I pointed that out on the floor. I believe it is fair to say that most every colleague that we talked to agreed with our provision that it was absolutely scandalous that an attempt would be made to deprive the EPA of its ability to exercise its independent judgment to fix that standard.

We were locked into a parliamentary situation that was inescapable. The energy bill contained a number of very desirable provisions totally unrelated to the Nevada situation. Because in a conference we were unable to get an amendment to delete that provision, my colleague and I fought valiantly but unsuccessfully in terms of killing that bill.

Now, I share that background because the pattern I have described, if you do not like what the scientists you have empowered to make a decision tell you, then you ignore them. That is what occurred that so angered the nuclear utilities, when they were asked, as part of the Nuclear Technical Review Board to make some judgments, and they concluded there was no crisis, no urgency, no need whatever to have interim storage at this time. That was their conclusion. That does not fit with the strategy and the desire of the nuclear utilities, so immediately, in this legislation, S. 1936, they are legislatively spanked, and their jurisdiction authority is restricted.

Now we have the National Academy of Sciences. They are inserted in place of the EPA in the 1992 Energy Act and they are instructed to come back with their own report. Mr. President, they did. In a document entitled, ''Technical Bases for Yucca Mountain Standards,'' some of the more eminent scientists of our time:

Robert W. Fri, chair, Resources for the Future, Washington, D.C.; John F. Ahearne, Sigma Xi, the Scientific Research Society, Research Triangle Park, N.C.; Jean M. Bahr, University of Wisconsin, Madison; R. Darryl Banks, World Resources Institute, Washington, D.C.; Robert J. Budnitz, Future Resources Associates, Berkeley, CA; Sol Burstein, Wisconsin Electric Power, Milwaukee (retired); Melvin W. Carter, Georgia Institute of Technology, Atlanta (professor emeritus); Charles Fairhurst, University of Minnesota, Minneapolis; Charles McCombie, National Cooperative for the Disposal of Radioactive Waste, Wettingen, Switzerland; Fred M. Phillips, New Mexico Institute of Mining and Technology, Socorro; Thomas H. Pigford, University of California, Berkeley, Oakland (professor emeritus); Arthur C. Upton, New Mexico School of Medicine, Santa Fe; Chris G. Whipple, ICF Kaiser Engineers, Oakland, CA; Gilbert F. White, University of Colorado, Boulder; and Susan D. Wiltshire, JK Research Associates, Inc., Beverly, MA.

I mention those names so my colleagues and those who are listening to the debate will know there are no Nevadans. These are scientists. Here is what they said in response to the 1992 amendment that was interjected into the conference. Let me make a line-by-line comparison with what we have in S. 1936. My colleagues will note it indicates S. 1271, but S. 1936 makes no change at all.

On the left side, Form of Standard, Level of Standard, Who Is To Be Protected—that is the classification. The top, NAS Recommendation, is the product of the scientists whose names I have read. On the far right would be what this piece of legislation does.

Form of standard recommended by the National Academy of Sciences is to be risk based. What does S. 1836 provide? Mr. President, 100 millirem a year, set by statute. We talked at some length about that a moment ago.

Level of standard: The National Academy says no specific recommendation, but points out internationally recognized consensus is between 5 millirem and 30 millirem a year. Let me just interject that is a standard that is rather universally acclaimed. I believe that every country that has considered that standard, and we will share the names of those countries that have nuclear power in Europe and have adopted a standard that is within that range or even less.

Who is to be protected? ''Critical group''—a small, relatively homogenous group whose location and habits are representative of those expected to receive the highest doses. S. 1936 is a much more restricted standard. A person whose physiology, age, general health, agricultural practices, eating habits and social behavior represent the average for persons living in the vicinity of the site. Extremes in social behavior, eating habits or other relevant practices or characteristics shall not be considered.

Then the question goes on as to how long must a standard be met, because we are talking about something that is lethal for thousands and thousands of years. I might point out in the recorded history of civilization, no society that we are aware of has ever built or designed anything that has lasted for 10,000 years. It is a marvel to the modern world, as it certainly was to the ancient world, some of the impressive architectural achievements achieved by the ancients—the pyramids, the Colossus of Rhodes, the Hanging Gardens of Babylon, the Parthenon, and many others are all architectural wonders that today even in

our sophisticated time, we marvel and admire.

But none of those have existed for 10,000 years. So how long a standard must be met is particularly significant to the health and safety of those persons who will be living in that area generations from now.

The National Academy of Sciences says, ''The repository should be required to meet a standard during a period of greatest risk''—no scientific basis for limiting the time period to 10,000 years or any other value. What do we have in this piece of legislation? A thousand years.

Let me skip and go down to a couple more here. The human intrusion standard. The National Academy of Sciences said, ''No scientific basis for assuming there would be no human intrusion. The performance of the repository having been intruded upon should be assessed using the same analytical methods and assumptions, including those about the biosphere and critical groups used in the assessment or performance for the undisturbed case.''

What does S. 1936 direct? ''The statute instructs the Nuclear Regulatory Commission to assume that human intrusion will not take place.''

As to how to resolve public policy issues raised by the standard, here is the recommendation of the National Academy of Sciences: ''We recommend that resolution of policy issues be done through a rulemaking process that allows opportunity for wide-ranging input from all interested parties.''

You do not have to be an eminent scientist to believe that that is reasonable. That is a process that allows an opportunity for people to be heard, to express a viewpoint.

S. 1936 says, ''No public comment allowed.''

So, as you can see, S. 1936 evolved and is part of a pattern that ought to be patently obvious to any observer. Once again, the Congress invites a distinguished scientific group to make its recommendations, and if the recommendations are not to the liking of the nuclear utility industry and not to the liking of the industry because they impose some reasonably stringent standards to protect health and safety, we trash them, we ignore them and say, ''Oops, sorry we asked. We had no idea you would tell us we had to do that to provide the very basic components of health and safety.''

And so, by way of a concluding observation, before yielding to my colleague for him to continue his comments and observations, this bill, from an environmental and public health safety perspective, is an embarrassment, it is a travesty, it is a legislative abomination, it is an assault upon the health and safety and dignity of human life. It applies only to those of us in Nevada, who are targeted to receive this eye-level nuclear waste.

By what standard of fairness, by what standard of objectivity can it be defended or justified that one small area in America be set apart, and that it be advocated that the panoply of protections provided under the environmental laws of our country should have no application to them if they in any way conflict with the nuclear utilities' desire to pursue, as embodied in S. 1936? What is the moral justification of rejecting the recommendations of an objective body of scientists, who have said, ''These are the standards that we recommend, in terms of exposure, for those persons who may be living in the vicinity''? They are rejected out of hand and simply ignored.

So not only is this, from a public policy point of view, indefensible, not only does it legally deprive Nevadans of their rights and their health and protection, it is morally flawed as well, because it suggests implicitly that somehow those of us who, by birth or choice, have chosen to make our homes in Nevada should be treated separate and apart from other Americans, and our health and safety is less important than those who live in New Mexico or in other States—all with the singular goal in mind of advancing the interests of the powerful special interest lobby, which is relentless in its purpose, and that is the nuclear utility industry, as they seek to foist their nuclear waste upon those of us in Nevada.

I yield the floor.

Mr. REID. Mr. President, I yield such time as I may consume.

Mr. President, I, first of all, want to talk about what some of the people have said who support this legislation. First of all, the supporters of S. 1936 are appealing to States with nuclear powerplants or nuclear operations, implying that their well-being depends upon the passage of S. 1936. This is not true. There will be brownouts without S. 1936. They said the same thing in 1980, as my colleague from Nevada so aptly pointed out in his earlier statement.

I say before my friend leaves the floor, I consider myself well-versed on the subject of nuclear waste, and I do not often acknowledge—publicly, at least—that someone knows more about a subject than I do. But it is without question that the Senator from Nevada, my colleague, has devoted months and months of his professional career to understanding this issue, and no one in America understands the issue better than he. So I appreciate very much the statement made by my colleague.

He clearly pointed out the verbatim statement made by the former chairman of the Energy Committee, now the ranking member, that there would be brownouts in 1980. Of course, there were none. There will be no brownouts if S. 1936 does not pass. There will be no brownouts without S. 1936. If there are brownouts, it will not be as a result of not hauling nuclear waste away from the plants.

They said the same in 1980, that there would be a brownout if offsite storage was not available in 1983. Here we are, 16 years later, without offsite storage and without brownouts from the shutdown of nuclear reactors at power generation sites. There will be no end to nuclear shipbuilding without S. 1936. We know that. There will be no nuclear waste dumps in these States if this bill does not pass. The current law and DOE programs are addressing all these issues.

We are searching for a permanent repository. S. 1936 will not advance that effort but will clearly set it back. But that is what the powerful lobby wants to do. They do not want to advance it. We will have safe storage with reactor sites for decades to come. We have no crisis. There will be only positive consequences of defeating this legislation—mainly, to allow us to continue the effort to find a permanent repository.

Mr. President, the one thing that is very, very clear and has not been addressed today, even though we have raised the issue not once, not twice, but numerous times, is that a report to Congress from the Secretary of Energy on March 20 of this year by the Nuclear Waste Technical Review Board said that there is no reason to move nuclear waste from where it now exists. Scientists said this. We have not heard a proponent of S. 1936 tell us why these scientists are wrong.

Supporters of S. 1936 continue to ask what the alternative is to 1936. ''If not S. 1936, then what?'' ''What does the President and what do the opponents of S. 1936 propose?'' That is what they have said today on several occasions.

The answer is very simple: Stay the course, the current law.

I have not always agreed with the course, but let us at least have some scientific bearing. We have a program that is addressing our long-term nuclear waste needs. We have a program that is addressing our immediate nuclear waste needs. Under current law we are able to implement the DOE's program plan, and it will give us an assessment of the suitability of Yucca Mountain by 1998. That is very soon.

What else do we need? Nothing new and certainly nothing now. Certainly not S. 1936 which would end the search for a permanent repository. But these fancy executives who are writing the letters, who are going to Chambers of Commerce and, quite frankly, being deceptive in what they say to the chambers and other responsible organizations, are being deceptive because they go and they say, ''Our cooling ponds are full. Don't you agree that the only thing is to move it?''

What they fail to tell them is that the scientists disagree. The scientists say leave it where it is until we get a determination as to the permanent repository.

S. 1936 is not a solution to anything. S. 1936 is the problem. It is not the solution. The fact that the current program has not completed its work and has not moved as quickly as the powerful executives want and that we do not

know the ultimate end point of this research does not mean we have to change course at this time. Independent reviews support this position. The Nuclear Waste Technical Review Board, I repeat, says keep the present course. We need not do anything more than we currently have for many years. There is no crisis. There is no need for new regulation.

We have heard referred to on a number of occasions today what the Washington Post said. The Washington Post is a newspaper that we in Washington read on occasion. I misplaced my copy. I appreciate a copy being handed to me. It is on every desk in the Chamber. The Post said today, among other things, in one sentence that sums up this whole debate:

> This is too important a decision to be jammed through the latter part of Congress on the strength of the industry's fabricated claim that it faces an emergency.

This, Mr. President, is not a statement made by the Senator from Nevada but a statement made by the editorial board of one of the largest, most prominent newspapers in the United States. There is no crisis.

We have also heard people say that S. 1936 does address the problems of S. 1271, its predecessor bill. Not true. They claim that the deficiencies in S. 1271 have been corrected in S. 1936. They acknowledge that there were problems with S. 1271 and they have taken care of them. Not true.

My colleague spoke at some length about why that is a fabrication. There is new window dressing. A new paint has been put on the same old wreck of a house but under the paint you still have the very old wood that will not last long. Substantive changes simply have not been made. S. 1936 still preempts all State and local laws and essentially all Federal laws. S. 1936 undermines the objectivity of the scientific research at Yucca Mountain. The criticisms by the President of the United States of S. 1936 are just as valid as his criticisms of S. 1271. There have been no substantive changes. That is why the President last night through his Chief of Staff did not sign a letter to the minority leader outlining his objections to this disastrous law, S. 1936, until it was thoroughly reviewed by the entire staff the White House.

You do not have to take my word. You can just read the bill. For example, take page 73 of this bill entitled ''General and Miscellaneous Provisions,'' and its subheading is ''Section 501, Compliance with Other Laws.''

> If the requirements of any law are inconsistent with or duplicative of the requirements of * * * this act, the Secretary shall comply only with the requirements of the * * * act in implementing the integrated management system. Any requirement of a State or political subdivision of a State is preempted if—

And it outlines the ifs; not very broad except it just emasculates every environmental law we have passed within the last 25 years:

> Complying with such requirement and a requirement of this act is impossible; or—

Listen to this dandy:

> Such requirement, as applied or enforced, is an obstacle to * * * this act * * *

I do not know what an obstacle is, but it does not take much.

One of the things that we have not talked about that we should be talking about, Mr. President, is the NRC, Nuclear Regulatory Commission, certification requirements for spent fuel transportation. And what I want to talk about there is that the certification requirements for spent fuel transportation containers certainly are not insurance against the consequences of a remote accident. And I might add, they are certainly not insurance against any act, but the consequences of an accident will not observe the boundaries of where the accident occurs. Just because the accident might be remote is no basis for comfort. And we know, we have described where the railroads and the highways go. Fifty million people live within a mile of the highways and railroads.

Radioactive waste will burn and disburse many tens of thousands of miles before deposition and contamination of far distant territory takes place. We know by looking at what happened at Chernobyl, Olga Korbut, the great Olympian I talked about earlier today, who lived 100 miles from Chernobyl, is dying of her disease that came about as a result of this nuclear accident. Are we going to warn this at-risk population, this 50 million people along the transportation route, are we going to warn them to stay tuned to some emergency frequency just in case something unexpected happens? Chernobyl never happened until it happened. Now we are concerned of other Chernobyls. And if we do that, that is, warn the at-risk population to stay tuned, what are we going to tell them if an accident does happen? Who will help? When will they help? Who will be liable?

The term ''mobile Chernobyl'' has been coined for this legislation. A trainload of waste may not contain the potential for disaster that Chernobyl did, but the result will be little different for those affected by the inevitable accident. I submit that we are not prepared to implement the transportation of this hazardous material—not today, not tomorrow. The risk is real, and we are responsible for ensuring readiness and preparation to reduce it to minimal levels of both probability and consequence. It does not make sense to double that risk by premature and unnecessary transportation to an interim storage site that has not been determined to be the final site where these materials are to be disposed.

Terrorism, vandalism and protests. Unforeseeable accidents, even of small likelihood, are intolerable in the absence of responsible capability to respond to these accidents. Accidents are only one kind of a problem we must be able to deal with. We must be capable of dealing with accidents, but it is only one of the problems that develop. Much has been spoken recently of America's vulnerability to both domestic and foreign attacks. It really saddens me to agree that some of America's enemies today are American citizens. Misguided as they may be, enemies they certainly are. Vipers in Arizona—we have on film their little escapades, blowing up things. We had someone who was able to infiltrate that group, who heard the statements they made: Anybody who talks against them to authority, we will kill them. But that is only one of many.

The trade center in New York blown asunder, Oklahoma City—we can go all over the country and find these acts of terrorism that have taken place. But we certainly must look at our own States: Reno, Bureau of Land Management, roof blown off; IRS building, the bomb which was a dud; Carson City, Forest Service wall blown off; part of a Forest Ranger's home blown up.

So we know they are out there. There are known enemies of America and the values it promotes and stands for. Because of our constitutional rights, which are our national heritage, we cannot deny our enemies many of the same freedoms we ourselves enjoy.

Mr. President, I see the leader on the floor. I will be happy, at such time as he wants me to desist for whatever he might want to do—I will be happy to do that. All he has to do is give me the word.

Mr. LOTT. Mr. President, if the distinguished Senator is at a point where it would be appropriate?

Mr. REID. Certainly.

Mr. LOTT. Mr. President, we are in the process, now, of working with both sides to see if we cannot come up with a further agreement with regard to how we would handle the nuclear waste issue. We do have some agreements that have been worked out on the Executive Calendar and on a couple of bills. I would like to go ahead and get those done. These have been cleared with the Democratic leadership. Then, as soon as we get this other agreement finally worked out, we will take that up.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

SAFE DRINKING WATER

Mr. BYRD. Mr. President, there is an old adage that, ''You never miss the water until the well runs dry.'' I come to the Senate floor today to speak about an issue that is essential to the health and well-being of every American—safe drinking water. All life as we know it depends on the necessary element of water.

Most Americans take safe drinking water for granted. Most Americans just

assume that when they turn on the faucet, clean water will automatically flow out of the faucet. They assume that there will always be easy access to an unlimited supply of clean, safe drinking water. Only recently, the residents of the District of Columbia discovered that safe drinking water is no longer one of life's certainties. They found themselves and their families to be quite unexpectedly vulnerable—vulnerable to a possible contaminated water supply. Washington officials announced that certain residents should boil water, and that the city would increase chlorine levels for several days to cleanse possible contaminates in aging water pipes. Although this condition was said to be only temporary, and it is reported that the water is now safe, an outcry of rage arose. District residents were annoyed. They were upset. They were inconvenienced.

The Washington Times of July 9, in an editorial, entitled ''Home rule stops at the water's edge,'' said, ''Safe drinking water is not optional in the capital of the most prosperous and powerful nation on the face of the Earth.'' Mr. President, the same thing can be said with reference to safe drinking water all over this country—it should not be optional. ''It is a fundamental element of modern civilization—such a given, in fact, that most Americans don't think twice about it.''

So, without doubt, the condition of the water system in Washington, DC, is an important matter. However, it is time that the citizens of the District and other cities be told about the frightening reality regarding much of our entire Nation's supply of drinking water—the reality that faces much of rural America every day. In my view, safe drinking water should not be optional anywhere in the most prosperous and powerful nation on the face of the Earth.

Last year, the U.S. Department of Agriculture completed Water 2000, a study of safe drinking water needs in the United States. I hope everyone will take note of the results. Incredibly, in these United States, nearly 3 million families, representing 8 million people, do not have access to safe drinking water. Now, let me repeat that, 8 million people in the United States of America, the greatest country on the face of the Earth, do not have access to a reliable source of clean drinking water. Every day, every night, millions of Americans cannot turn on their faucets and assume that the water is safe to drink. That, in my view, is a national disgrace.

Regrettably, in my own State of West Virginia, the study reports that it would take $162 million to clean up and provide potable water to approximately 79,000 West Virginians. It would take another $405 million to meet the worsening drinking water supply situation of some 476,000 West Virginians. That's nearly half of the population of my State. Nearly half of the people in my state have cause for concern about their water supply. And many other States are facing a similar serious situation.

Sadly, the United States Congress has chosen not to help. During debate on the budget resolution, I made two attempts to restore some of the funding for our national infrastructure that is being carelessly axed at every turn. I offered an amendment that would restore $65 billion to the Federal budget for domestic infrastructure—water and sewer needs, bridges and highways, our national parks, and so forth. Regrettably, this Senate voted 61 to 39 in favor of $65 billion in corporate tax loopholes, rather than for basic infrastructure needs of this Nation. I tried again, offering a second amendment, one that would restore $1.5 billion specifically for Federal water and sewer programs, but this Senate again said no by a vote of 54 to 45. This very Senate said no to a most basic need—clean, drinkable water.

Given the sad outcome of my attempts in the Senate to restore common sense to the budget priorities of this Nation, I am pleased to acknowledge the efforts, which I strongly support, of the Clinton administration to provide safe drinking water to Americans. Today, the U.S. Department of Agriculture has reallocated $2.8 million for four water supply projects in West Virginia, and $70 million for projects throughout the United States. This is a very small step to be sure, national safe drinking water needs are assessed at some $10 billion.

But, I come to the Senate floor today to congratulate public service districts in four counties of West Virginia for finally securing funds that will help to provide adequate, safe drinking water systems to some of their rural residents in greatest need. I want those families to know that I care, and that I am pleased, very pleased, by the Department's announcement today. To families in West Virginia covered by the following public service districts—Page-Kincaid in Fayette County, Leadsville in Randolph, Downs in Marion, and Red Sulphur in Monroe County—I would like to say that finally there is some relief on the way.

Finally, at least these town residents will enjoy a basic standard of living that people residing in the United States of America ought to be able to expect. Finally, these communities will have the beginnings of an infrastructure which might encourage businesses to locate there. Finally, at least some of the residents in communities in my State will be free to offer a child a sip of water from the tap without fear.

I sometimes seriously wonder about the priorities in this Senate. We often blithely ignore the real-life, day-to-day essential needs of our own citizens. The need for 8 million Americans to confidently use water for drinking, cooking, and recreation ought to be a birthright. There ought never to be any question about government's doing all that it can in the first place, before there is a crisis, to insure that Americans have safe drinking water.

While this announcement is only a small victory for West Virginia and other rural communities across the Nation, I want to recognize this occasion. For those residents within Fayette, Randolph, Marion, and Monroe Counties, this is no doubt a most significant event.

I am also heartened by the increased levels of funding in the 1997 Agriculture appropriations bill, wherein the Senate added $231 million above the House level for rural development grant and loan programs, including water and sewer facilities, bringing the total for rural development programs to $5.7 billion.

All of this will help, but it is high time that Members of this body wake up and focus on the looming water quality crises in this Nation.

This could be your water, coming from your household faucet in your city or your town next month or next year. We cannot ask the American people to put up with this sort of outrage any longer.

DEFICIT REDUCTION

Mr. DOMENICI. Mr. President, let me just take a few minutes of the Senate's time to talk about something that the President of the United States put in the news a bit last night, and then his various Cabinet people today have disseminated across the spectrum, to the media, and to various committees here in the U.S. Congress. It is called the Mid-Session Review of the 1997 Budget. I only hold that up to show you the great lengths the President and the White House are going to to make the case that the deficit reduction that has occurred in the last 3½ years, as if that deficit reduction was attributable to things that the President of the United States had recommend as a matter of policy.

I would like to address that issue today in some detail. It has not been easy to get this point across to those who are observing the fiscal policy of our country. So let me start by saying today there is a new report out. The President's budget office suggests that this year's deficit will be reduced to $117 billion. This is more optimistic than the recent Congressional Budget Office estimate, this $117 billion.

Given that this is an election year, it should come as no surprise that the Clinton administration comes out crowing this morning. But the Clinton forces claiming credit for the deficit reduction that has occurred during the past 3 years is a little like the rooster taking credit for the sunrise.

Do not get me wrong. I am very happy that the deficit has declined these last 3 years. I have spent my Senate career working on various approaches to trying to balance our fiscal books. But I also understand why the deficit has declined. And it is not because of any dramatic action by this

administration. The bulk of the deficit reduction has been due to reestimates of the money needed to bail out ailing savings and loans. Let me talk a minute about what that means.

When you put a budget together, and you have a program like the bailout of the savings and loans, which was not complete, you estimate how much it is going to cost the next year and the next year. What happened, plain and simple, is that the estimates of what it was going to cost to complete the bailout of the savings and loans across America was estimated way too high.

What happened is that eventually, on the President's watch, the reality, not the estimate, occurred. What did it actually cost, not, what was it estimated to cost. So that when the President, in this mid-session review, says that the deficit has been reduced by $406 billion, it is saying that the estimates were wrong and that the reality is that we are spending less for certain things.

The bulk of the deficit reduction has been due to estimating the money to complete the bailout of the savings and loans. That is one aspect. Second, a very big amount is attributable to the President and the Democratic tax increases, and last, to spending curbs by the Republicans. So let me look here and give you this in a pie chart.

The only deficit reduction in this chart—in this pie graph—that is attributable to policy changes by the President of the United States is this red piece of the pie, 30 percent. I hope the occupant of the chair can see what it is. Tax hikes of the largest tax increase in history. And $121 billion of that occurred during the period of time that the President is talking about cutting the deficit in half. So we will give him one positive policy change credit. And it is $121 billion in tax increases.

But now let us look at all the rest. The 6 percent in green here is called spending cuts. Mr. President, and fellow Senators, the spending cuts are $26 billion, all of which came in the spending caps imposed by the budget that we prepared here on our side that the President ultimately accepted in the appropriations process. So I do not believe those are positive policy changes recommended by the President, because if you look at the President's budgets, he would not have had those coming down, he would have those going up. So we should get credit for that. But we said you cannot spend as much as you want. Clearly, he would not get credit for cutting the budget and cutting the deficit had we let him have his way.

Now, looking here at 48 percent, this big orange part of the chart, that is made up of reestimates. The largest one is $80 billion. That means, of the $406 billion that this Mid-Session Review says the deficit came down over 3 years, of that $406 billion, $80 billion of it comes from the fact of the inability of Government budget analysts to accurately forecast the cost of the savings and loan bailout.

In other words, it would not matter who was President, it would not matter if any budget was adopted, it would not matter if Congress did anything, $80 billion of this reduction in the estimated deficits would just happen. In other words, we got up one morning and there is $80 billion worth of savings. That is why I was kind of prompted, in analyzing this, to say that taking credit for reducing the deficit during the past 3 years is a little like the rooster taking credit for the sunrise. I stand on that. The more I think of it and explain it, the better it sounds and the better it explains what is going on.

Moreover, it is interesting to note that the policies put into place under George Bush resulted in the dramatic reduction in the S&L program costs, which the President now would like to take credit for. I do not believe there is any real credit. We spent way too much. But President Bush took the blame on the upside. When we finally resolved the problem and overestimated the cost, President Clinton would like to take credit for that $80 billion overestimate as part of deficit reduction.

Second, some in the administration say the economic improvements have brought down the deficit. The truth is, improvements in the economy over the past 3 years have had only a marginal impact on the deficit, only 13 percent, roughly. That is about $50 billion in reduction in the estimate since 1993.

Now, why is it small, some would say? Well, it is not small at all. The truth of the matter is we were estimating a pretty robust economy in those budget years, those 3 years. It did not do much better than the estimates that were in our budgets and in the documents assessing the budget by the Congressional Budget Office.

Now, there are mistakenly claims of credit for this economic dividend. But, in reality, it is tied to an economic recovery that began 7 quarters before the President's inauguration and 10 quarters before his economic plan passed the Congress. In all honesty, we must give a lot of credit to the Federal Reserve System that steered this prudent course, keeping inflation in check and economic growth positive.

Exactly what did the Clinton administration do to help lessen the deficit as reflected in this Mid-Session Review? What did the Clinton administration do? In short, it raised taxes. Now, for those who think raising taxes is the primary way to reduce the deficit, they can put this up on the credit side. They get credit for that, because the only significant policy change—that is, a President says, ''Change this,'' Congress changes it, and something good happens to the deficit—the only one that they can claim credit for, all of those assembled working for the President, is that one that I have just described, the $121 billion of tax increases during those three budgets. That $121 billion is an $8 billion tax increase, coupled with a few billion in defense cuts. That is all the deficit reduction the Clinton administration has gotten approved.

Now, frankly, Republicans, meanwhile, have been working the other side of the Federal ledger, attempting to control the incessant growth in Washington of spending programs. Republicans passed significant reforms in Federal programs and hundreds of spending cuts. We worked to eliminate needed bureaucracy, cut staff, slow the growth of Federal programs, and send more power back to the people at home in their States and communities. It has been Republican leadership that has been attempting to pressure the Clinton White House to cut spending.

Unfortunately, our attempts to reduce Federal spending have been consistently opposed and eventually vetoed by President Clinton. But we overcame their opposition and were still able to save $26 billion in appropriated accounts. Remember, a little more than a year ago, the Clinton White House was promoting a budget plan that called for $200 billion deficits as far as the eye can see. As this election year approaches, the President has turned 180 degrees now and supports a balanced budget. But imagine what the deficit would have looked like if the President's huge spending proposals had not been blocked by congressional Republicans and had become law. Remember that President Clinton planned the 1993 fiscal stimulus package that would have spent money, not saved money. The ill-fated, expensive health care plan would have spent huge amounts of money, not saved money. Had we followed the lead of the President and passed these plans, the deficit would be soaring, not coming down. There would not have been any reduction in the deficit that policies would have reflected.

Let me close by saying my greatest frustration with the budget debate has been our inability to make fundamental changes to the major Federal entitlement programs and, because the deficit has declined these last 4 years, some politicians may try to hoodwink the American public into believing the problem has been solved, but it has not because the automatic Federal spending programs have been left essentially unchanged. Despite the clamor of the last year, despite the clamor today of the Mid-Session Review, the American public early into the next century will find just how elusive any real, significant deficit reduction has been in these last 4 years.

The White House has focused solely on tax increases to reduce the deficit and taking credit for reestimates that would have happened whoever was President and whether or not a budget was even produced. This is not a real, long-term solution. Despite the White House deficit whitewash, the fact is that even with our current modest economic growth, the Federal deficit will again be growing next year and skyrocketing out of sight, burdening our

children with absolutely impossible obligations in the next century.

Before we get too excited about the progress we have made on the deficit, keep in mind the real heavy lifting which has not yet been done and that the real test of leadership on the budget lies ahead. As the White House exalts the improved deficit estimates, I say to the American people in a straight-forward way, we have proposed how we would head off the real train wreck, and we anxiously wait for action.

I yield the floor.

FEDERAL BUDGET DEFICIT UNDER PRESIDENT CLINTON

Mr. CONRAD. Mr. President, I was interested to hear my colleague from New Mexico, the chairman of the Budget Committee, attempting to rewrite history with respect to what has happened to the Federal budget deficit under this President. Now, a lot can be said about the Federal budget, about deficits, and the growth of the debt, but the record of this President is really quite clear.

This President came into office promising that he would cut the deficit in half during his first 4-year term, and today we did get the results of what is likely to occur in those first 4 years. We heard from the Congressional Budget Office that the deficit this year is likely to be in the range of $115 billion to $130 billion.

Mr. President, when Bill Clinton came into office, he inherited a deficit of $290 billion. He pledged to cut that in half in his first 4 years. That would be a deficit of $145 billion. Today, the Congressional Budget Office—not the President's Office of Management and Budget, not the budget committees, but the bipartisan Congressional Budget Office, the head of it, June O'Neill—sent a letter to JOHN KASICH, chairman of the House Budget Committee, saying:

> At this point, a preliminary analysis of actual receipts and outlays through May and our estimates for June receipts and outlays suggests the 1996 deficit will be somewhere in the range of $115 billion to $130 billion.

I ask unanimous consent to have this letter printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE
Washington, DC. July 16, 1996.

Hon. JOHN R. KASICH,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to your July 11 request for our current estimate of the fiscal year 1996 deficit. Over the next several weeks, we will be reviewing carefully our budget estimates for 1996 in preparation for our summer economic and budget outlook update report that will be published in mid-August. At this point, a preliminary analysis of actual receipts and outlays through May and our estimates for June receipts and outlays suggests that the 1996 deficit will be somewhere in the range of $115 billion to $130 billion. Receipts are likely to be $20 billion to $25 billion higher than the level we estimated for our May economic and budget outlook report, and outlays could be $5 billion higher or lower than our May estimate.

As always, there is uncertainty about tax collections and spending for various programs, but two sources of uncertainty stand out this year. First, we are uncertain about the amount of offsetting receipts that will be credited to 1996 for the spectrum auctions. The uncertainty arises from two sources: (1) the timing of the FCC resolution of various petitions to deny the results of the auctions, and the issuance of promissory notes to the C-block licensees; and (2) whether the results will be recorded on a cash or credit reform basis in the monthly Treasury statements. The CBO and OMB estimates for the C-block auctions are on a credit reform basis, but the monthly Treasury statements may report the receipts from this auction on a cash basis. The possible range for spectrum auction receipts for 1996 is on the order of $5 billion.

Second, we are uncertain about the effects of the delay in the enactment of 1996 appropriations and the temporary shutdown of government activities earlier in the fiscal year. First quarter outlays were at least $15 billion lower than we would have expected for the level of enacted appropriations, and we don't know how much of this lower-than-expected spending will be made up before the close of the fiscal year.

Even with nine months of actual and estimated data, there is always some uncertainty about the final budget outcomes. Very small differences in rates of spending or tax collections can have large effects on the deficit when the total amounts of outlays and receipts involved are $1.5 trillion. Each 0.1 percentage estimating error in the rate of spending or tax collections would amount to about $1.5 billion. Over the past 15 years, the average absolute CBO percentage estimating errors in our summer economic and budget outlook update reports for the current fiscal year have been 0.4 percent for receipts and 0.7 percent for outlays. On this basis, a $15 billion estimating range for the 1996 deficit at this point in time is not out of line with CBO's past experience.

I look forward to providing a more detailed analysis in August, but I hope that this information is helpful until then.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Mr. CONRAD. Mr. President, whatever else one can say, this President has delivered on his promise to cut the budget deficit in half. In fact, he has more than delivered on his promise. I listened with great interest to my colleague, the chairman of the Senate Budget Committee. I respect and admire Senator DOMENICI, but I must say, facts are facts, the record is the record. The record of this administration and this President with respect to deficit reduction is clear and unassailable. This President said he would cut the budget deficit in half. He has cut the budget deficit in half.

If we compare his record to the record of his immediate predecessors, he can be especially proud of what he has accomplished. The fact is, as this chart demonstrates, this is what has happened under the previous three Presidents. President Reagan came in and inherited a deficit of about $60 billion. Under his leadership, those deficits skyrocketed. In fact, they were tripled until they were up in a range of $220 billion. At the end of his term, we saw some reduction, back to the range of $150 billion. Then, under the new administration, the administration of President Bush, the deficits again took off. They took off like a scalded cat. What we saw was record deficits. In fact, in the last year of the Bush administration, the budget deficit reached an all-time high of $290 billion.

President Clinton took office and in each year—in each succeeding year for now 4 years in a row—we have seen a reduction in the budget deficits, a substantial reduction. As I indicated, the head of the Congressional Budget Office, June O'Neill, has said in a letter dated today that she anticipates the deficit will be $115 to $130 billion this year. That is even better than this chart shows, because this chart indicates the last estimates we had. That indicated the deficit would come in at about $145 billion this year. That, too, would have kept the President's promise of cutting the deficit in half. The news today is even better, suggesting the deficit will be about down here with respect to this chart, a very steep decline. Four years in a row of deficit reduction under this President, for the first time in any administration since the 1840's. Let me repeat that. Not the 1940's; this is the first administration since the 1840's that has delivered 4 years in a row of deficit reduction.

Not only did the President deliver on his promise of deficit reduction, he also delivered on his promise of creating jobs in this country. He promised 8 million jobs. We have now had more than 10 million created in the 3½ years of this administration.

The President did not stop there. He also promised to reduce the Federal payroll by 100,000. The most recent numbers indicate that he has reduced the Federal work force by 230,000.

So, in each of these areas where this President made a direct promise to the American people of what he would achieve, that is what has happened. Deficit reduction; he said he would cut it by 50 percent. He has cut the deficit by 60 percent. The President said he would be part of an administration that would have a strategy that would create 8 million new jobs. They have created over 10 million new jobs in the 3½ years of this administration. The President said he would reduce the Federal payroll by 100,000. He has reduced the Federal payroll by nearly a quarter of a million, 230,000.

I think it is important, when we have these political debates, that we be direct and clear with the American people as to what has happened. The fact is, the Clinton record on deficits is an admirable one. The Senator from New Mexico may quibble about how he has achieved it, but there can be no question about the results. The deficit this year, the Congressional Budget Office says, will be between $115 and $130 billion. That is a dramatic improvement

for this country. In fact, measured against the size of our economy, these are the smallest deficits in over 20 years, as measured by the share of our economy.

We now anticipate that the deficit this year will be 1.6 percent of the size of our economy, lower than any year since 1974. In fact, we now have the smallest deficits of any major economy in the world as a share of our gross domestic product.

In 1992, the last year of the Bush administration, the United States had a larger budget deficit as a share of the economy than Japan, Germany and France. In fact, we can all remember that we were embarrassed when we went to the international meetings on the economy and were on the defensive because of the size of our budget deficits. This year, when our President went to the international meetings of the economic leaders of the major industrialized countries, the United States was in the best position of any of the major economies in the world. This President was able to proudly say that we had not only cut our deficit in half in dollar terms, but we had reduced the deficit even more significantly when measured against the size of the economy.

This chart demonstrates what I am talking about with respect to the deficit as measured as a percentage of the gross domestic product, or, put perhaps more understandably, as measured against the size of our economy. President Reagan came in and inherited a budget deficit that was just below 3 percent, in terms measured against the size of our entire economy. During the Reagan years the deficits absolutely skyrocketed up to over 6 percent of the size of our economy. They saw a reduction back down to over 3 percent when President Bush took over and then, once again, they took off. They took off to a level of about 5 percent, deficits that were running 5 percent of our gross domestic product.

Under President Clinton, the deficit, as measured against the size of our economy, has gone down each and every year. This chart shows it at under 2 percent. The news today is even better than that. It indicates that the deficit this year, as measured against the size of our economy, will be about 1.6 percent, somewhere right in here on the chart. Those are the facts.

I do not mind criticism of this President or any other President with respect to their record. But this is the Clinton record, and this is the record of the previous Presidents—President Reagan and President Bush. They were the kings of deficits. We had the larger deficits, historically, under those Republican administrations. I might add, Republicans also controlled the Senate from 1980 to 1986. Those are the years when the deficits absolutely skyrocketed out of control. Interestingly enough, it is when we had President Clinton and Democratic control of the Senate and Democratic control of the House of Representatives that we saw the sharpest reduction in the budget deficit in this period.

This chart follows three Presidents, two Republicans, one Democrat. This is a period in which the Republicans controlled the U.S. Senate for 6 years.

This is a time when Democrats, for 2 years, controlled the Presidency, the Senate of the United States and the House of Representatives. During that period we finally got on a course of dramatic reduction of the budget deficits, whether we measure it in dollar terms or measure it against the size of the economy. In either case, we saw dramatic progress.

Those are the facts. No chart that shows how the deficits were reduced, how they were produced, can change the hard reality and the hard fact that this President delivered on his promise, that this President has produced 4 years in a row of deficit reduction, the best record of any administration for over 150 years. That is the reality, and this President deserves the credit. I might also add this President is the first one in 17 years to submit a Congressional Budget Office-certified balanced budget.

My friends on the other side of the aisle are quick to claim credit for the deficit reduction which has occurred. I remind them that none of their plans would balance without the plan that passed in 1993 with only Democratic votes in this Chamber and in the other Chamber and with the support of this President. Not a single Republican voted for that deficit reduction plan that put us on this path.

Talk is cheap. It is tough to actually cast the votes that lead to this result. This result is clear, and this result is important to the economic future of this country.

The other point I think needs to be made is the suggestion by the Senator from New Mexico that this has only occurred because of tax increases. I say to my colleague, he may have forgotten that the 1993 budget plan that passed here not only had tax increases, tax increases that were aimed at the wealthiest 1 percent in this country, but also substantial spending cuts. And, again, the record is clear.

If we look at spending as a share of the gross domestic product, we saw that spending under President Bush increased from 22.1 percent of the gross domestic product to 23.3 percent.

Under this administration, spending as a share of the economy has declined from that 23.3 to 21.7 percent, and that takes us to a lower level than at any time during the previous two administrations.

That might come as a surprise and a shock to some who want to portray the Democrats as the spenders. The fact is, the Democrats, in the plan that they passed in 1993, not only reduced the deficit but also reduced spending as a share of our national economy to the lowest level that we have had in the last three administrations, down from 23.3 percent of our national economy to 21.7 percent of our national economy today—the lowest spending level in the last three administrations.

Mr. President, we can debate a lot of things, but the record with respect to deficits is clear. In the previous administrations, headed by President Reagan and President Bush, the deficit skyrocketed, the highest deficits we have ever had in our history. Under the administration of President Clinton, the deficit has been cut by 60 percent, exceeding his stated goal of a 50-percent reduction. It has also reached the lowest level measured against the size of our economy in 20 years, and this is the first administration since the 1840's that has delivered 4 years in a row deficit reduction.

There is no way, I say to my colleagues on the other side, to rewrite the history of what has occurred here. You can show all the charts, make all the caveats, try to score all the political points one wants to try to score. It is not going to change the reality and the facts. The fact is, the reality is that this administration has delivered on its promise, and the result is we have a much stronger economy than we would otherwise have.

Let me just conclude by saying that there was an element to the remarks of my colleague from New Mexico, with which I strongly agree: The job is not yet finished, and it is in our collective interests and in our national interest to finish this job.

What does it mean? I was proud earlier this year to be part of a centrist coalition, 20 Senators, about evenly divided between Democrats and Republicans, that presented a plan to make further progress to move us toward a balanced budget to continue to reduce these deficits and to get the job done.

Mr. President, the Senator from New Mexico said we continue to face a significant challenge, even as we have seen these deficits come down. The fact is, if we look over the horizon at what is to come, we all understand that it is critically important that we stay on this course of deficit reduction. I think every responsible Member of this Chamber knows that there is much more to be done, because we face in the future a demographic time bomb, and that is the baby boom generation. When the baby boomers start to retire, the number of people eligible for our very basic social programs is going to double in very short order, from 24 million today to 48 million by the time the baby boomers have fully retired.

Mr. President, that ought to send a warning signal to all of us that while there has been significant progress, there is much more that needs to be done. I hope that can be done in a bipartisan effort, unlike 1993 when no Republicans came forward, stood up and were willing to vote to reduce the deficit. It is going to require that we work together so that we can keep this process underway and so that we can achieve the ultimate result of balancing the Federal budget to avoid

leaving an enormous burden to our children and grandchildren.

I thank the Chair and yield the floor.

CLINTON'S CUBA DECISION IS DOUBLETALK, CHARADE

Mr. HELMS. Mr. President, early this afternoon President Clinton turned his back on the people of Cuba with an announcement which revealed that he had decided to try to doubletalk his way into appearing to be taking a tough stand against Fidel Castro.

But when one examines this charade, Mr. President, Mr. Clinton had in fact delayed the enforcement of the Libertad Act which Congress passed and the President immediately signed into law earlier this year when it would have been politically disastrous for him not to do so.

The Associated Press reported, correctly, that today's decision by the President could help Clinton to buy time knowing that his refusal to impose sanctions on Castro would risk losing Cuban-American votes in Florida and New Jersey, two key States in Mr. Clinton's reelection bid.

So, Mr. President, once again Mr. Clinton has taken a firm stand on both sides of an important issue. While today's announcement contains tough anti-Castro rhetoric, it is all talk and no substance. The truth is, Mr. Clinton has capitulated to Fidel Castro and his foreign business collaborators, who not only condone Castro's cruel dictatorship, but want to help it flourish.

But the President's problem is not going away. The Libertad Act is Clinton-proof. The President could not muster the courage to implement title III today, but the threat of lawsuits still hangs over the necks of Castro's business partners like the blade of a guillotine. Even before today's decision, businesses were fleeing Cuba because of the threat of such lawsuits. This will continue, and the law will not be mitigated by the President's lack of courage.

At a time like this, Mr. President, one is obliged to wonder: Is there no Teddy Roosevelt, no Winston Churchill ready to stand up for freedom? There was none on Pennsylvania Avenue today.

TRIBUTE TO JUDGE JOSEPH PHELPS

Mr. HEFLIN. Mr. President, we were deeply saddened recently by the death of one of Alabama's most distinguished jurists, former Judge Joseph Phelps. He had only retired in January 1995 after serving as Montgomery County Circuit Judge for 18 years. During his long tenure as a circuit judge, he earned a reputation for being thorough, fair-minded, and tough, all hallmarks of an outstanding jurist. After retiring from the bench, he still handled an expedited docket. He also spent time at his farm and doing volunteer work.

Judge Phelps was an outstanding leader in Alabama's judicial reform movement in the 1970's. His leadership in securing support for the passage of the judicial article and its implementing legislation was significant. He played a pivotal role in the educational effort of getting judges and lawyers, court clerks, registrars, and all court-related personnel to understand the new system. His planning, explanation, and leadership brought about a smooth transition from the old antiquated system to the new one. Alabama will always be indebted to him for his many contributions to a vastly improved judicial system.

Judge Phelps was appointed as a special circuit judge in 1976, then elected in his own right later that year. Prior to that, he helped found law awareness programs in Montgomery schools and served as dean of the Jones School of Law from 1968 to 1972. A 1958 graduate of the University of Alabama School of Law, Judge Phelps served as an assistant attorney general from 1958 to 1961, as an assistant city attorney from 1969 to 1973, and as acting dean of the State's judicial college from 1978 to 1979.

As one writer said so well of Joe Phelps, ''It speaks volumes of this man that even though he was a successful lawyer and a highly respected circuit judge, he will be remembered—and missed—for the great good he did for his community and State. He was one of Montgomery's greatest natural resources.'' He was active in several organizations, including Strategies to Elevate People, Success by Six, and the YMCA. In 1990, the Alabama State Bar Association bestowed its highest honor on him when it awarded him the Judicial Award of Merit.

Judge Joe Phelps will long be remembered for his love, faith, commitment, and fairness. He will also go down as one of the best circuit judges to ever serve in Alabama. I extend my sincerest condolences to his wife, Peggy Black Phelps, and their entire family in the wake of this tremendous loss.

I ask unanimous consent that a Montgomery Advertiser article on Judge Phelps be printed in the RECORD at this point.

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

[From the Montgomery Advertiser, June 25, 1996]

PHELPS' LOVE, FAITH STRESSED BY SPEAKERS

(By Matt Smith)

Retired Circuit Judge Joseph Phelps passed through the doors of Trinity Presbyterian Church for the last time Monday, past an overflow crowd of family, friends and colleagues.

They came to pay last respects to the 61-year-old judge, eulogized as a man who translated his deep faith into community service outside the courtroom. He died Saturday at 61, when his 1991 Oldsmobile ran off Woodley Spur Road and overturned. He had retired less than 18 months before the accident.

''Joe Phelps was an embodiment of love for God and love for his fellow human beings,'' said the Rev. Curt McDaniel, pastor of the Garden District church where Judge Phelps had been a member for 51 years. His body left the church in a simple, pine coffin adorned by flowers from the farm he kept in south Montgomery County, where he hunted and invited friends each Thanksgiving for a holiday breakfast.

''Joe was a community leader, first of all,'' said Bill Chandler, director of Montgomery's YMCAs. When Mr. Chandler arrived in Montgomery in 1948, the future judge was one of the first to join the Y.

''One of his characteristics was he got other people to become involved in community activities who wouldn't otherwise have been involved in those activities,'' Mr. Chandler said. ''He found a way to get others to give their time, multiplying their effect.''

The flag outside the Montgomery County Courthouse flew at half staff Monday. County commissioners canceled their Monday meeting to attend the funeral. Family, friends, courthouse regulars and local dignitaries filled Trinity Presbyterian Church to capacity and then some. Mourners unable to find a seat in Trinity's sanctuary stood in hallways and back rooms, listening to the service via remote speakers.

The Rev. Dr. McDaniel was joined by two other ministers: the Rev. John Ed Mathison of Frazer United Methodist and the Rev. Jay Wolf of First Baptist Church. Both had served with him in numerous volunteer endeavors.

His efforts off the bench included positions on the YMCA's Metro board of directors; to helping found the Success by Six and STEP (Strategies to Elevate People) programs; working with the Fellowship of Christian Athletes, Leadership Montgomery, the Youth Legislature and the Capital City Boy's Club.

Judge Phelps graduated from the University of Alabama Law School in 1958 and returned to Montgomery, where he had graduated from Sidney Lanier High School. In 1976, after an extensive career in private practice, county voters made him a circuit judge.

He held that post until his third term ended in 1995. In 1990, the Alabama State Bar Association bestowed its highest honor, the Judicial Award of Merit, on him. Even after retirement, he handled an expedited docket for the circuit until a few months ago.

''He gave most defendants an opportunity for light treatment on a first offense,'' said John Hartley, who worked as a public defender in Judge Phelps' third-floor courtroom for more than three years.

Judge Phelps was buried in Greenwood Cemetery after Monday morning's services. He is survived by his wife, Peggy Black Phelps; and two daughters, Margaret Romanowski of Montgomery and Julia Phelps Lash of Birmingham.

THE CLINTON ECONOMY

Mr. ABRAHAM. Mr. President, I rise today to draw my colleagues' attention to recently released facts on the condition of our economy, and the fate of the American people in that economy.

For too long, Mr. President, we have been subjected to the old canard that tax cuts favor only the rich, while intrusive government programs help the poor. The experience of this administration proves that this is not so. Under the high-tax, high-spending policies of the current administration, the rich have gotten richer while the rest

of America has been caught in a Clinton crunch of stagnating wages and increased taxes, finding it increasingly hard to make ends meet.

Federal taxes have risen under this administration to their second highest level in U.S. history. Federal revenues have risen from 19 percent of gross domestic product in the first quarter of 1993 to 10.5 percent in the first quarter of 1996. Taxes reached their highest level in 1981, just before the Reagan tax cut took effect, at 20.8 percent of GDP. At the peak of World War II, in 1945, taxes consumed just 20.1 percent of GDP.

Have this administration's high taxes produced a more equal income distribution in America? Hardly. As the rich have become richer, most Americans have seen their incomes stagnate. The average real income of the top 5 percent of households rose by 19.8 percent between 1992 and 1994. Those in the top 20 percent of households experienced an increase of 10.1 percent. Meanwhile, those in the bottom 80 percent of households saw an average increase of only 0.6 percent. The result: The share of total income going to the top 5 percent increased from 17.6 percent in 1992 to 20.1 percent in 1994, and the share going to the top 20 percent rose from 44.7 percent to 46.9 percent.

Republicans are not the party of envy. We do not believe it is government's job to penalize Americans for doing well in a free market economy. However, we can tell that something is wrong when the already well off are the only ones to see their incomes go up. And that is exactly what has happened under this administration.

Real median family income in 1994 dollars has fallen from $40,890 in 1989 to $38,782 in 1994. So far in the Clinton administration real median family income has averaged just $38,343, compared to $39,632 in 1992. Real compensation per hour, wages plus benefits actually fell 0.7 percent in 1993 and 0.5 percent in 1994, and grew only 0.3 percent in 1995. This compares with a 2.1 percent growth rate in 1992.

Why have most Americans experienced stagnant wages? Because the Clinton expansion, held back as it is by excessive taxes, has been lackluster at best. In 1995 real GDP grew at only a 1.3-percent rate. Growth in output per hour has fallen from 3.2 percent in 1992 to 0.1 percent in 1993, 0.5 percent in 1994 and 0.7 percent in 1995.

And the much-vaunted drop in the unemployment rate from 5.6 percent in May to 5.2 percent in June hides a deeper problem. The broader measure of unemployment, the U–6 rate, actually rose from 9.5 percent to 10 percent. This rate includes discouraged workers who have left the labor force and those working part time who cannot find full time work. Indeed, Mr. President, much of the decrease in the unemployment rate is illusory because 7.7 million workers now must hold down two jobs to make ends meet.

Even holding down two jobs is proving insufficient for many Americans to survive the Clinton crunch. The personal saving rate has fallen from 5.9 percent in 1992 to 4.5 percent in 1995. Consumer debt has skyrocketed from $731 billion in 1992 to over $1 trillion in 1995. And the American people cannot shoulder that much debt. The credit card delinquency rate reached 3.53 percent in the first quarter of 1996, compared with 2.93 percent in the fourth quarter of 1992. And personal bankruptcies reached 252,761 in the first quarter of 1996, only slightly below the yearly rate in the early 1980's. At this rate, personal bankruptcies will reach 1 million this year, an all time high.

What we have, then, is a weak recovery held back by an astounding burden of taxation. I am not engaging in mere hyperbole, Mr. President. Federal taxes would have to be cut by $111 billion this year just to get the tax burden back to where it was when President Clinton took office. Worse, this extra tax burden has brought us greater unemployment than would otherwise be the case, along with consumer hardship for all but the wealthiest Americans.

Mr. President, my friends on the other side of the aisle are fond of claiming that their's is the party of working families. But the economic news of recent months shows this to be false. Those who know how to hide their incomes do better under their high tax policies, while other Americans must take on extra work and go into debt just to hold ourselves and our families together. It is my hope that we can learn from this experience and set our Nation back on a course of lower taxes, less government and greater opportunity for the ordinary working families of America.

NOMINATION OF ANDREW S. EFFRON TO BE A JUDGE ON THE U.S. COURT OF APPEALS FOR THE ARMED FORCES

Mr. NUNN. Mr. President, on July 10, 1996 the Senate confirmed the nomination of Andrew S. Effron to be a judge on the U.S. Court of Appeals for the Armed Forces. I want to take a few moments today to speak about this fine individual, who as many in the Senate know, has served on the staff of the Committee on Armed Services since 1987.

I ask unanimous consent that a copy of Andy's complete and impressive biography be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. NUNN. Mr. President, Andy comes from a family with a strong tradition of public and community service. His parents, Marshall and Marion Effron, have been deeply involved in political, civic, and charitable organizations in Andy's hometown of Poughkeepsie, NY. Andy's wife, Barbara, has held numerous offices in PTA and civic associations in Arlington and Fairfax Counties. Their children are continuing the tradition. Robin, a rising senior at W.T. Woodson High School, is on the student council and serves as an officer for the chorus, Model U.N., and Tri-M arts society. Michael, who will be entering seventh grade next year, was vice president of the Student Council at Canterbury Woods Elementary School, and he is also an All-Star Little Leaguer.

Andy's confirmation hearing on July 9 was a bittersweet day for me and, I am sure, for all the members of the committee. It was sweet because we were so pleased that someone whom we have known and worked with for so long and whom we have admired and respected for his extraordinary ability and expertise had been nominated by the President to be a Judge on the U.S. Court of Appeals for the Armed Forces.

It was bitter, though, because the committee will soon be losing one of the finest talents the committee has ever had the good fortune of having on its staff.

The Armed Services Committee first became familiar with Andy Effron in 1986 when he was in the Office of the General Counsel of the Department of Defense and was one of three individuals from the Department who worked with us during the Senate-House conference on the Goldwater-Nichols Department of Defense Reorganization Act. We were so impressed with Andy's expertise that we asked him to join the staff the following year and he has continuously confirmed our initial judgment ever since.

Andy has not just confirmed our initial judgment, he has consistently demonstrated an amazing capacity for hard work, an ability to perform at the highest level, and a willingness to tackle and master any issue of importance to the committee. As a matter of fact, Andy has been involved in so many important matters—important to the committee, to the Department of Defense, and to our national security—that I won't even attempt to enumerate them because the list would fill many pages of the RECORD.

Suffice it to say, that Andy Effron epitomizes the best in what a professional staff member should be. He is a consummate professional whose hallmarks of service have been his loyalty and his dedication. This Senator, and indeed the entire Senate, have been the fortunate beneficiaries of Andy's good judgment and wise counsel.

It was a wonderful tribute to Andy that his nomination, following close scrutiny, received the unanimous bipartisan support that it did. Those of us who have known and worked with Andy for so many years, of course, were not surprised.

Mr. President, I commend the President for nominating Andy Effron to this very important position. The U.S. Court of Appeals for the Armed Services will be gaining an extraordinary legal talent in the very near future. While the Senate is losing one of the very best to have ever served, gratefully Andy Effron will continue to

serve the U.S. Armed Forces and the Nation. I am proud of Andy Effron and grateful to him for all the many sacrifices he has made in the course of his long service to the committee. I wish Andy and his family much continued happiness.

EXHIBIT 1

BIOGRAPHY OF ANDREW S. EFFRON

Andrew S. Effron serves on the staff of the Senate Armed Services Committee as Minority Counsel. He previously has served as the Committee's General Counsel (1988–95) and Counsel (1987–88).

Prior to joining the Committee, he served as an attorney-adviser in the Department of Defense Office of General Counsel (1977–87); as Trial Counsel, Chief of Military Justice, and Defense Counsel in the Office of the Staff Judge Advocate, Fort McClellan, Alabama (1976–77); and as a legislative aide to the late Representative William A. Steiger (1970–76; 2 years full-time, the balance between school semesters).

Mr. Effron was born September 18, 1948 in Stamford, Connecticut, and raised in Poughkeepsie, NY, where he graduated from Poughkeepsie High School (1966). He is a graduate of Harvard College (1970, B.A., magna cum laude), where he was Editor in Chief of the Harvard Political Review; Harvard Law School (1975, J.D. cum laude), where he was Executive Editor of the Harvard Civil Rights Civil Liberties Law Review; and the Judge Advocate General's School, U.S. Army (Basic Course Distinguished Graduate, 1976; Graduate Course, by correspondence, 1984).

Mr. Effron's publications include: ''Supreme Court—1990 Term, Part I,'' Army Lawyer, Mar. 1991, at 76 (with Francis A. Gilligan and Stephen D. Smith); ''Supreme Court Review of Decisions by the Court of Military Appeals: The Legislative Background,'' Army Lawyer, Jan. 1985, at 59; ''Post-Trial Submissions to the Convening Authority Under the Military Justice Act of 1983,'' Army Lawyer, July 1984, at 59; ''Military Participation in United States Law Enforcement Activities Overseas: The Extraterritorial Effect of the Posse Comitatus Act,'' 54 St. John's L. Rev. 1 (1979) (with Deanne C. Siemer); ''Punishment of Enlisted Personnel Outside the UCMJ: A Statutory and Equal Protection Analysis of Military Discharge Certificates,'' 9 Harv. CR–CL L. Rev. 227 (1974).

Mr. Effron's awards include the Army Meritorious Service Medal (1977); the Defense Meritorious Service Medal (1979); and the Department of Defense Distinguished Civilian Service Medal (1987).

Mr. Effron and his wife, Barbara, live in Annandale, Virginia. They have a daughter, Robin, and a son, Michael.

CATHOLIC BISHOPS' STATEMENT ON IMMIGRATION REFORM

Mr. KENNEDY. Mr. President, the Nation's Catholic bishops have long been concerned with the fair treatment of immigrants and refugees. In fact, the U.S. Catholic Conference maintains the Nation's largest immigrant and refugee service organizations in the country, and they provide a broad range of assistance to newcomers to America.

Last month, the bishops took up the immigration issue at their annual conference in Portland, OR. A statement issued by the bishops provides valuable insight and guidance to Congress as we consider the many important issues involved in immigration reform. The statement speaks forcefully for maintaining a strong safety net for immigrant families, and for continuing our tradition of providing a haven for persecuted refugees. The statement also urges Congress not to take the unwise step, as some have proposed, of denying innocent undocumented immigrant children access to public education.

I commend this statement to my colleagues and ask unanimous consent that it be printed in the RECORD.

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

A STATEMENT ON IMMIGRATION BY BISHOP ANTHONY M. PILLA, PRESIDENT, NATIONAL CONFERENCE OF CATHOLIC BISHOPS

The Catholic Bishops of the United States take seriously the responsibility entrusted to them as Pastors and Teachers to speak on behalf of those who cannot speak for themselves. We have spoken frequently in recent times of our concerns about the treatment of immigrants and refugees in the United States. Regrettably, since our last statement just a year ago, the public debate has become even more acrimonious, and Congress is now considering the final form of restrictive legislation that runs counter both to Christian teaching and the proud tradition of this nation of immigrants.

The Church has long acknowledged the right and the responsibility of nations to regulate their borders for the promotion of the common good. For that reason it is appropriate for the United States to engage in a debate about its immigration and refugee policies. Unfortunately, though, that debate has taken on a punitive tone which seems to seek to diminish the basic human dignity of the foreign born.

In particular, I express grave concern and dismay at provisions of the legislation which would target the most vulnerable among us—children, the sick, and the needy—in an impractical effort to cure our nation's social and economic ills. Health care and education are among the most basic of human rights to which all have a moral claim, yet this legislation seeks to restrict severely or flatly deny these rights to those who were not born in this country. Indeed, there is a disregard for human life in this legislation which is inconsistent with the Gospel and which I find morally objectionable.

Refugees and asylum seekers, those fleeing persecution and possible death in search of safehaven in the United States, risk the real possibility of being returned immediately to their oppressors as a consequence of this legislation. As emphasized by the Bishops in a statement last year, these people ''have a special moral standing and thus require special consideration.''[1]

The health and well-being of immigrants who gain entry into the United States are similarly threatened by this legislation. All of us at some point may be affected by hunger, poor health, housing needs, family crises, and aging. This legislation is so overreaching and restrictive that it would make it almost impossible for legal taxpaying immigrants to seek assistance when confronted with these vicissitudes of life. The undocumented are put even more at risk. They may be faced with deportation simply for seeking food and medical care for themselves and their children. By denying these most basic needs merely on the basis of where a person was born is to place the health and well-being of the entire community at risk.

Footnotes at end of statement.

Furthermore, undocumented children could be denied access to education in a misguided effort to hold them accountable for the actions of their parents. Consequently, immigrant youths face the possibility of being left illiterate and idle, turned out on the streets to be tempted by crime and deliquency—or to become their victims. Teachers will be forced to become de facto agents of the Immigration and Naturalization Service. Surely, the common good cannot be served by such measures.

Finally, at a time when great emphasis is being placed on the renewal of the American family, this legislation would effectively prevent the reunification of immigrant families by mandating financial tests which would be impossible for most sponsors to meet. I believe this to be contradictory and counterproductive. Immigrants, like the nature born, draw strength from their families in times of need, and as we said in our statement last year: ''Family reunification remains the appropriate basis for just immigration policy.''[2]

The principles of human dignity and human solidarity, which the Church has long taught, should be factors in shaping the goals of public policy, including immigration. Pope John Paul II has forcefully spoken on the need for solidarity:

''Solidarity is undoubtedly a Christian virtue. . . . One's neighbor is then not only a human being with his or her own rights and a fundamental equality with everyone else but becomes the living image of God the Father, redeemed by the blood of Jesus Christ and placed under the permanent action of the Holy Spirit. One's neighbor must therefore be loved, even if an enemy, with the same love with which the Lord loves him or her; and for that person's sake one must be ready for sacrifice, even the ultimate one: to lay down one's life for the brethren (cf. 1 Jn. 3:16)''[3]

Pope Paul VI's lament nearly 30 years ago that ''[h]uman society is sorely ill,''[4] sadly is still true today. Now as then, we agree that the cause of society's illness may be attributed to ''the weakening of brotherly ties between individuals and nations.''[5] Therefore, all people, and particularly those who have been entrusted with leadership, are given the moral charge to build up the ties between individuals and nations. I call on Congress and the President to address and correct the punitive provisions of the pending immigration legislation which will provide for a more thoughtful bill respecting the human dignity of our foreign born sisters and brothers who aspire to come to our country. In welcoming them, we welcome Jesus Himself.

FOOTNOTES

[1] NCCB, Committee on Migration. ''One Family Under God,'' 1995. p. 9.

[2] NCCB, Committee on Migration. ''One Family Under God,'' 1995. p. 11.

[3] John Paul II, Encyclical letter ''Sollicitudo Rei Socialis,'' 1987. §40–40.1.

[4] Paul VI, Encyclical letter ''Populorum Progressio,'' 1967, §66.

[5] Ibid.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, 4 years ago when I commenced these daily reports to the Senate it was my purpose to make a matter of daily record the exact Federal debt as of the close of business the previous day.

In my very first report on February 27, 1992, the Federal debt the previous day stood at $3,825,891,293,066.80, at the close of business. The Federal debt has,

of course, shot further into the stratosphere since then.

Mr. President, at the close of business yesterday, Monday, July 15, a total of $1,330,422,366,347.75 had been added to the Federal debt since February 26, 1992, meaning that the exact Federal debt stood at $5,156,313,659,414.55. On a per capita basis, every man, woman, and child in America owes $19,435.50 as his or her share of the Federal debt.

MESSAGES FROM THE HOUSE

At 4 p.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. 198. Concurrent resolution authorizing the use of the Capitol Grounds for the first annual Congressional Family Picnic.

The message also announced that the House has passed the following bill, in which it requests, the concurrence of the Senate:

H.R. 3396. An act to define and protect the institution of marriage.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 3396. An act to define and protect the institution of marriage.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–3350. A communication from the Assistant Secretary of Policy, Management and Budget, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Department of the Interior Acquisition Regulation,'' (RIN 1090–AA55) received on July 2, 1996; to the Committee on Governmental Affairs.

EC–3351. A communication from the Attorney General, transmitting, pursuant to law, the report on the operations of the private counsel debt collection project for fiscal year 1995; to the Committee on Governmental Affairs.

EC–3352. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the rule entitled ''Pay Under the General Schedule,'' (RIN 3206–AH09) received on July 2, 1996; to the Committee on Governmental Affairs.

EC–3353. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the rule entitled ''Political Activities of Federal Employees,'' (RIN 3206–AH33) received on July 2, 1996; to the Committee on Governmental Affairs.

EC–3354. A communication from the Secretary of Defense, transmitting, pursuant to law, the report under the Inspector General Act for the period September 20, 1995 through March 31, 1996; to the Committee on Governmental Affairs.

EC–3355. A communication from the Inspector General, Railroad Retirement Board, transmitting, pursuant to law, the semiannual report to Congress from October 1, 1995 through March 31, 1996; to the Committee on Governmental Affairs.

EC–3356. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the semiannual report to Congress from October 1, 1995 through March 31, 1996; to the Committee on Governmental Affairs.

EC–3357. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report entitled ''Addressing the Deficit''; to the Committee on Governmental Affairs.

EC–3358. A communication from the Acting Executive Director, Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the report of the Resolution Trust Corporation for calendar year 1995; to the Committee on Governmental Affairs.

EC–3359. A communication from the Director of the Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a rule entitled ''The Export of Nuclear Equipment and Materials,'' (RIN 3150–AF51) received on July 8, 1996; to the Committee on Governmental Affairs.

EC–3360. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, reports relative to Federal Home Loan Banks and the Financing Corporation; to the Committee on Governmental Affairs.

EC–3361. A communication from the Executive Director of the Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of a rule relative to the Committee's Procurement List; to the Committee on Governmental Affairs.

EC–3362. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the management report of the Government National Mortgage Association for fiscal year 1995; to the Committee on Governmental Affairs.

EC–3363. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the report under the Inspector General Act for the period September 20, 1995 through March 31, 1996; to the Committee on Governmental Affairs.

EC–3364. A communication from the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report regarding interactive video and data service licensees to provide mobile service to subscribers; to the Committee on Commerce, Science, and Transportation.

EC–3365. A communication from the Office of the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Signal and Train Control: Miscellaneous Amendments,'' (RIN2130–AB06, 2130–AB05) received on July 11, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3366. A communication from the Office of the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Alteration of Jet Routes J–86 and J–92,'' (RIN2120–AA66) received on July 11, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3367. A communication from the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report regarding the assessment and collection of regulatory fees for fiscal year 1996; to the Committee on Commerce, Science, and Transportation.

EC–3368. A communication from the Acting Director of the Office of Fisheries Conservation and Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Pacific Coast Groundfish Fishery,'' received on July 11, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3369. A communication from the Acting Director of the Office of Fisheries Conservation and Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled July 11, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3370. A communication from the Office of the Secretary, Federal Trade Commission, transmitting, pursuant to law, the report of the rule concerning energy consumption and water use of certain home appliances and other products, received on June 26, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3371. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report of a description of the directed research needs for implementation of the Convention on Antarctic Marine Living Resources; to the Committee on Commerce, Science, and Transportation.

EC–3372. A communication from the Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report relative to FM broadcast stations; to the Committee on Commerce, Science, and Transportation.

EC–3373. A communication from the Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, relative to FM broadcast stations; to the Committee on Commerce, Science, and Transportation.

EC–3374. A communication from the Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report relative to video dialtone costs and revenues for local exchange carriers offering video dialtone services; to the Committee on Commerce, Science, and Transportation.

EC–3375. A communication from the Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report relative to the regulation of international accounting rates; to the Committee on Commerce, Science, and Transportation.

EC–3376. A communication from the Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report relative to FM broadcast stations [Milton, West Virginia); to the Committee on Commerce, Science, and Transportation.

EC–3377. A communication from the Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report relative to FM broadcast stations (Ingalls, Kansas); to the Committee on Commerce, Science, and Transportation.

EC–3378. A communication from the Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report relative to FM broadcast stations (Denison-Sherman, Paris); to the Committee on Commerce, Science, and Transportation.

EC–3379. A communication from the Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report relative to FM broadcast stations (Honor, Michigan); to the Committee on Commerce, Science, and Transportation.

EC–3380. A communication from the Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report relative to the Telecommunications Act of 1996; to the Committee on Commerce, Science, and Transportation.

EC–3381. A communication from the Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report relative to the operator service access and pay telephone compensation; to the Committee on Commerce, Science, and Transportation.

EC–3382. A communication from the Program Management Officer, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Tuna Fisheries,'' (RIN0648–AI29) received on June 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3383. A communication from the Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report relative to the Television Consumer Protection and Competition Act of 1992; to the Committee on Commerce, Science, and Transportation.

EC–3384. A communication from the Office of the Managing Director, Federal Communications Commission, transmitting, pursuant to law, a report relative to the Telecommunications Act of 1996; to the Committee on Commerce, Science, and Transportation.

EC–3385. A communication from the Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Coastal Zone Management Program Regulations,'' (RIN0648–AI43) received on June 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3386. A communication from the Program Management Officer, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries off West Coast States and in the Western Pacific,'' (RIN0648–AI18) received on June 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3387. A communication from the Office of the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of four rules entitled ''Airworthiness Directives,'' (RIN2120–AA64) received on June 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3388. A communication from the Office of the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a final rule entitled ''Operating-Differential Subsidy for Bulk Cargo Vessels,'' (2133–AB27) received on June 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3389. A communication from the Administrator of the National Aeronautics and Space Administration, and the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting jointly, pursuant to law, a report relative to quiet aircraft technology for propeller-driven airplanes and rotorcraft; to the Committee on Commerce, Science, and Transportation.

EC–3390. A communication from the Administrator of the National Aeronautics and Space Administration, and the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting jointly, pursuant to law, a report relative to subsonic noise reduction technology; to the Committee on Commerce, Science, and Transportation.

EC–3391. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, a report relative to the competition policy in the new high-tech, global marketplace; to the Committee on Commerce, Science, and Transportation.

EC–3392. A communication from the Office of the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regattas and Marine Parades,'' (RIN2115–AF17) received on June 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3393. A communication from the Office of the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of nine rules entitled ''Implementation of the Equal Access to Justice Act: Payment of Attorneys Fees,'' (RIN2105–AC52, 2105–AC54, 2105–AC26, 2105–AC43, 2105–AC53, 2137–AC75, 2115–AF32, 2115–AE47, 2130–AA58) received on June 13, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3394. A communication from the Office of the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of nine rules entitled ''Operating Requirements: Domestic, Flag, Suplemental, Commuter, and On-Demand Operations,'' (RIN2120–AG03, 2120–AA66, 2120–AA64) received on June 13, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3395. A communication from the Office of the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of four rules entitled ''Airworthiness Directives,'' (RIN2120–AA64, 2120–AA66) received on June 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3396. A communication from the Office of the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulatory Review, Gas Pipeline Safety Standards,'' (RIN2137–AC25) received on June 17, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3397. A communication from the Office of the General Counsel, Department of Transportation, transmitting, pursuant to law, the report of six rules entitled ''Training and Qualification Requirements for Check Airmen and Flight Instructors,'' (RIN2120–AF08, 2120–AF29, 2120–AA66, 2120–AD21, 2120–AA64) received on June 17, 1996; to the Committee on Commerce, Science, and Transportation.

EC–3398. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the rule concerning implementation of the Farm Program provisions of the 1996 Farm Bill, received on July 11, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3399. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the rule concerning limitation on imports of meat, received on July 11, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3400. A communication from the Administrator of the Panama Canal Commission, transmitting, a draft of proposed legislation to amend the Panama Canal Act of 1979; to the Committee on Armed Services.

EC–3401. A communication from the Assistant Secretary of Defense (Force Management Policy), transmitting, pursuant to law, the report on the effectiveness and costs of carrying out the Department of Defense Civilian Separation Pay Program; to the Committee on Armed Services.

EC–3402. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a notification relative to the Government National Mortgage Association; to the Committee on Banking, Housing, and Urban Affairs.

EC–3403. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the rule on Management Official Interlocks Docket R–09007, received on July 11, 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–3404. A communication from the General Counsel fo the Federal Emergency Management Agency, transmitting, a draft of proposed legislation to amend the National Flood Insurance Act of 1968 to extend the Act, authorize appropriations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC–3405. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–3406. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–3407. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, the rule on the State Energy Program, (RIN1904–AA81) received on July 11, 1996; to the Committee on Energy and Natural Resources.

EC–3409. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, the report of an informational copy of a lease prospectus; to the Committee on Environment and Public Works.

EC–3410. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a determination relative to the assistance to strengthen the peacekeeping mission in Liberia; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–655. A resolution adopted by the Legislation Council of the Arkansas General Assembly relative to the National Voter Registration Act of 1993; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GORTON, from the Committee on Appropriations, with amendments:

H.R. 3662. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1997, and for other purposes (Rept. No. 104–319).

By Mr. DOMENICI, from the Committee on Appropriations, without amendment:

S. 1959. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes (Rept. No. 104–320).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 391. A bill to authorize and direct the Secretaries of the Interior and Agriculture to undertake activities to halt and reverse the decline in forest health on Federal lands, and for other purposes (Rept. No. 104–321).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 901. A bill to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of certain water reclamation and reuse projects and desalination research and development projects, and for other purposes (Rept. No. 104–322).

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. 1956. An original bill to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 1997.

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 Mrs. HUTCHISON:

S. 1953. A bill to reform the financing of Federal elections, and for other purposes; to the Committee on Rules and Administration.

By Mr. HATCH (for himself, Mr. LOTT, Mr. HEFLIN, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BURNS, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GRAMS, Mr. KEMPTHORNE, Mr. MACK, Mr. MCCONNELL, Mr. BENNETT, Mr. BOND, Mr. BROWN, Mr. GRASSLEY, Mr. NICKLES, Mr. SIMPSON, Mr. STEVENS, Mr. THURMOND, Mr. PRESSLER, Mr. SHELBY, Mr. COCHRAN, Mr. WARNER, and Mr. THOMAS):

S. 1954. A bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment; read the first time.

By Mr. HATCH (for himself, Mr. HARKIN, Mr. FAIRCLOTH, Mr. BENNETT, Mr. INOUYE, Mr. THURMOND, Mr. SIMON, Mr. PRESSLER, and Mr. DEWINE):

S. 1955. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Pain Research, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DOMENICI:

S. 1956. An original bill to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 1997; from the Committee on the Budget; placed on the calendar.

By Mr. PRESSLER (for himself, Mr. LOTT, and Mr. INOUYE):

S. 1957. A bill to amend chapter 59 of title 49, United States Code, relating to intermodal safe container transportation; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN (for himself, Mr. FEINGOLD, Mr. GREGG, and Mr. KERRY):

S. 1958. A bill to terminate the advanced light water reactor program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 1959. An original bill making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Ms. SNOWE (for herself and Mr. PRESSLER):

S. 1960. A bill to require the Secretary of Transportation to reorganize the Federal Aviation Administration to ensure that the Administration carries out only safety-related functions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH:

S. 1961. A bill to establish the United States Intellectual Property Organization, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. GLENN, Mr. THOMAS, Mr. DOMENICI, Mrs. KASSEBAUM, Mr. COCHRAN, Mr. MURKOWSKI, Mr. CAMPBELL, and Mr. SIMON):

S. 1962. A bill to amend the Indian Child Welfare Act of 1978, and for other purposes; to the Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON:

S. 1953. A bill to reform the financing of Federal elections, and for other purposes; to the Committee on Rules and Administration.

THE CAMPAIGN FINANCE AND DISCLOSURE ACT OF 1996

● Mrs. HUTCHISON. Mr. President, today I am introducing legislation which I believe addresses shortcomings in the current campaign finance law.

First, though, if I were going to give a title to the campaign finance reform legislation under consideration in the Senate until now, I would call it the Incumbent Protection Act of 1996, because that is what proposed limitations on expenditures would accomplish.

For us to limit campaign contributions across the board would be counterproductive and self-serving. Any such limit, voluntary or otherwise, would favor incumbents because it would inhibit the right of a challenger to go out and raise more campaign funds than an incumbent who already enjoys greater name recognition.

Challengers would have no way of overcoming that very real disadvantage. We should strive to level the playing field, not tilt it further toward those who already enjoy the advantage.

That said, there are a number of commonsense principles I believe can be invoked in order strengthen the current campaign finance law and make it more equitable.

I support the idea of requiring that 60 percent of a Senate candidate's campaign funds be raised from individuals within his or her home State. This rule would ensure that those who would be represented by the candidate have the greatest say in the outcome of an election.

I support limiting the use of personal wealth to finance campaigns. Right now there are no limits on the amount of personal wealth a candidate can spend on his or her own political campaign and be reimbursed. Today, such candidates are entitled to make personal campaign contributions to their own campaigns, and repay themselves after the fact. The status quo is campaign finance based on creditworthiness, and as such is inherently inequitable.

I think we can fairly, and constitutionally, set a limit on the amount for which such candidates can be reimbursed for upfront expenditures from their personal pocketbooks.

The bill I am introducing today would set a personal reimbursement limit of $250,000 on the use of Senate candidates' personal funds or funds from members of their immediate families.

I support limiting political action committee [PAC] donations to the same amount as individuals are entitled to donate to a candidate.

This legislation decreases the PAC contribution limit to the same limit as an individual. Under the bill individual contributions are limited to $1,000 and PAC contributions are lowered from $5,000 to $1,000 to make both categories of limitations equal.

The vast majority of PAC's are cooperative, grassroots efforts within a specific group, or company, such as a teachers' association, a union, or a tax-limitation group. Most people who contribute to PACs give small amounts of money. If someone wants to participate in the process, they should be encouraged. Our campaign finance law should be neutral. Neither PAC's, nor individuals, should be given preferential treatment.

I support the idea of doing away with the congressional franking privilege for mass mailings during election years. I do not use and have never used the franking privilege of mass mailings at any time. It is, frankly, an advantage for incumbents provided at taxpayer expense which should be canceled.

My legislation would eliminate mass mailings as franked mail from January 1 of an election year through the date of an incumbent Senator's general election. This may seem strenuous, but it is absolutely necessary.

Mr. President, campaign finance reform is a work in progress. We are in the process of restoring confidence in the political process. For the American people, this is a plus—not a weakness. The ability to fine tune and strengthen the political process while preserving our basic democratic institutions is one of the great strengths of our country. It requires our greatest dedication.●

By Mr. HATCH (for himself, Mr. LOTT, Mr. HEFLIN, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BURNS, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GRAMS, Mr. KEMPTHORNE, Mr. MACK, Mr. MCCONNELL, Mr.

BENNETT, Mr. BOND, Mr. BROWN, Mr. GRASSLEY, Mr. NICKLES, Mr. SIMPSON, Mr. STEVENS, Mr. THURMOND, Mr. PRESSLER, Mr. SHELBY, Mr. COCHRAN, Mr. WARNER, and Mr. THOMAS):

S. 1954. A bill to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment; read the first time.

THE OMNIBUS PROPERTY RIGHTS ACT

Mr. HATCH. Mr. President, I am pleased today to introduce a new version of the Omnibus Property Rights Act of 1996. This bill is a narrower version of the bill introduced as S. 605, on March 23, 1995.

Americans everywhere are losing their fundamental right to property. They cannot build homes, farm land, clear ditches or cut firebreaks in property that clearly belongs to them. Often, this property has been in their family for years. The Omnibus Property Rights Act is the proper vehicle to vindicate property rights and limit arbitrary actions by Federal bureaucrats.

The criticisms of S. 605, in my view, are vastly overblown. But, in a good faith effort to address concerns raised by critics of the original bill, I am introducing this revised version. This version will: First, narrow the definition of property to include only real property, including fixtures on land, such as crops, timber, and mining interests, and water rights; Second, increase the threshold amount that property or a portion of property need be diminished in value before compensation for a taking be sought from 33 to 50 percent; Third, expressly exempt civil rights laws from the bill's purview, including those protecting persons with disabilities; Fourth, remove the takings regulatory reform ''look back'' provision from the bill by striking all of section 404, this in an effort to address the fear that any and all agency review provisions are too burdensome; and Fifth, amend the owner's consent to enter land provision to allow for nonconsensual agency access to private land pursuant to criminal law enforcement and emergency access exceptions.

In addressing the bill oponent's claims by making these significant changes, I would like to say once again that our critics' real problem is not with the overall bill, but with the U.S. Supreme Court. In 1992, the Supreme Court held in Lucas versus South Carolina Coastal Council that restrictions on property use based on ''background principles of the State's law of property and nuisance'' need not be compensated. Common law nuisance is either the use of property that harms or interferes with another's property or that injures public health, safety, or morals. This common law exemption for compensation has been codified literally in this bill as a ''nuisance exception.'' All we did in our bill was to codify the ''law of the land.'' The bill codifies and clarifies recent Supreme Court standards as to what constitutes a ''taking'' of private property and ameliorates the arbitrary nature of court and administrative proceedings.

What this bill does is to limit big government's ability to regulate and control private property without paying innocent or nonpolluting property holders compensation. Currently, the Federal Government and agency bureaucrats are able to shift the cost of public regulation to individual property owners.

The Omnibus Property Rights Act helps to take away this arbitrary free ride. The bill helps secure and protect private property rights guaranteed by the takings clause of the fifth amendment of our Constitution, which the Supreme Court in Armstrong versus United States (1960) determined is ''to bar Government from forcing some people alone to bear public burdens, which in all fairness and justice, should be borne by public as a whole.''

In adopting the Supreme Court's recent Lucas holding, the Omnibus Property Rights bill provides that only innocent property holders are to be compensated for government takings. Those that misuse their property to pollute or to harm public health and safety are not entitled to compensation under the bill's nuisance provision. Property owners remain subject to the same laws and regulations as everyone else. Only if government cannot demonstrate that their use of property amounts to a harm recognized as common law nuisance will a property holder be compensated under this bill. What could be fairer than this?

What about those Federal statutes, named by opponents of the Omnibus bill, that might not fall under the nuisance exception? Will enforcement of those statutes, designed to protect the public, diminish the value of property and require compensation? The answer is no: property holders are subject to the same general laws and regulations as everyone else. Only where enforcement of regulatory schemes amounts to a taking under current law, and arbitrarily singles out property holders to their detriment by requiring them, through reduced property values, to fund programs that should be paid out of the public treasury, will property holders be compensated. Moreover, even in these limited circumstances, the Federal Government can still regulate by paying compensation when it takes property. Current law—even without this bill—recognizes that justice and fairness require the government to pay for the property it takes. Thus, contrary to the bill's critics and the administration, if the Omnibus Property Rights Act is enacted into law, the sky will not fall. In reality, the Federal bureaucracy has a poor record in protecting the right of the American public to use and own property. That is why we need a vehicle—such as this bill—to force the government by statute to heed the public's rights.

Indeed, the omnibus bill includes provisions that require Federal agencies to account for the costs of taking property when formulating policy, and it provides for a more efficient administrative remedy for property owners who seek compensation. It also allows for alternative dispute resolution mechanisms to encourage quicker settlements of takings claims. For cases that go to Federal court under the bill, the bill codifies recent Supreme Court decisions and clarifies the law in regulatory takings cases. Because the bill provides for clearer, bright-line rules of liability, it will lead to lower costs overall, as both agencies and property owners become fully aware of the limits of the government's power to take property. Importantly, the codification of bright-line rules will ameliorate the ad hoc and arbitrary nature of takings jurisprudence.

I ask my colleagues to support this bill and breathe life into the fifth amendment of the U.S. Constitution.

By Mr. HATCH (for himself, Mr. HARKIN, Mr. FAIRCLOTH, Mr. BENNETT, Mr. INOUYE, Mr. THURMOND, Mr. SIMON, Mr. PRESSLER and Mr. DEWINE):

S. 1955. A bill to amend the Public Health Service Act to provide for the establishment of a National Center for Pain Research, and for other purposes; to the Committee on Labor and Human Resources.

THE NATIONAL CENTER FOR PAIN RESEARCH ESTABLISHMENT ACT OF 1996

Mr. HATCH. Mr. President, I rise today to introduce S. 1955, a bill to establish a National Center for Pain Research within the National Institutes of Health. This is legislation that I have developed working closely with Senators HARKIN and FAIRCLOTH. S. 1955 is also cosponsored by Senators BENNETT, INOUYE, THURMOND, SIMON, PRESSLER and DEWINE.

Pain is a condition that each of us experiences throughout our lives. Millions of individuals suffer from pain, sometimes chronic and often needlessly. Yet, there is insufficient knowledge about the basic mechanisms of pain, relatively few resources dedicated to the development and evaluation of pain treatment modalities, and inadequate transfer of new knowledge and information to health care professionals.

To show the magnitude of the problem, I will cite several statistics. Studies show that four in five Americans will have low back pain at some point in their lives. Nearly one in six Americans suffers from some form of arthritis, a very painful condition. In fact, according to the American Chronic Pain Association, pain is a part of the daily lives of one in three Americans.

These painful conditions are not only common, they are also expensive. A recent survey has shown that absences from work due to pain totaled 50 million days in 1995, accounting for billions of dollars in lost wages for sick days or medical and disability payments.

Mr. President, with an appropriation of $12 billion a year, you would think that the NIH would be devoting a substantial amount of funding toward a medical condition which is so prevalent. In fact, I was shocked to learn that such is not the case. According to statistics provided to me by the agency, NIH is spending only $54 million per year on pain-related research, only one-half of one percent. And that number is down almost 10 percent from the previous year.

To take one example, acute back pain, a serious condition which will affect about 80 percent of all Americans sometime in their lives, is alone responsible for a $40-billion-a-year drain on the U.S. economy. Yet, NIH reports that it currently funds only $2.5 million of research into this area.

My study of this issue has led me to conclude there is another serious problem associated with our Government campaign against pain. Pain research is spread across many of the Institutes, yet there is little coordination of these research activities to make sure these resources are effectively used.

Mr. President, this is not to say that NIH has neglected pain research. In fact, I want to make clear that NIH deserves high marks for its significant contributions in the field of pain research. NIH scientists have been integral in the cataloging of neurotransmitters and have been the key to improved understanding of the process of nociception. This basic science research has allowed for the development of several new drugs to treat pain.

I want to take this opportunity to thank Dr. Harold Varmus, NIH Director, and Dr. Harold Slavkin, NIDR Director, for their continued support of a most impressive program within the National Institute of Dental Research. The NIDR's Intramural Pain Research Program, operated through the Neurobiology and Anesthesiology Branch [NAB] of NIDR, exemplifies the high quality of pain research that I hope can be multiplied with enactment of this bill.

The NAB has trained almost 100 basic and clinical science pain researchers around the world, many of who have become deans of dental and medical schools, department chairs and successful grantees of many NIH Institutes. In fact, the American Pain Society has recently awarded two major research medals to two NAB investigators in recognition of their collaborative basic and clinical science research on neuropathic pain.

The National Center for Pain Research Act of 1996 will allow us to build on the successful pain research activities currently underway at the NIH.

This bill will improve integration of pain-related research within NIH, establish a national agenda for pain research, and expand the utilization of interdisciplinary pain research teams.

Specifically, it will, first, establish a Center for Pain Research within NIH. The purpose of this Center is to improve the quality of life of individuals suffering from pain by fostering clinical and basic science research into the causes of and effective treatments for pain; second, authorize the Center to coordinate pain research throughout the Institutes at NIH, as well as fund priority pain-related research through its own research budget; third, create an advisory board that will be made up of experts in pain research and pain management from a wide variety of health care disciplines, including physicians who practice pain management, psychology, physical medicine and rehabilitative services, nursing, dentistry, and chiropractic health care professionals; and fourth, establish six regional pain research centers to facilitate and enhance pain-related research, training, education, and related activities to be carried out by the Center.

In addition to increasing our knowledge about pain, it is important to disseminate information about advances made in the pain research. Through pioneering research supported by the NIH, we have already made great strides in increasing our knowledge of pain and in treating painful conditions.

However, the treatment of patients suffering from painful conditions remains woefully inadequate. Too many of our health professionals lack specific training in pain management. With adequate pain control, much of the suffering from painful conditions can be prevented or greatly attenuated.

Sadly, pain control is a significant problem for patients with cancer. A statement from the National Cancer Institute indicated that, ''the under treatment of pain and other symptoms of cancer is a serious and neglected public health problem.'' With 1 million new cases of cancer diagnosed each year, this problem cannot be ignored.

Additional studies have shown that pain associated with cancer is most frequently under treated in the elderly and children—two of our most vulnerable populations. The need for a national movement to help these individuals is illustrated by the fact that cancer pain can be virtually abolished in approximately 90 percent of patients by the intelligent use of drugs.

This bill has widespread support from organizations representing the providers of pain management, pain researchers, and the people they serve. These organizations include: American Academy of Pain Management, American Academy of Pain Medicine, American Chiropractic Association, American Chronic Pain Association, American Pain Society, Arthritis Foundation, Back Pain Association of America, Endometriosis Association, Interstitial Cystitis Association, National Chronic Pain Outreach Association, National Committee on the Treatment of Intractable Pain, Pain Research Group of the University of Wisconsin, Reflex Sympathetic Dystrophy Syndrome Association of America, American Cancer Society, Sickle Cell Disease Association of America, and the Vulvar Pain Foundation.

In closing, I would like to thank the chiropractic community for bringing this issue to the forefront of public attention. The chiropractic profession, through its ability to effectively treat many painful conditions—including low back pain, headaches and neck pain—has been on the leading edge of pain management for years. They have joined their colleagues in the health professions in initiating and developing this important legislation and our bill recognizes the substantial role chiropractors play in the pain treatment community.

I would also like to thank the contributions of the American Pain Society, which represents the interdisciplinary pain management research and care community. They also have actively participated in the development of this legislation.

Mr. President, the creation of the Center for Pain Research will facilitate the discovery of new treatments for painful conditions afflicting almost all of our fellow Americans. This bill also makes certain that these discoveries reach the people who now suffer from needless pain as soon as possible.

I urge my colleagues to support creation of a Center for Pain Research within the National Institutes of Health.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD.

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

S. 1955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Center for Pain Research Act of 1996''.

SEC. 2. NATIONAL CENTER FOR PAIN RESEARCH.

(a) ESTABLISHMENT.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end thereof the following new subparagraph:

''(F) The National Center for Pain Research.''.

(b) OPERATION.—Part E of title IV (42 U.S.C. 287 et seq.) is amended by adding at the end thereof the following new subpart:

''Subpart 5—National Center for Pain Research

''SEC. 485E. ESTABLISHMENT AND PURPOSE OF THE CENTER.

''(a) ESTABLISHMENT.—The Secretary shall establish within the National Institutes of Health, a center to be known as the National Center for Pain Research (hereafter referred to in this subpart as the 'Center'). The Center shall be headed by a Director (hereafter referred to in this subpart as the 'Director') who shall be appointed by the Director of NIH, after consultation with experts in the fields of pain research and treatment representing the disciplines designated in subsection (b)(3), and have the powers described in section 405.

''(b) GENERAL PURPOSE.—The general purpose of the National Center for Pain Research is—

''(1) to improve the quality of life of individuals suffering from pain by fostering of

clinical and basic science research into the causes of and effective treatments for pain;

''(2) to establish a national agenda for conducting and supporting pain research in the specific categories described in subparagraphs (A), (B), (C), and (D) of paragraph (3);

''(3) to identify, coordinate and support research, training, health information dissemination and related activities with respect to—

''(A) acute pain;

''(B) cancer and HIV-related pain;

''(C) back pain, headache pain, and facial pain; and

''(D) other painful conditions;

including the biology of pain, the development of new and the refinement of existing pain treatments, the delivery of pain treatment through the health care system and the coordination of interdisciplinary pain management, that should be conducted or supported by the National Institutes of Health;

''(4) to conduct and support pain research, training, education and related activities that have been identified as requiring additional, special priority as determined appropriate by the Director of the Center and the advisory council established under subsection (c);

''(5) to coordinate all pain research, training, and related activities being carried out among and within the National Institutes of Health;

''(6) to initiate a comprehensive program of collaborative interdisciplinary research among schools, colleges and universities, including colleges of medicine and osteopathy, colleges of nursing, colleges of chiropractic who are members of the Association of Chiropractic Colleges, schools of dentistry, schools of physical therapy, schools of occupational therapy, and schools of clinical psychology, comprehensive health care centers, and specialized centers of pain research and treatment; and

''(7) to promote the sufficient allocation of the resources of the National Institutes of Health for conducting and supporting pain research in the specific categories described in subparagraphs (A), (B), (C), and (D) of paragraph (3).

''(c) ADVISORY COUNCIL.—

''(1) IN GENERAL.—The National Pain Research Center Advisory Board shall be the advisory council for the Center. Section 406 applies to the advisory council established under this paragraph, except that—

''(A) the members of the advisory council shall include representatives of the broad range of health and scientific disciplines involved in research and treatment related to those categories of pain described in subsection (b)(2), and shall include an equal number of representatives of physicians who practice pain management, clinical psychologists, individuals who provide physical medicine and rehabilitative services (including physical therapy and occupational therapy), nurses, dentists, and chiropractic health care professionals;

''(B) the nonvoting ex officio members shall include—

''(i) the Director of the National Cancer Institute;

''(ii) the Director of the National Institute of Dental Research;

''(iii) the Director of the National Institute of Child Health and Human Development;

''(iv) the Director of the National Institute of Nursing Research;

''(v) the Director of the National Institute of Allergy and Infectious Diseases;

''(vi) the Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases;

''(vii) the Director of the National Institute of Neurological Disorders and Stroke;

''(viii) the Director of the National Institute on Drug Abuse; and

''(ix) the Director of the National Institute on Disability and Rehabilitation Research of the Department of Education; and

''(3) the council shall meet at least two times each fiscal year.

''(2) DUTIES.—The advisory council shall advise, assist, consult with and make recommendations to the Director of the Center concerning matters relating to the coordination, research, training, education, and related general purposes set forth in subsection (b), including policy recommendations with regard to grants, contracts, and the operations of the Center.

''(d) ESTABLISHMENT OF REGIONAL PAIN RESEARCH CENTERS.—

''(1) ESTABLISHMENT.—To facilitate and enhance the research, training, education, and related activities to be carried out by the Center, the Director of the Center, in consultation with the advisory council established under subsection (c), shall establish not less than six regional pain research centers.

''(2) FOCUS AND DISTRIBUTION.—

''(A) FOCUS.—The regional centers established under paragraph (1) shall have as their primary focus one of the categories of pain described in subparagraphs (A), (B), (C), and (D) of subsection (b)(3).

''(B) DISTRIBUTION.—One regional pain research center shall be established in each of the following six regions of the United States as defined by the Secretary:

''(A) The northeast region.

''(B) The southeast region.

''(C) The midwest region.

''(D) The southwest region.

''(E) The west region, including Hawaii.

''(F) The Pacific Northwest region, including Alaska.

''(2) USE OF TECHNOLOGY.—The regional centers established under paragraph (1) shall be a part of the Center and shall be interconnected to the Center headquarters through the utilization of distance learning technologies, satellites, fiber optic links, or other telecommunications and computer systems, to allow for the interactive exchange of information, research data, findings, training programs, educational programs, and other Center research and related initiatives.

''(3) INITIAL REGIONAL CENTERS.—The initial regional centers shall be selected through a competitive process from among institutions and centers of the type described in subsection (b)(6).

''(e) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—For the purposes of carrying out this section, there are authorized to be appropriated $20,000,000 for each of fiscal years 1997, 1998, and 1999, and such sums as may be necessary for fiscal year 2000.

''(2) REGIONAL CENTERS.—Of the amount appropriated under paragraph (1) for fiscal year 1998 and each subsequent fiscal year, not less than $1,000,000 shall be made available to each of the regional centers established under subsection (d).

''(3) REPORT TO CONGRESS.—Not later than January 1, 1998, and each January 1, thereafter, the Director of the Center shall prepare and submit to the committees of Congress a report concerning the total amount of funds expended to support pain-related research in the year for which the report was prepared.''.

By Mr. DOMENICI:

S. 1956. An original bill to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 1997; from the Committee on the Budget.

THE PERSONAL RESPONSIBILITY WORK OPPORTUNITY AND MEDICAID RESTRUCTURING ACT OF 1996

Mr. DOMENICI. Mr. President, for purposes of the Senate's consideration of the Personal Responsibility, Work Opportunity, and Medicaid Restructuring Act of 1996, pursuant to section 423(f)(2) of the Unfunded Mandates Reform Act of 1995 I hereby submit the mandate cost estimates for the Agriculture and Finance Committees reconciliation submissions and ask unanimous consent that they by printed in the RECORD

The entire cost estimate will be available in a Committee print proposed by the Senate Committee on the Budget.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 3, 1996.

Hon. RICHART G. LUGAR,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared enclosed cost estimate for the Agricultural Reconciliation Act of 1996, as recommended by the Senate Committee on Agriculture, Nutrition, and Forestry. Enactment of this bill would affect direct spending. Therefore, pay-as-you-go procedures would apply.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

PAUL VAN DE WATER
(For June E. O'Neill, Director).

Enclosure.

* * * * *

8. Estimated impact on State, local, and tribal governments: The bill contains at least two mandates as defined by the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), but the total costs of the mandates would not exceed the $50 million annual threshold established in the law. The bill would require state agencies that administer the Food Stamp program to provide information to law enforcement agencies under certain circumstances. CBO estimates that the additional costs of this mandate would be negligible because such information is readily available from other sources.

The bill would also require states to implement an electronic benefit transfer (EBT) system before October 1, 2002, unless the Secretary of Agriculture provides a waiver. Based on information provided by the Department of Agriculture, CBO expects that under current law all states will have such systems in place by October 1, 2002, or would receive a waiver from the Secretary of Agriculture under the bill. Therefore, no additional direct costs would be associated with this new mandate.

Other provisions of the bill would also affect state budgets, but CBO is uncertain whether these provisions would be considered mandates as defined by Public Law 104–4. One provision would reduce the amount that states are allowed to retain when they collect overissuances of food stamp benefits. The bill would also reduce amounts that states receive from the Federal Government for administering Child Nutrition programs. The receipt of these funds is based on a percentage of funds spent on certain Child Nutrition programs during the second preceding fiscal year. Thus, reductions in programmatic funding beginning in fiscal year

1997 would result in less administrative funding two years later.

Public Law 104–4 defines a mandate for large entitlement programs, including the Food Stamp program, as a provision that would increase the stringency of conditions under the program or would place caps upon, or otherwise decrease, the federal government's responsibility to provide funding to state, local, or tribal governments under the program if the state, local, or tribal governments lack the authority under the program to amend their financial or programmatic responsibilities to continue providing required services.

In the case of overissuances of food stamp benefits, it is unclear whether the amounts states retain from collection of overissuances should be considered part of the federal government's responsibility to provide funding to states for administering the Food Stamp program. It is also unclear whether states have sufficient flexibility in the administration of the overall program to offset the losses they would experience with savings elsewhere in the program, then any losses would not be the result of a mandate as defined by the law. CBO estimates that states could lose federal funds totaling $15 million annually in fiscal years 1997–2001 and $200 million in fiscal year 2002 as the result of this provision.

In the case of administrative funding for Child Nutrition programs, it is also unclear whether states have sufficient flexibility in the administration of the program to offset the losses in federal funding. If such flexibility exists, then any losses would not be the result of a mandate as defined by the law. CBO estimates that states would lose $1.5 million in fiscal year 1999 and approximately $7 million annually by fiscal year 2002.

The bill would have other impacts on the budgets of state and local governments that would not be the result of mandates as defined by the law. The bill would eliminate funding for startup and expansion costs associated with the school breakfast program totaling $10 million to $25 million annually. The bill would also allow states to opt to receive funding for the Food Stamp program through a block grant. States opting to receive the block grant would be given flexibility to administer the program within broad parameters in exchange for receiving funding levels established in the bill.

9. Estimated impact on the private sector: The bill contains no private-sector mandates as defined in Public Law 104–4.

* * * * *

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 10, 1996.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for federal, state and local, and private sector cost estimates for the reconciliation recommendations of the Senate Committee on Finance, as ordered reported on June 26, 1996. Enactment of the bill would affect direct spending and receipts; therefore, pay-as-you-go procedures would apply.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES F. BLUM
(For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE ESTIMATED COST OF INTERGOVERNMENTAL MANDATES

1. Bill number: Not yet assigned.

2. Bill title: Not yet assigned.

3. Bill status: As ordered reported by the Senate Committee on Finance on June 26, 1996.

4. Bill purpose: The bill would restructure or modify the federal welfare programs and Medicaid by reducing federal spending and granting states greater authority in operating many of these programs.

5. Intergovernmental mandates contained in bill: The bill contains a number of new mandates as defined under the Unfunded Mandates Reform Act of 1995, Public Law 104–4, and repeals a number of existing mandates.

Block Grants for Temporary Assistance for Needy Families. The bill would eliminate a mandate by allowing states to lower their payment levels for cash assistance. Current law requires states to maintain their AFDC payment levels at or above their levels on May 1, 1988, as a condition for having their Medicaid plans approved, and at or above their levels on July 1, 1987, as a condition for receiving some Medicaid funds for pregnant women and children. This bill would repeal those requirements but would replace it with the new requirement that states maintain their overall level of expenditures for needy families at 80 percent of their historical level.

Supplemental Security Income (SSI). SSI is a federal program, but most states supplement the federal program. Current federal law requires states to either maintain their supplemental payment levels at or above 1983 levels or maintain their annual expenditures at a level at least equal to the level from the previous year. Once a state elects to supplement SSI, federal law requires it to continue in order to remain eligible for Medicaid payments. This bill would eliminate that mandate.

Child Support. The bill would mandate changes in the operation and financing of the state child enforcement system. The primary changes include using new enforcement techniques, eliminating a current $50 payment to welfare recipients for whom child support is collected, and allowing former public assistance recipients to keep a greater share of their child support collections.

Restricting Welfare and Public Benefits for Aliens. Future legal entrants to the United States would be banned, with some exceptions, from receiving federal benefits until they have resided in the country for five years. Thereafter, the bill would require states to use deeming (including a sponsor or spouse's income as part of the alien's) when determining financial eligibility for federal means-tested benefits. The bill would also require states to implement an alien verification system for determining eligibility for federal benefit programs that they administer. The requirements associated with applying deeming in these programs and implementing verification systems could result in costs to some states. However, the flexibility afforded states in determining eligibility and benefit levels reduces the likelihood that these requirements would represent mandates as defined by Public Law 104–4.

6. Estimated direct costs of mandates to State, local, and tribal governments:

(a) *Is the $50 Million Threshold Exceeded?* No.

(b) *Total Direct Costs of Mandates:* On balance, spending by state and local governments on federally mandated activities could be reduced by billions of dollars over the next five years as a result of enactment of this bill, although states are not likely to take full advantage of this new flexibility to reduce spending. While the new mandates imposed by the bill would result in additional costs to some states, the repeal of existing mandates and the additional flexibility provided are likely to reduce spending by more than the additional costs. (Other aspects of the bill that do not relate to mandates could be very costly to state and local governments. These impacts are discussed in the ''other impacts'' section of this estimate.)

Block Grants for Temporary Assistance for Needy Families. The bill would grant states additional flexibility in maintaining their spending for needy families. This flexibility could save states a significant amount of money; however, CBO is unable to estimate the magnitude of such savings at this time.

Supplemental Security Income. Eliminating the current maintenance of effort requirement on state supplements to SSI could reduce spending for federally mandated activities by nearly $4 billion annually.

Child Support. The mandates in the child support portion of the bill would produce a net saving to states. CBO estimates that the direct savings from increasing child support collections retained by the states and eliminating the $50 pass through would outweigh the additional costs of improving the child support enforcement system and allowing former public assistance recipients to keep a greater share of their child support collections.

The table below summarizes the costs and savings associated with the child support portion of the bill. In total, CBO estimates that states would save over $163 million in 1997 and $1.9 billion over the 1997–2002 period.

CHANGES IN SPENDING BY STATES ON CHILD SUPPORT ENFORCEMENT

[By fiscal years, outlays in millions of dollars]

	1997	1998	1999	2000	2001	2002
Enforcement and Data Processing [1]	62	−5	50	60	40	48
Direct Savings from Enforcement	−20	−45	−127	−216	−302	−380
Elimination of $50 Pass Through	−206	−221	−244	−267	−292	−315
Modifying Distribution of Payments	0	47	52	58	112	138
Total	−163	−223	−269	−364	−442	−510

[1] Net of technical assistance provided by the Secretary of Health and Human Services.

(c) *Estimate of Necessary Budget Authority:* None

Basis of estimate

Supplemental Security Income

States annually supplement federal SSI payments with nearly $4 billion of their own funds. Even though some states supplement SSI beyond what is required by the federally mandated levels, most of the $4 billion can be attributed to the mandate to maintain spending levels. While CBO would not expect states to cut their supplement programs drastically, they would no longer be required by federal law to spend these amounts.

Child support

Enforcement and Data Processing Costs. The new system for child support enforcement would focus on matching Social Security numbers in the states' registries of child support orders and directories of new hires. The states would track down non-cooperative parents and insure that support payments would be withheld from their pay checks.

Much of the costs of improving the system would involve automated data processing. The bill would require states to develop computer systems so that information can be processed electronically. The federal government would pay for 80 percent to 90 percent of these costs. Other mandates include suspending a variety of licenses of parents who are not paying child support and providing enforcement services to recipients of Temporary Assistance for Needy Families, Foster Care, and Medicaid and anyone else who requests assistance. The federal government would pay 66 percent of these costs. The

numbers in the table in the previous section reflect only the states' share of these costs.

Direct Savings from Enforcement. Under current law, states can recoup some of the costs of supporting welfare recipients by requiring child support payments to be assigned to the state. As child support enforcement improves, state and federal collections would increase. In addition, by strengthening and increasing collections, states would achieve other savings, such as a reduction in the number of people eligible for Medicaid.

Elimination of the $50 Passthrough. Under current law, the first $50 in monthly child support collections is paid to welfare families receiving cash assistance. The rest is retained by the state and federal government. Because states and the federal government would be allowed to keep the first $50 if this bill is enacted, states would annually save between $200 million and $300 million.

Modifying Distribution of Payments. Under current law, when someone ceases to receive public assistance, states continue to collect and enforce the family's child support order. All amounts that are collected on time are sent directly to the family. If states collect past-due child support, however, they may either send the amount to the family or use the amount to reimburse themselves and the federal government for past AFDC payments. Under this bill, after a transition period, payments of past-due child support would first be used to pay off arrearages to the family accrued when the family was not on welfare. The bill would thus result in a loss of collections that otherwise would be recouped by the states.

Restricting welfare and public benefits for aliens

The bill would afford states broad flexibility to offset any additional costs associated with the deeming and verification requirements. Because in general states would have sufficient flexibility to make reductions in most of the affected programs, the new requirements would not be mandates as defined in Public Law 104–4. (Additional requirements imposed on states as part of large entitlement programs are not considered mandates under Public Law 104–4 if the states have the flexibility under the program to reduce their own programmatic and financial responsibilities.) Deeming requirements and verification procedures would thus constitute mandates only in those states where such flexibility does not exist. Furthermore, any additional costs would be at least partially offset by reduced caseloads in some programs. On balance, CBO estimates that the net cost of these requirements would not exceed the $50 million annual threshold established in Public Law 104–4.

7. Appropriation or other Federal financial assistance provided in bill to cover mandate costs: The federal government would provide 66 percent to 90 percent of the costs of improving the child support enforcement system. The costs reflected in this estimate are just the share of the costs imposed on the states.

8. Other impacts on State, local, and tribal governments: The bill would have many other impacts on the budgets of state, local, and tribal governments, especially the loss of federal funding to the states or their residents.

This loss of funding would not be considered a mandate under Public Law 104–4, however, because states would retain a significant amount of flexibility to offset the loss with reductions in the affected programs. Under Public Law 104–4, an increase in the stringency of conditions of assistance or a reduction in federal funding for an entitlement program under which the federal government spends more than $500 million annually is a mandate only if state, local, or tribal governments lack authority under that program to amend their own financial or programmatic responsibilities.

Block grants for temporary assistance for needy families

The bill would convert Aid to Families with Dependent Children (AFDC), Emergency Assistance, and Job Opportunities and Basic Skills Training (JOBS) into a block grant under which states would have a lot of freedom to develop their own programs for needy families. The bill, however, would impose several requirements and restrictions on states, most importantly work requirements. By fiscal year 2002, the bill would require states to have 50 percent of certain families that are receiving cash assistance in work activities. CBO estimates that the cost of achieving these targets would be $10 billion in fiscal year 2002. CBO assumes that, rather than achieving the targets, most states would opt to pay the penalty for not meeting these requirements.

The federal government's contribution to assistance to needy families would be capped. By fiscal year 2002, annual contributions for assistance (excluding child care) would be about $1 billion less than what is expected under current law. In order to deal with the shrinking federal support and the requirements discussed above, the states would have the option of cutting benefit levels or restricting eligibility. Some state and local governments could decide to offset partially or completely the loss of federal fund with their own funds.

Supplemental Security Income

The bill would reduce SSI benefits (net of increases in food stamp benefits) by about $2 billion annually by fiscal year 2002. Some state and local governments may choose to replace some or all of these lost benefits.

Child protection and foster care

The bill would maintain the current open-ended entitlement to states for foster care and adoption assistance and the block grant to states for Independent Living. The bill would also extend funding to states for certain computer purchases at an enhanced rate for one year.

Child care

The bill would authorize the appropriation of $1 billion in each of fiscal years 1996 through 2002 for the Child Care and Development Block Grant. The appropriation for the block grant for fiscal year 1996 is $935 million.

In addition, the bill would provide between $2.0 billion and $2.7 billion between 1997 and 2002 in mandatory funding for child care on top of the $1 billion authorization. This mandatory spending would replace AFDC work-related child care—an open ended entitlement program—Transitional Child Care, and At-Risk Child Care. By fiscal year 2002, annual mandatory spending for child care under the bill would be about $800 million higher than federal spending for current child care programs is currently projected to be.

Miscellaneous

This bill would reduce funding of the Social Services Block Grant to States by $560 million annually between fiscal year 1997 and 2002.

Medicaid

The new Medicaid program would be primarily funded by a capped grant rather than an open entitlement to the states as under current law. But the availability of an ''umbrella'' fund would allow states to receive additional federal funds in the event of certain unanticipated increases in enrollment. In addition, some states would be eligible for supplemental payments for treatment of illegal aliens and Native Americans. Compared to current levels, the annual federal contribution to Medicaid would drop by $29 billion by fiscal year 2002. Some states may decide to offset the loss of federal funds with additional state funds rather than reduce benefits, restrict eligibility, or reduce payments to providers. In addition, to the extent that public hospitals and clinics decide to serve individuals who lose Medicaid benefits, state and local government spending would increase.

Increased Flexibility for States. The bill would restructure the Medicaid program by granting states greater control over the program. For example, the bill would allow states to operate their programs under a managed care structure without receiving a federal waiver. In addition, states would no longer be constrained to provide the same level of medical assistance statewide, nor would comparability of coverage among beneficiaries be required. States would also have greater flexibility in determining provider reimbursement levels, because the proposal would repeal the Boren amendment.

Limits on Flexibility for States. The bill would prohibit states from supplanting state funds expended for health services with federal funds provided under this bill. As currently written, this provision is not clear. Based on verbal communications with Senate staff, CBO assumes that the intent of this provision is to prevent states from reducing spending for health services that do not qualify for federal matching under Medicaid. If the term ''state funds'' includes the states' share of Medicaid, however, this provision may conflict with the proposed increase in the federal matching rate for some states.

In addition, the bill would limit the new flexibility to use managed care without a waiver. If states mandate enrollment in managed care, they would have to provide beneficiaries with a choice of at least two health plans. States would also have to set aside funds for Federally Qualified Health Clinics and Rural Health Clinics. The set aside for each state would equal 95 percent of that state's expenditures for these clinics in fiscal year 1995.

Finally, the bill would prohibit Medicaid plans from imposing treatment limits or financial requirements on services for mental illnesses that are not imposed on services for other illnesses. Similar language for health insurance plans is included in H.R. 1303, the Health Reform Act of 1996, as passed by the Senate on April 23, 1996. Based on our interpretation of the provision in H.R. 3103, we assume that the intent of the Medicaid provision is not to mandate mental health services but to require parity if states provide any mental health services. If states choose to provide mental health services, parity for inpatient hospital services would be costly. Current law prohibits states from using Medicaid funds to provide inpatient care at psychiatric institutions for individuals who are between the ages of 21 and 65. Although not a guaranteed benefit, the bill would expand the definition of inpatient mental health services to include coverage of these individuals for acute care. Therefore, if a state provides any mental health services, the parity provision would require the state to provide these individuals with acute inpatient care without restrictions that differ from other inpatient services.

If the parity provision is interpreted to mandate mental health services, states with the least flexibility in their Medicaid program may not be able to offset the costs of this requirement by decreasing their responsibilities in other parts of the program. In those states, this provision could thus result

in a mandate with costs that could exceed the $50 million annual threshold established in Public Law 104–4.

Drug Rebate Program. The bill would also restructure the drug debate program so that states would keep the entire rebate, rather than share it with the federal government.

* * * * *

CONGRESSIONAL BUDGET OFFICE ESTIMATE OF COST OF PRIVATE SECTOR MANDATES

1. Bill number: Not yet assigned.

2. Bill title: Not yet assigned.

3. Bill status: As ordered reported by the Senate Committee on Finance on June 26, 1996.

4. Bill purpose: The bill would reform and restructure the welfare and Medicaid programs and provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 1997.

5. Private sector mandates contained in the bill: Subtitle A contains several private-sector mandates as defined in Public Law 104–4. Chapter 3 would require employers to provide information on all new employees to new-hire directories maintained by the states, generally within 20 days of hiring the workers. This requirement could be satisfied by submitting a copy of the employee's W–4 form.

Chapter 4 would impose new requirements on individuals who sign affidavits of support for legal immigrants. Under current law, any new immigrant who is expected to become a public charge must obtain a financial sponsor who signs an affidavit promising, as necessary, to support the immigrant for up to three years. The affidavit is not legally binding, however. During this three-year period, a portion of the sponsor's income is counted as being available to the immigrant, and is used to reduce the amount of certain welfare benefits for which the immigrant may be eligible. After the three-year period, immigrants are eligible for welfare benefits on the same basis as U.S. citizens.

The bill would make the affidavit of support legally binding on sponsors of new immigrants, either until those immigrants became citizens or until they had worked in the U.S. for at least 10 years. This requirement would impose an enforceable duty on the sponsors to provide, as necessary, at least a minimum amount of assistance to the new immigrants. The bill would also make most new immigrants completely ineligible for welfare benefits for a period of five years. In addition, the bill would require sponsors to report any change in their own address to a state agency.

Chapters 4 and 9 include changes in the Earned Income Credit that would raise private-sector costs. Specific changes include modifying the definition of adjusted gross income used for calculation of the credit, altering provisions related to disqualifying income, denying eligibility to workers not authorized to be employed in the U.S., and suspending the inflation adjustment for individuals with no qualifying children.

6. Estimated direct cost to the private sector: CBO estimates that the direct cost of the private sector mandates in the bill would be $92 million in fiscal year 1997 and would total about $1.3 billion over the five-year period from 1997 through 2001, as shown in the following table.

[By fiscal years, in millions of dollars]

	1997	1998	1999	2000	2001
Requirement on Employers	.....	10	10	10	10
Requirements on Sponsors of New Immigrants	5	20	55	195	400
Changes in the Earned Income Credit	87	107	126	138	155

The mandate requiring employers to provide information on new employees to new-hire directories maintained by the states would impose a direct cost on private sector employers of approximately $10 million per year once it becomes effective in 1998. Based on data from the Bureau of the Census, CBO estimates that private employers hire over 30 million new workers each year. Even so, the cost to private employers of complying with this mandate would be expected to be relatively small. Many states already require some or all employers to provide this information, so that a federal mandate would only impose additional costs on a subset of employers. In addition, employers could comply with the mandate by simply mailing or faxing a copy of the worker's W–4 form to the state agency, or by transmitting the information electronically.

The mandate to make future affidavits of support legally binding on sponsors of new immigrants would impose an estimated direct cost on the sponsors of $5 million in 1997, rising to $400 million in 2001. These estimates represent the additional costs to sponsors of providing the support to immigrants that would be required under the bill. The added costs are larger after the first three years because of the new responsibility sponsors would have to provide support after the three-year deeming period.

The Joint Committee on Taxation estimates that the direct mandate cost of the changes in the Earned Income Credit in the bill would be $87 million in 1997, rising to $155 million in 2001. These estimates include only the revenue effect of the changes in the credit, and not the effect on federal outlays.

CBO estimates that the other mandates in the bill would impose minimal costs on private sector entities.

7. Appropriations or other Federal financial assistance: None.

By Mr. PRESSLER (for himself, Mr. LOTT and Mr. INOUYE):

S. 1957. A bill to amend chapter 59 of title 49, United States Code, relating to intermodal safe container transportation; to the Committee on Commerce, Science, and Transportation.

THE INTERMODAL SAFE CONTAINER TRANSPORTATION AMENDMENTS ACT OF 1996

Mr. PRESSLER. Mr. President, today I am introducing the Intermodal Safe Container Transportation Amendments Act of 1996. I am pleased to be joined by Senators LOTT and INOUYE, chairman and ranking member of the Surface Transportation and Merchant Marine Subcommittee. This is a bipartisan technical corrections bill and I urge its swift passage.

Before I explain the purpose of this legislation, I want to provide some history on intermodal container shipments in order for my colleagues to better understand the time-sensitive nature of the bill we are introducing today. Let me explain.

Intermodal containers are used throughout the world to transport cargo by ship, rail, and highway. These containers facilitate the timely movement of imports and exports. More often than not, they pose no overweight concerns while transported by ship or rail. However, if a container is too heavy, it can cause problems when transferred to a truck. In some cases, trucks carrying heavy containers end up on our Nation's highways operating in violation of vehicle weight regulations. This can damage our highway infrastructure and reduce highway safety for the traveling public.

In an effort to mitigate these problems, Congress enacted the Intermodal Safe Container Transportation Act of 1992. The purpose of that law was to require shippers to provide a carrier involved in intermodal transportation with a certification of the gross cargo weight of the intermodal container prior to accepting the shipment. This information, including weight and a general cargo description, should assist the operator in determining whether transporting a particular container could result in violations of highway gross weight or axle weight regulations. Without the communication of this information, the trucker has no way of knowing whether he or she may be operating an overweight vehicle. In short, the act let the trucker beware.

Mr. President, the 1992 act has yet to be implemented. Final Regulations were issued by the Department of Transportation [DOT] in December 1994. However, significant concerns about implementation were raised by shippers and carriers, causing DOT to reassess its final rule and implementation was delayed until September 1, 1996.

Unfortunately, the implementation as currently proposed could have devastating consequences on intermodal transportation. At best, shipments of intermodal cargo will be late in reaching their destination. At worst, a complete backlog of shipments and severe gridlock at our Nation's ports will result.

Many of these operational concerns could be alleviated by administrative action. Yet, DOT informs us that some of the issues can only be resolved by legislation. That is why we are introducing this bill today.

As chairman of the Senate Committee on Commerce, Science, and Transportation, I want to assure my colleagues that the sponsors of today's technical corrections proposal are very concerned about the lengthy delay in implementing the 1992 law. As I said earlier, overweight vehicles negate safety and cause severe damage to our Nation's highway infrastructure. We need to help our motor carrier operators receive information to prevent overweight carriage. That is the intent of the 1992 act. That congressional intent must be carried forward during implementation.

Indeed, we are all frustrated over the delays. We also are frustrated that the various industry concerns have not been brought to our attention far earlier to facilitate a timely legislative resolution. However, in the past few weeks, we worked with representatives from all of the affected groups, including shippers, motor carriers, rail carriers, and ocean carriers. We also requested and received input from the administration and safety advocates.

After many meetings and lengthy discussions, we have developed what I consider to be a very sound and reasonable technical amendments bill. Of

course, we also are willing to consider further refinements and other suggestions. Nonetheless, our goal is to ensure the long overdue implementation of the 1992 1ct can be responsibly carried out as soon as possible.

This technical corrections bill also is designed to reduce unnecessary paperwork by allowing greater use of electronic interchange technology to expedite the transfer of information. Moreover, it provides incentives to encourage the private sector to comply with overweight container regulations.

Our bill raises the intermodal container weight threshold requiring certification from 10,000 to 29,000 pounds. Studies have concluded the new threshold weight will still prevent gross vehicle weight violations while eliminating unnecessary compliance burdens that would otherwise be imposed on smaller shipments. Because the 1992 enacted trigger was not based on any conclusive data concerning gross vehicle weight or axle weight limitations, we feel it is appropriate to institute a more appropriate level for certification. In fact, Federal Highway Administration officials have confirmed the new trigger provision would be quite sufficient to effectively meet the intent of the 1992 act.

Finally, the bill would clarify liability for failing to provide the certification or transferring the information during the intermodal movement. It ensures the party responsible for the failure is the party liable for the costs incurred for overweight violations.

Clearly, it is important for my colleagues to understand the technical changes proposed by this bill. It is equally important, however, for my colleagues to understand what this bill does not do. Given the limited time left in this legislative session, we simply cannot afford to fall victim to misconceptions or misrepresentations of this measure.

This bill does not make any changes to regulations or enforcement of laws concerning the carriage, documentation, placarding, or handling of hazardous materials transportation. It does not allow for an increase in Federal truck gross vehicle weights nor affect State enforcement of such regulations in any way. And, the bill does not affect truck axle weight regulations either. The bill meets the objectives of the 1992 act, but reduces unnecessary compliance burdens and service disruptions.

Mr. President, I urge all of my colleagues to recognize the urgency for moving this measure forward expeditiously. I also urge the administration to work diligently to address those problematic areas which do not need legislative action. Working together, we can advance the safety of our Nation's roads and highways.

I urge my colleagues to support this bipartisan legislation.

Mr. President, I ask unanimous consent the bill be printed in the RECORD.

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

S. 1957

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 ''Intermodal Safe Container Transportation Amendments Act of 1996''.

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49 of the United States Code.

SEC. 3. DEFINITIONS.

Section 5901 (relating to definitions) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) except as otherwise provided in this chapter, the definitions in section 13102 of this title apply.'';

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

''(6) 'gross cargo weight' means the weight of the cargo, packaging materials (including ice), pallets, and dunnage.''.

SEC. 4. NOTIFICATION AND CERTIFICATION.

(a) PRIOR NOTIFICATION.—Subsection (a) of section 5902 (relating to prior notification) is amended—

(1) by striking ''Before a person tenders to a first carrier for intermodal transportation a'' and inserting ''If the first carrier to which any'';

(2) by striking ''10,000 pounds (including packing material and pallets), the person shall give the carrier a written'' and inserting ''29,000 pounds is tendered for intermodal transportation is a motor carrier, the person tendering the container or trailer shall give the motor carrier a'';

(3) by striking ''trailer.'' and inserting ''trailer before the tendering of the container or trailer.'';

(4) by striking ''electronically.'' and inserting ''electronically or by telephone.''; and

(5) adding at the end thereof the following: ''This subsection applies to any person within the United States who tenders a container or trailer subject to this chapter for intermodal transportation if the first carrier is a motor carrier.''

(b) CERTIFICATION.—Subsection (b) of section 5902 (relating to certification) is amended to read as follows:

''(b) CERTIFICATION.—

''(1) IN GENERAL.—A person who tenders a loaded container or trailer with an actual gross cargo weight of more than 29,000 pounds to a first carrier for intermodal transportation shall provide a certification of the contents of the container or trailer in writing, or electronically, before or when the container or trailer is so tendered.

''(2) CONTENTS OF CERTIFICATION.—The certification required by paragraph (1) shall include—

''(A) the actual gross cargo weight;

''(B) a reasonable description of the contents of the container or trailer;

''(C) the identity of the certifying party;

''(D) the container or trailer number; and

''(E) the date of certification or transfer of data to another document, as provided for in paragraph (3).

''(3) TRANSFER OF CERTIFICATION DATA.—A carrier who receives a certification may transfer the information contained in the certification to another document or to electronic format for forwarding to a subsequent carrier. The person transferring the information shall state on the forwarded document the date on which the data was transferred and the identity of the party who performed the transfer.

''(4) SHIPPING DOCUMENTS.—For purposes of this chapter, a shipping document, prepared by the person who tenders a container or trailer to a first carrier, that contains the information required by paragraph (2) meets the requirements of paragraph (1).

''(5) USE OF 'FREIGHT ALL KINDS' TERM.—The term 'Freight All Kinds' or 'FAK' may not be used for the purpose of certification under section 5902(b) after December 31, 2000, as a commodity description for a trailer or container if the weight of any commodity in the trailer or container equals or exceeds 20 percent of the total weight of the contents of the trailer or container. This subsection does not prohibit the use of the term after that date for rating purposes.

''(6) SEPARATE DOCUMENT MARKING.—If a separate document is used to meet the requirements of paragraph (1), it shall be conspicuously marked 'INTERMODAL CERTIFICATION'.

''(7) APPLICABILITY.—This subsection applies to any person, domestic or foreign, who first tenders a container or trailer subject to this chapter for intermodal transportation within the United States.''.

''(c) FORWARDING CERTIFICATIONS.—Subsection (c) of section 5902 (relating to forwarding certifications to subsequent carriers) is amended—

(1) by striking ''transportation.'' and inserting ''transportation before or when the loaded intermodal container or trailer is tendered to the subsequent carrier. If no certification is received by the subsequent carrier before or when the container or trailer is tendered to it, the subsequent carrier may presume that no certification is required.''; and

(2) by adding at the end thereof the following ''If a person inaccurately transfers the information on the certification, or fails to forward the certification to a subsequent carrier, then that person is liable to any person who incurs any bond, fine, penalty, cost (including storage), or interest for any such fine, penalty, cost (including storage), or interest incurred as a result of the inaccurate transfer of information or failure to forward the certification. A subsequent carrier who incurs a bond, fine, penalty, or cost (including storage), or interest as a result of the inaccurate transfer of the information, or the failure to forward the certification, shall have a lien against the contents of the container or trailer under section 5905 in the amount of the bond, fine, penalty, or cost (including storage), or interest and all court costs and legal fees incurred by the carrier as a result of such inaccurate transfer or failure.''.

(d) LIABILITY.—Section 5902 is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following:

''(d) LIABILITY TO OWNER OR BENEFICIAL OWNER.—If—

''(1) a person inaccurately transfers information on a certifcation required by subsection (b)(1), or fails to forward a certification to the subsequent carrier;

''(2) as a result of the inaccurate transfer of such information or a failure to forward a certification, the subsequent carrier incurs a bond, fine, penalty, or cost (including storage), or interest; and

''(3) that subsequent carrier exercises its rights to a lien under section 5905,

then that person is liable to the owner or beneficial owner, or to any other person paying the amount of the lien to the subsequent

carrier, for the amount of the lien and all costs related to the imposition of the lien, including court costs and legal fees incurred in connection with it.

(e) NONAPPLICATION.—Subsection (e) of section 5902, as redesignated, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as redesignated, the following:

''(1) The notification and certification requirements of subsections (a and b) of this section do not apply to any intermodal container or trailer containing consolidation shipments loaded by a motor carrier if that motor carrier—

''(A) performs the highway portion of the intermodal movement; or

''(B) assumes the responsibility for any weight-related fine or penalty incurred by any other motor carrier that performs a part of the highway transportation.''.

SEC. 5. PROHIBITIONS.

Section 5903 (relating to prohibitions) is amended—

(1) by inserting after ''person'' a comma and the following: ''to whom section 5902(b) applies,'';

(2) by striking subsection (b) and inserting the following:

''(b) TRANSPORTING PRIOR TO RECEIVING CERTIFICATION.—

''(1) PRESUMPTION.—If no certification is received by a motor carrier before or when a loaded intermodal container or trailer is tendered to it, the motor carrier may presume that the gross cargo weight of the container or trailer is less than 29,001 pounds.

''(2) COPY OF CERTIFICATION NOT REQUIRED TO ACCOMPANY CONTAINER OR TRAILER.—Nothwithstanding any other provision of this chapter to the contrary, a copy of the certification required by section 5902(b) is not required to accompany the intermodal container or trailer.''; and

(3) by striking ''10,000 pounds (including packing materials and pallets)'' in subsection (c)(1) and inserting ''29,000 pounds''.

SEC. 6. LIENS.

Section 5905 (relating to liens) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL.—If a person involved in the intermodal transportation of a loaded container or trailer for which a certification is required by section 5902(b) of this title is required, because of a violation of a State's gross vehicle weight laws or regulations, to post a bond or pay a fine, penalty, cost (including storage), or interest resulting from—

''(1) erroneous information provided by the certifying party in the certification to the first carrier in violation of section 5903(a) of this title;

''(2) the failure of the party required to provide the certification to the first carrier to provide it;

''(3) the failure of a person required under section 5902(c) to forward the certification to forward it; or

''(4) an error occurring in the transfer of information on the certification to another document under section 5902(b)(3) or (c),

then the person posting the bond, or paying the fine, penalty, costs (including storage), or interest has a lien against the contents equal to the amount of the bond, fine, penalty, cost (including storage), or interest incurred, until the person receives a payment of that amount from the owner or beneficial owner of the contents, or from the person responsible for making or forwarding the certification, or transferring the information from the certification to another document.'';

(2) by inserting a comma and ''or the owner or beneficial owner of the contents,'' and ''first carrier'' in subsection (b)(1); and

(3) by striking ''cost, or interest.'' in subsection (b)(1) and inserting ''cost (including storage), or interest. The lien shall remain in effect until the lien holder has received payment for all costs and expenses described in subsection (a) of this section.''.

SEC. 7. PERISHABLE AGRICULTURAL COMMODITIES.

Section 5906 (relating to perishable agricultural commodities) is amended by striking ''Sections 5904(a)(2) and 5905 of this title do'' and inserting ''Section 5905 of this title does''.

SEC. 8. REGULATIONS; EFFECTIVE DATE.

(a) REGULATIONS.—Section 5907(a) (relating to regulations) is amended by striking the first sentence and inserting the following: ''Not later than 30 days after the date of enactment of the International Safe Container Transportation Amendments Act of 1996, the Secretary of Transportation shall initiate a proceeding to consider adoption or modification of regulations under this chapter to reflect the amendments made by that Act. The Secretary shall prescribe final regulations, if such regulations are needed, within 90 days after such date of enactment.''.

(b) EFFECTIVE DATE.—Section 5907(b) (relating to effective date) is amended to read as follows:

''(b) EFFECTIVE DATE.—This chapter is effective on the date of enactment of the Intermodal Safe Container Transportation Amendments Act of 1996. The Secretary shall implement the provisions of this chapter 180 days after such date of enactment.''.

SEC. 9. RELATIONSHIP TO OTHER LAWS.

(a) IN GENERAL.—Chapter 59 is amended by adding at the end thereof the following:

''§ 5908. Relationship to other laws

''Nothing in this chapter affects—

''(1) chapter 51 (relating to transportation of hazardous material) or the regulations promulgated under that chapter; or

''(2) any State highway weight or size law or regulation applicable to tractor-trailer combinations.''.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by adding at the end thereof the following:

''5908. Relationship to other laws''

Mr. LOTT. Mr. President, I rise today to speak in support of the Intermodal Safe Container Transportation Amendments Act of 1996 which is being introduced today by Senator PRESSLER. It was drafted in a completely bipartisan manner with other members of the Senate's Committee on Commerce, Science, and Transportation.

Let me be clear. Without a doubt, there is a problem with overweight containers in the transportation world. There is also a problem with how the government disciplines offenders under the current law. This legislation will go to the root of the problem and provide effective remedies.

The present system places the truck operators, who in most cases are least responsible for the problem, in the greatest jeopardy. It is like getting mad at your local letter carrier for delivering a month old letter to you. It makes no sense because the letter carrier just received the letter today. The intermodal carrier receives the container already overweight. They did not make it overweight. For the government policy to be effective, Senator PRESSLER has proposed legislation which goes directly at the cause and not the symptom. This will make the world's intermodal transportation system safer.

Let me also be up-front. This bill will raise the threshold for certification from 10,000 pounds to 29,001 pounds. This action is definitely needed and acknowledged as a responsible action. Studies from all segments of the transportation industry have concluded that this new trigger weight would not increase the risks to the public. I believe this will permit better regulatory compliance.

The efficiency of the intermodal system is addressed by reducing or virtually eliminating unnecessary paperwork. Senator PRESSLER allows for the use of electronic data interchange technology to speed intermodal transfers. No longer will a driver have to carry a hard copy paper certification. The shippers also benefit with the elimination of the burdensome separate intermodal certifications. This will permit shippers to use a standard bill of lading or other existing shipping document as the certification.

Let's talk enforcement. Senator PRESSLER put teeth into this amendment by focusing action on the beneficial owner of the cargo. While this requires no additional State action, it permits the truck operator to resolve an overweight violation with greater efficiency. It preserves State authority to regulate all highway safety laws. Let me be clear, this bill ensures that the parties who cause the container to be overweight will be identified and held accountable and liable.

Let me conclude by complimenting all those who worked skillfully and diligently in order to forge this bipartisan and very necessary piece of legislation. The dedication in resolving the many technical details is reflected in this legislation. This legislation is a collaborative effort through the leadership of Senator PRESSLER and with input from the Department of Transportation, The Advocates for Highway and Auto Safety, National Industrial Transportation League and the Intermodal Safe Container Coalition.

The bottom line is that the world of intermodal transportation needs to be improved, and Senator PRESSLER's Intermodal Safe Container Transportation Amendments Act of 1996 offers the right legislative solutions. It will produce many enhancements and safety practices which will benefit all the parties involved. This legislation will also increase speed and efficiency in the intermodal world without jeopardizing the concerns of the general public.

I ask all my colleagues to take a closer look at Senator PRESSLER's proposal and consider joining us as cosponsors to this important transportation legislation.

By Mr. MCCAIN (for himself, Mr. FEINGOLD, Mr. GREGG, and Mr. KERRY):

S. 1958. A bill to terminate the Advanced Light Water Reactor Program,

and for other purposes; to the Committee on Energy and Natural Resources.

THE ADVANCED LIGHT WATER REACTOR PROGRAM FUNDING ACT OF 1996

● Mr. MCCAIN. Mr. President, this legislation would terminate funding for the Advanced Light Water Reactor [ALWR] Program which provides taxpayer funded subsidies to corporations for the design, engineering, testing, and commercialization of nuclear reactor designs.

I am very pleased that Senators FEINGOLD, GREGG, and KERRY have joined me as original cosponsors on this important legislation and I urge our colleagues to support us in ending this wasteful Government spending and corporate welfare. Organizations such as Public Citizen, Citizens Against Government Waste, Competitive Enterprise Institute, Taxpayers for Common Sense, and the Heritage Foundation have lent their strong support to eliminating ALWR funding. And last year, a bipartisan Senate coalition, with the help of the Progressive Policy Institute and Cato Institute, included the ALWR Program as one of a dozen high priority corporate pork programs to be eliminated.

Although, the ALWR Program has already received more than $230 million in Federal support over the past 5 years and is due to be completed at the end of fiscal year 1996, the Department of Energy has requested $40 million for the ALWR Program in fiscal year 1997. The House appropriations subcommittee recently marked up the fiscal 1997 energy and water appropriations bill and provided $17 million in corporate subsidies for commercialization efforts under the ALWR Program. The Senate appropriations subcommittee has appropriated $22 million for the design certification phase of the ALWR Program.

The ALWR Program was created under the Energy Policy Act [EPACT] of 1992. EPACT makes clear that design certification support should only be provided for ALWR designs that can be certified by the Nuclear Regulatory Commission by no later than the end of fiscal year 1996. DOE has acknowledged that no ALWR designs will be certified by the end of fiscal year 1996. Therefore, under EPACT, no funds should be appropriated to support ALWR designs.

In addition, although EPACT specifies that no entity shall receive assistance for commercialization of an advanced light water reactor for more than 4 years, DOE's fiscal year 1997 funding request would allow for a fifth year of Federal financial assistance to the program's chief beneficiaries—well to do corporations which can afford to bear commercialization costs on their own. General Electric, Westinghouse, and Asea Brown Boveri/Combustion Engineering have already received 4 years of Federal assistance under the ALWR program since at least 1993. Significantly, these three companies had combined 1994 revenues of over $70 billion and last year their combined revenues exceeded $100 billion. These corporations certainly can afford to bring new products to the market without taxpayer subsidies.

Moreover, one of the primary recipients of ALWR Program funds, General Electric, recently announced that it is cancelling its Simplified Boiling Water Reactor [SBWR] after receiving $50 million from DOE because ''extensive evaluations of the market competitiveness of a 600 MWe size advanced Light Water Reactor have not established the commercial viability of these designs.'' Westinghouse's AP–600, a similarly designed reactor scheduled to receive ALWR support, is a similar sized design facing similar market forces that led GE to cancel the SBWR.

Mr. President, the ALWR Program exemplified the problems and unfairness corporate welfare engenders. If the ALWR designs are commercially feasible, large, wealthy corporations like Westinghouse do not need taxpayers to subsidize them because the market will reward them for their efforts and investment in this research. If the ALWR designs are not commercially viable, then the American taxpayer is unfairly being forced to pay for a product, in complete defiance of market forces, that a company would not pay to produce itself.

As a matter of fundamental fairness, we cannot ask Americans to tighten their belts across-the-board to put our fiscal house in order while we provide taxpayer funded subsidies to large corporations. As a practical matter, such unnecessary and wasteful Government spending must be eliminated if we are to restore fiscal sanity. Simply put, corporate welfare of this kind is unfair to the American taxpayer, it increases the deficit and we cannot allow it to continue.

Enough is enough. After 5 years and $230 million, it is time that we bring the ALWR Program to an end.

I ask unanimous consent that copies of letters from Citizens Against Government Waste, Public Citizen and Competitive Enterprise Institute supporting this legislation be included in the RECORD.

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

PUBLIC CITIZEN,
Washington, DC June 25, 1996.

Senator JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR: We are pleased to support your efforts to terminate further government support for the Advanced Light Water Reactor (ALWR) program at the U.S. Department of Energy. The ALWR program, having received five years of support and more than $230 million of taxpayer money, is a prime candidate for elimination in the coming budget cycle. It represents a textbook example of corporate welfare, provides little value to taxpayers and fails to account for the fact that domestic interest in new nuclear technologies is at an all-time low.

As of today, not one utility or company participating in the ALWR program has committed to building a new reactor in this country nor are there any signs that domestic orders will be forthcoming in the foreseeable future. Instead of providing reactors for American utilities, the ALWR program has become an export promotion subsidy for General Electric, Westinghouse and Asea Brown Boveri in direct violation of the intent of the Energy Policy Act. These companies, with combined annual revenues of over $70 billion, are hardly in need of such generous financial support.

Continuing to fund the ALWR program would send a strong message that subsidies to large, profitable corporations are exempt from scrutiny while other programs in the federal budget are cut to reach overall spending targets. The industry receiving this support is mature, developed and profitable and should be fully able to invest its own money in bringing new products to market.

This legislation is consistent with your long-standing campaign to eliminate wasteful and unnecessary spending in the federal budget. We salute your effort and offer our help in pruning this subsidy from the fiscal year 1997 budget.

Sincerely,

BILL MAGAVERN,
Director, Critical Mass Energy Project.

COMPETITIVE ENTERPRISE INSTITUTE,
Washington, DC, June 14, 1996.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR CONGRESSMAN MCCAIN: I wish to commend you for your efforts to eliminate funding for Advanced Light Water Reactor (ALWR) research. As a longtime opponent of federal subsidies for energy research of this kind, I am glad to see members of Congress representing the interests of the taxpayer on this issue.

Since 1992, the Department of Energy has spent over $200 million on ALWR research, with little to show for it. If such reactors are commercially viable, as supporters claim, then there is no need to waste taxpayer dollars on what amounts to corporate welfare. If the ALWR is not commercially viable, then throwing taxpayer dollars at it is even more wasteful. The fact that no utility plans to build such a reactor in this country any time soon suggests that the latter is more likely. Either way, federal funding for this program should end.

I full support your efforts to eliminate the ALWR research subsidy and hope that this effort is the first step in the eventual elimination of the Department of Energy as a whole.

Sincerely,

FRED L. SMITH, JR.,
President.

COUNCIL FOR CITIZENS
AGAINST GOVERNMENT WASTE,
Washington, DC, June 18, 1996.

Hon. JOHN MCCAIN,
U.S. Senate
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the 600,000 members of the Council for Citizens Against Government Waste (CCAGW), I am writing to urge you to introduce legislation to eliminate the Advanced Light Water Reactor (ALWR) program. This program has already surpassed its authorized funding level, and extending its funding will exceed the goals of the Energy Policy Act of 1992 (EPACT).

In 1992, EPACT authorized $100 million for first-of-a-kind engineering of new reactors. In addition, EPACT specified that the Department of Energy should only support advanced light water reactor designs that could be certified by the Nuclear Regulatory Commission no later than the end of FY 1996.

In a surprise announcement on February 28, 1996, General Electric (GE) terminated

one of its taxpayer-subsidized R&D light water reactor programs (the simplified boiling water reactor), stating that the company's recent internal marketing analyses showed that the technology lacked ''commercial viability.'' Westinghouse, which is slated to receive ALWR support between FYs 1997–99 for its similar AP–600 program, is not expected to receive design certification until FY 1998 or FY 1999. Taxpayers should not be expected to throw money at projects with little or no domestic commercial value.

EPACT also stipulates that recipients of any ALWR money must certify to the Secretary of Energy that they intend to construct and operate a reactor in the United States. In 1995, the Nuclear Energy Institute's newsletter, Nuclear Energy Insight, reported that ''all three [ALWR] designers see their most immediate opportunities for selling their designs in Pacific Rim countries.'' In fact, GE has sold two reactors developed under this program to Japan, and still the government has not recovered any money.

As you may recall, CCAGW endorsed your corporate welfare amendment, including the elimination of the ALWR program, to the FY 1996 Budget Reconciliation bill. We are again looking to your leadership to introduce legislation to now eliminate this program. I also testified before the House Energy and Environment Subcommittee on Science on May 1, 1996 calling for the elimination of the ALWR. The mission has been fulfilled, now the program should end.

Sincerely,

THOMAS A. SCHATZ,
President.●

By Ms. SNOWE (for herself and Mr. PRESSLER):

S. 1960. A bill to require the Secretary of Transportation to reorganize the Federal Aviation Administration to ensure that the Administration carries out only safety-related functions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL AVIATION ADMINISTRATION LEGISLATION

● Ms. SNOWE. Mr. President, on June 18, the Secretary of Transportation, Federico Peña, called on Congress to ''* * * change the FAA charter to give it a single primary mission: safety and only safety.'' And that is exactly what the bill I am introducing today, along with the distinguished Chairman of the Commerce, Science and Transportation Committee, Senator PRESSLER, will do.

In light of the many safety concerns that have become public as a result of the tragic ValuJet crash, it is important to restate Congress' commitment to ensuring the safety of air travel in this country. By removing the dual and dueling missions of safety and air carrier promotion, as one reporter accurately put it, there will be no room for doubt in the minds of the traveling public, or the staff of the Federal Aviation Administration that safety is their job—first, last and always.

My bill will require the removal of all nonsafety related duties from the FAA. It also requires the Secretary of Transportation to provide Congress, within 180 days, with legislation outlining where all the nonsafety related duties will be transferred to, within his Department.

We cannot expect the FAA to regain the trust of the traveling public while it maintains the mission to both ensure their safety while at the same time continuing to promote the growth of the carriers. The current mission of the FAA places it in the untenable position of being both the enforcer and the best friend of the airlines—no one can perform both roles and do them well.

The ValuJet crash and the startling information about the safety problems at the airline that have come out as a result, only serve to clarify the need for this legislation. If FAA is to learn its lesson from this tragedy, and to meet the Secretary's call for zero accidents, it must turn its attention to improving training for its inspectors, to providing a better way to track problems at airlines and to design a more systematic approach to inspections—in other words, to return their attention to safety issues. My bill will require them to do just that.

There have been those who have stated that removing the promotion of air carriers from the mandate is simply a word fix, that it will change nothing. The FAA needs to be changed if it is to meet the challenges of the coming new century. A Boeing study projects that if worldwide aviation maintains the same level of safety that it has for the past 5 years, by 2013 we can expect to lose an aircraft worldwide every 8 days. A very sobering statistic.

The bill I am introducing today with Senator PRESSLER should serve as Congress' wake up call to the FAA. And it will be the job of Congress to make sure that the agency moves beyond the status quo to embrace the safety only mandate, as well as to provide them with the resources necessary to step up enforcement and improve their training programs.

No one should be promoting an unsafe airline. And by limiting its role to improving the safety of U.S. air carriers, the FAA will be providing the best reason to purchase a ticket—a safe trip.●

By Mr. HATCH:

S. 1961. A bill to establish the United States Intellectual Property Organization, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes; to the Committee on the Judiciary.

THE OMNIBUS PATENT ACT OF 1996

Mr. HATCH. Mr. President, today I am introducing the Omnibus Patent Act of 1996. The purposes of this bill are: First, to rationalize the way intellectual property policy is formulated; second, to provide for more efficient administration of the patent, trademark, and copyright systems; third, to save the U.S. taxpayers' money by making the patent, trademark, and copyright systems self-funding; fourth, to discourage gaming the patent system while ensuring against loss of patent term and theft of American inventiveness; fifth, to protect the rights of prior users of inventions which are later patented by another; sixth, to increase the liability of patents by allowing third parties more meaningful participation in the reexamination process; seventh, to make certain that American provisional applications are given the same weight as other countries' provisional applications in other countries' courts; eighth, to make technical corrections in the plant patent provisions of the Patent Act; ninth, to require the Federal Government to pay a successful plaintiff's reasonable attorney's fees in a suit for the taking of a patent; and tenth, to allow for the filing of patent and trademark documents by electronic medium.

U.S. INTELLECTUAL PROPERTY ORGANIZATION

Intellectual property normally signifies patents, trademarks, and copyrights. Intellectual property is of vital importance not only to continued progress in science and the arts but also to the economy. A vast array of industries depend on intellectual property. From the chemical, electrical, biotechnological, and manufacturing industries to books, movies, music, and computer software and hardware. Indeed, trademark is important to all businesses, period.

Intellectual property industries also contribute mightily to our balance of trade. American-produced software, for example, accounts for 70 percent of the world market. U.S. recorded music constitutes approximately 60 percent of the international market, with annual foreign sales totaling in excess of $12 billion. Together, U.S. copyright industries accounted for an estimated $45.8 billion in foreign sales in 1993, an 11.7 percent increase over 1992 sales figures.

The remarkable overall performance of these industries continues to manifest itself in their tremendous rate of growth. For example, between 1991 and 1993, core copyright industries grew at twice the annual rate of the U.S. economy, while the rate of employment growth in these industries outpaced the rate of employment growth in the Nation's economy as a whole by nearly 4 to 1 between 1988 and 1993.

Keep in mind that these figures do not even begin to take into account the significant trade benefits attributable to the ever-expanding world market for patented American inventions and products enjoying U.S. trademark or trade secret protection. While these benefits are more difficult to quantify, we need only to look at such American companies as DuPont, Ford, General Electric, IBM, Kodak, Motorola, Monsanto, Palaroid, Xerox, and countless others whose development was founded in large part on U.S. patent protection to realize the utility of strong intellectual property protection to our Nation's economy and our international predominance in creative industries.

Because intellectual property protection is so essential to our economy, intellectual property policy must be given a high priority, and because our markets are becoming increasingly global, international intellectual property policy will inevitably loom larger. In some instances, domestic policy will be affected by international developments. For example, as a direct result of the General Agreement on Tariffs and Trade [GATT], the basic U.S. patent term of 17 years from issuance was changed to 20 years from filing. I certainly don't advocate a slavish following of foreign models. Whatever is one's view of what international policy should be, however, the fact remains that international policy will have a great impact on domestic intellectual property policy.

These developments argue for better coordination between international and domestic intellectual property policymaking. Currently, there is no official agency in the U.S. Government centralizing intellectual property policy formulation. Indeed, not only are there two government entities that deal with intellectual property—the Patent and Trademark Office [PTO] and the Copyright Office—but they are in different branches. The PTO is in the executive branch, while the Copyright Office is in the legislative branch of the Government.

The conduct of international affairs has constitutionally been delegated to the executive branch. Because the international aspects of intellectual property will increasingly affect domestic intellectual property policy, it is appropriate that intellectual property policy should be initially formulated in the executive branch. Thus, the bill I am introducing today creates a U.S. Intellectual Property Organization [USIPO] in the executive branch.

By centering the initial formulation of intellectual property policy in the executive branch, my bill not only predicts a trend but reflects the current reality. Despite the fact that there is no official intellectual property office, international and domestic intellectual property policy for the current administration is originating largely from the Patent and Trademark Office. Despite its name, the PTO is heavily involved in copyright policy as well. For example, the current negotiations for a Protocol and a New Instrument for the Berne Convention, the world's premiere copyright treaty, are being led by PTO personnel. In addition, the Commissioner of Patents and Trademarks chaired the working group that drafted the original version of the National Information Infrastructure Copyright Protection Act. This de facto intellectual property office is unlikely to disappear regardless of the outcome of the Presidential elections because it simply makes sense. My bill makes it official.

I want to make clear that this restructuring of intellectual property policy is not motivated by dissatisfaction with the performance of the Copyright Office. I have the highest respect for the Register of Copyrights, Ms. Marybeth Peters, and I have always found her advice and that of her staff to be extremely helpful. Indeed, on a number of occasions, I have modified my legislation after listening to her wise counsel. This, however, does not detract from the fact that I believe that there would be an improvement in formulating and coordinating intellectual property policy if the Copyright Office were located within the USIPO, as I have proposed.

Under current practice, the role of the Copyright Office in international policy formulation has diminished. Under this bill, with the elimination of the bifurcation of intellectual property policy between the legislative and the executive branches, it is likely that its role would be enhanced. In formulating copyright policy, the Commissioner of Intellectual Property would naturally turn to the Copyright Office subdivision of the USIPO for assistance and advice.

In addition to policymaking, the PTO administers the system which grants patents and registers trademarks. The Copyright Office registers copyrights and oversees adjudication incident to the compulsory licenses. Under my bill, these administrative functions would continue under the umbrella of the USIPO. The bill provides for three subdivisions within the USIPO: the Patent Office, the Trademark Office, and the Copyright Office. Each Office is responsible for the administration of its own system. Each Office controls its own budget and its management structure and procedures. Each Office must generate its own revenue.

The efficiency of the Patent, Trademark, and Copyright Offices will be enhanced by the status of the USIPO as a Government corporation, as proposed in my bill. This status allows the USIPO and its subdivisions to function without the bureaucratic restraints that bedevil much of the Federal Government.

The personnel problems of the Copyright Office illustrate this point. As a part of the Library of Congress, the Copyright Office is subject to the rigid complexity and great delay which characterize the Library's hiring policy. For example, the Copyright Office has been unable to fill the position of General Counsel for several years.

A management review of the Library of Congress prepared for the General Accounting Office [GAO] by Booz, Allen and Hamilton notes in its May 7, 1996 report that the median time for hiring a replacement worker is 177 days, much longer than for other Government agencies. Currently, the Library utilizes a 30-step hiring process with multiple hand-offs.

The report levels many other criticisms at the Library of Congress' management, but time does not permit me to detail them here. For purposes of this legislation, however, the most important conclusion was that ''[t]here is little operational reason for housing the copyright function at the Library of Congress.''

Although I concur in this conclusion, I am sensitive to the concern of the Librarian of Congress, Dr. James Billington, about the importance for the collection of the Library of the deposits made incident to copyright registrations. This bill makes no change in the deposit requirement, and it makes the Librarian of Congress a member ex officio of the Management Advisory Board of the Copyright Office to insure that this very important matter is given the attention it deserves.

This legislation also simplifies and streamlines the adjudication that takes place under the auspices of the Copyright Office regarding compulsory licenses. Currently, the Copyright Office oversees the work of ad hoc arbitration panels, called Copyright Arbitration Royalty Panels [CARPs], which engage in rate setting and distribution proceedings as provided by the Copyright Act for certain compulsory licenses. I was an original cosponsor of the legislation that created them, and I had great hopes that they would be less costly than the Copyright Royalty Tribunal [CRT] that they replaced. Recent experience with distribution proceedings under the cable compulsory license, however, have proved otherwise. Whereas the last annual budget of the CRT was nearly $1 million for all rate setting and distribution, the cable distribution alone has to date exceeded $700,000 under the CARPs, and it is still not concluded.

This bill returns to the tried and true method of administrative adjudication, namely, decisions rendered by administrative law judges subject to the Administrative Procedure Act. This solution is a natural one for a government body in the executive branch, although in the legislative branch this solution was always problematic under Buckley versus Valeo. Indeed, because of separation of powers constitutional concerns, the ultimate authority in the current CARP system is the Librarian of Congress, not the Register of Copyrights, because the Librarian is a Presidential appointee.

Currently, whenever the Copyright Office is tasked with an executive-type function, the constitutional question arises. This concern discourages utilization of the Copyright Office from playing a more significant role in copyright matters. This issue has arisen, for example, in discussions about instituting virtual magistrates in the Copyright Office to render quick decisions on on-line service provider liability and on fair use.

In sum, my bill vests primary responsibility for intellectual property policy in the head of the USIPO, the Commissioner of Intellectual Property and primary responsibility for administration of the patent, trademark, and copyright systems in the respective Commissioners of Patents, Trademarks,

and Copyrights. The corporate form of the USIPO inoculates the Patent, Trademark, and Copyright Offices as much as possible from the bureaucratic sclerosis that infects many Federal agencies.

Although I considered making the USIPO an independent agency in the executive branch, this bill links the USIPO to the Secretary of Commerce by providing that the Commissioner of Intellectual Property, the head of the USIPO, will be the policy advisor of the Secretary regarding intellectual property matters.

The parties interested in patents, copyrights, and trademarks support having close access to the President by having the chief intellectual policy advisor directly linked to a cabinet officer. The Secretary of Commerce is a logical choice. The PTO, which today has the major role in intellectual property policy as such is in the Department of Commerce. I do not believe, however, that the USIPO necessarily belongs there.

Mr. President, although the creation of the USIPO may be the most dramatic part of this bill, it also contains several important changes to substantive patent law that will, taken as a whole, dramatically improve our patent system.

With the adoption of the GATT provisions in 1994, the United States changed the manner in which it calculated the duration of patent terms. Under the old rule, utility patents lasted for 17 years after the grant of the patent. The new rule under the legislation implementing GATT is that these patents last for 20 years from the time the patent application is filed.

In addition to harmonizing American patent terms with those of our major trading partners, this change solved the problem of submarine patents. A submarine patent is not a military secret. Rather, it is a colloquial way to describe a legal but unscrupulous strategy to game the system and unfairly extend a patent term.

Submarine patenting is when an applicant purposefully delays the final granting of his permit by filing a series of amendments and delaying motions. Since, under the old system, the term did not start until the patent was granted, no time was lost. And since patent applications are secret in the United States until a patent is actually granted, no one knows that the patent application is pending. Thus, competitors continue to spend precious research and development dollars on technology that has already been developed.

When a competitor finally does develop the same technology, the submarine applicant springs his trap. He stops delaying his application and it is finally approved. Then, he sues his competitor for infringing on his patent. Thus, he maximizes his own patent term while tricking his competitors into wasting their money.

Mr. President, submarine patents are terribly inefficient. Because of them, the availability of new technology is delayed and instead of moving to new and better research, companies are fooled into throwing away time and money on technology that already exists.

By changing the manner in which we calculate the patent term to 20 years from filing, we eliminated the submarine problem. Under the current rule, if an applicant delays his own application, it simply shortens the time he will have after the actual granting of the patent. Thus, we have eliminated this unscrupulous, inefficient practice by removing its benefits.

Unfortunately, the change in term calculation potentially creates a new problem. Under the new system, if the Patent Office takes a long time to approve a patent, the delay comes out of the patent term, thus punishing the patent holder for the PTO's delay. This is not right.

The question we face now, Mr. President, is how to fix this new problem. Some have suggested combining the old 17 years from granting system with the new 20 years from filing and giving the patent holder whichever is longer. But that approach leads to uncertainty in the length of a patent term and even worse, resurrects the submarine patent problem by giving benefits to an applicant who purposefully delays his own application. I believe that titles II and III of the Omnibus Patent Act of 1996 solve the administrative delay dilemma without recreating old problems.

EARLY PUBLICATION

Title II of the bill provides for the early publication of patent applications. It would require the Patent Office to publish pending applications 18 months after the application was filed. An exception to this rule is made for applications filed only in the United States. Those applications will be published 18 months after filing or 3 months after the office issues its first response on the application, whichever is later. By publishing early, competitors are put on notice that someone has already beaten them to the invention and thus allowing them to stop spending money researching that same invention.

The claims that early publication will allow foreign competitors to steal American technology are simply not true. To start with, between 75 and 80 percent of patent applications filed in the United States are also filed abroad where 18 month publication is the rule. Further, I have provided in my bill for delayed publication of applications only submitted in the United States to protect them from competitors. Additionally, once an application is published, title II grants the applicant provisional rights, that is, legal protection for his invention. Thus, while it is true that someone could break the law and steal the invention, that is true under current law and will always be true. And the early publication provision will result in publication only 2 or 3 months before the granting of most patents, so there is little additional time for would-be pirates to steal the invention.

PATENT TERM RESTORATION

Title III deals directly with the administrative delay problem by restoring to the patent holder any part of the term that is lost due to undue administrative delay. This title is very similar to a bill I introduced earlier this Congress, S. 1540. Some concerns were raised about that bill because it left the decision of what was an undue delay to the Commissioner of the PTO. I took those concerns to heart and adopted the provision that appears in H.R. 3460, Congressman MOORHEAD's Omnibus Patent bill, giving clear deadlines for the Patent Office to act. Any delay beyond those deadlines is considered undue delay and will be restored to the Patent term. Thus, title III solves the administrative delay problem in a clear, predictable, and objective manner.

PRIOR DOMESTIC COMMERCIAL USE

Title IV deals with people who independently invent something and use it in commercial sale but who never patent their invention. Specifically, this title provides rights to a person who has commercially sold an invention more than 1 year before that invention was patented by another person. Anyone in this situation will be permitted to continue to sell his product without being forced to pay a royalty to the patent holder. This basic fairness measure is aimed at protecting the innocent inventor who chooses to use trade secret protection instead of pursuing a patent and who has expended enough time and money to begin commercial sale of the invention. It also serves as an incentive for those who wish to seek a patent to seek it quickly, thus reducing the time during which others may acquire prior user rights. The incentives of this title will improve the efficiency of our patent system by protecting ongoing business concerns and encouraging swift prosecution of patent applications.

PATENT REEXAMINATION REFORM

Title V provides for a greater role for third parties in patent re-examination proceedings. It is taken almost verbatim from my free-standing re-examination bill, S. 1070.

Nothing is more basic to an effective system of patent protection than a reliable examination process. Without the high level of faith that the PTO has earned, respect for existing patents would fall away and innovation would be discouraged for fear of a lack of protection for new inventions.

In the information age, however, it is increasingly difficult for the PTO to keep track of all the prior art that exists. It does the best job it can, but inevitably someone misses something and grants a patent that should not be granted. This is the problem that Title V addresses.

Title V allows third-parties to raise a challenge to an existing patent and to

participate in the re-examination process in a meaningful way. Thus, the expertise of the patent examiner is supplemented by the knowledge and resources of third-parties who may have information not known to the patent examiner. Through this joint effort, we maximize the flow of information, increase the reliability of patents, and thereby increase the strength of the American patent system.

PROVISIONAL APPLICATIONS FOR PATENTS

Title VI is comprised of miscellaneous provisions. First, it fixes a matter of a rather technical nature. Some foreign courts have interpreted American provisional applications in a way that would not preserve their filing priority. This title amends section 115 of title 35 of the United States Code to clarify that if a provisional application is converted into a nonprovisional application within 12 months of filing, that it stands as a full patent application, with the date of filing of the provisional application as the date of priority. If no request is made within 12 months, the provisional application is considered abandoned. This clarification will make certain that American provisional applications are given the same weight as other countries' provisional applications in other countries' courts.

PLANT PATENTS

Title VI also makes two fairly technical corrections to the plant patent statute. First, the ban on tuber propagated plants is removed. This depression-era ban was included for fear of limiting the food supply. Obviously, this is no longer a concern. Second, the plant patent statute is amended to include parts of plants. This closes a loophole that foreign growers have used to import the fruit or flowers of patented plants without paying a royalty because the entire plant was not being sold.

ATTORNEY'S FEES FOR TAKINGS OF PATENTS

Title VI has an additional provision that requires the Federal Government to pay a successful plaintiff's reasonable attorney's fees in a suit for the taking of a patent. This is only fair as the nature of both patent litigation and takings litigation is long and expensive. In many cases the award that is finally won is reduced dramatically when attorney's fees are factored in. This provision allows a successful plaintiff to truly be made whole.

ELECTRONIC FILING

Last, this title also allows for the filing of patent and trademark documents by electronic medium.

Mr. President, I have already mentioned H.R. 3460, Congressman MOORHEAD's omnibus patent bill. H.R. 3460 provides for restructuring of the Patent and Trademark Office and deals with virtually all of the substantive patent issues that are in my bill, and in a similar way. The most significant difference is that my bill restructures all of intellectual property policymaking and administration by the Federal Government. If we are going to restructure patents and trademarks, I believe that copyright policymaking and administration cannot be ignored.

H.R. 3460 has been reported out of the House Committee on the Judiciary and is awaiting floor action. I hope for swift action by the Senate on the bill I am introducing today.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

OMNIBUS PATENT ACT OF 1996 SUMMARY
JULY 16, 1996

TITLE I—THE UNITED STATES INTELLECTUAL PROPERTY ORGANIZATION

This title establishes the United States Intellectual Property Organization (USIPO). The USIPO brings together in one entity patent, trademark, and copyright policy formulation and the administration of the patent, trademark, and copyright systems. The USIPO is a government corporation connected to the Department of Commerce.

The USIPO is headed by a Commissioner of Intellectual Property [CIP] who is the chief advisor to the President through the Secretary of Commerce regarding intellectual property policy. He or she is appointed by the President with Senate confirmation, and he or she serves at the pleasure of the President.

The USIPO has three autonomous subdivisions: the Patent Office, the Trademark Office, and the Copyright Office. Each office is responsible for the administration of its own system. Each office controls its own budget and its management structure and procedures. Each office must generate its own revenue in order to be self-sustaining and to provide for the office of the CIP. The Patent, Trademark and Copyright Offices are headed by the Commissioner of Patents, the Commissioner of Trademarks, and the Commissioner of Copyrights, respectively. The three Commissioners are appointed by the CIP and serve at his or her pleasure.

Title I also abolishes the Copyright Arbitration Royalty Panels [CARPs] for rate-setting and distribution under some of the compulsory licenses and replaces them with administrative law judges.

TITLE II—EARLY PUBLICATION

Title II of the bill provides for the early publication of patent applications. It would require the Patent Office to publish pending applications eighteen months after the application was filed. An exception to this rule is made for applications filed only in the United States. Those applications will be published eighteen months after filing or three months after the office issues its first response on the application, whichever is later. Additionally, once an application is published, Title II grants the applicant ''provisional rights,'' that is, legal protection for his or her invention.

TITLE III—PATENT TERM RESTORATION

Title III deals with the problem of administrative delay in the patent examination process by restoring to the patent holder any part of the term that is lost due to undue administrative delay. Title III gives clear deadlines in which the Patent Office must act. Any delay beyond those deadlines is considered undue delay and will be restored to the patent term.

TITLE IV—PRIOR DOMESTIC COMMERCIAL USE

This title provides rights to a person who has commercially sold an invention more than one year before that invention was patented by another person. Anyone in this situation will be permitted to continue to sell his or her product without being forced to pay a royalty to the patent holder.

TITLE V—PATENT RE-EXAMINATION REFORM

Title V provides for a greater role for third parties in patent re-examination proceedings by allowing third-parties to raise a challenge to an existing patent and to participate in the re-examination process in a meaningful way.

TITLE VI—MISCELLANEOUS

Provisional Applications for Patents

This title amends section 115 of Title 35 of the U.S. Code to clarify that if a provisional application is converted into a non-provisional application within twelve months of filing, that it stands as a full patent application, with the date of filing of the provisional application as the date of priority. If no request is made within twelve months, the provisional application is considered abandoned. This clarification will make certain that American provisional applications are given the same weight as other countries' provisional applications in other countries' courts.

Plant Patents

Title VI also makes two fairly technical corrections to the plant patent statute. First, the ban on tuber propagated plants in removed. This depression-era ban was included for fear of limiting the food supply. This is no longer a concern. Second, the plant patent statute is amended to include parts of plants. This closes a loophole that foreign growers have used to import the fruit or flowers of patented plants without paying a royalty because the entire plant was not being sold.

Attorney's Fees for Takings of Patents

Title VI has an additional provision that requires the federal government to pay a successful plaintiff's reasonable attorney's fees in a suit for the taking of a patent.

Electronic Filing

Lastly, this title also allows for the filing of patent and trademark documents by electronic medium.

By Mr. MCCAIN (for himself, Mr. INOUYE, Mr. GLENN, Mr. THOMAS, Mr. DOMENICI, Mrs. KASSEBAUM, Mr. COCHRAN, Mr. MURKOWSKI, Mr. CAMPBELL and Mr. SIMON):

S. 1962. A bill to amend the Indian Child Welfare Act of 1978, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN CHILD WELFARE ACT OF 1978

Mr. MCCAIN. Mr. President, I rise today with great pleasure to introduce a measure which has been laboriously crafted to resolve many of the differences between Indian tribes and advocates of adoption. The voices of reason and good will have prevailed. The measure I am introducing today, along with Senators INOUYE, Thomas, DOMENICI, KASSEBAUM, COCHRAN, MURKOWSKI, CAMPBELL, GLENN, and SIMON, enjoys the support of both the Indian tribes and the adoption community.

The bill reflects a very delicate compromise. But fragile it is not. Its strength lies in both the process by which it was developed and the substance it embodies.

More than one year ago, several high-profile cases adoption cases captured national attention because they involved Indian children caught in protracted legal disputes under the Indian

Child Welfare Act of 1978 [ICWA]. Adoption advocates believed these cases would provide political support for amendments they had long sought to the act. Indian tribes felt like they were under siege, battling distorted news stories about what the ICWA does and does not do while simultaneously having to fend off overly broad amendments to ICWA. As more time passed, the rhetoric heightened, the stakes of the game rose, and positions hardened.

It is remarkable that a few visionaries on both sides ventured away from these battle lines last year to begin to talk with each other about what common ground might exist. These talks began a long process of negotiation over possible compromise amendments to ICWA. Over time, the protagonists began to see ways in which some of each side's objectives could be accomplished through common agreement. Mr. President, I know it is perhaps an over-used phrase, but I can think of no more fitting example of a win-win resolution of an otherwise intractable problem.

ICWA was enacted in 1978 in response to growing concern over the consequences to Indian children, families and tribes of the separation of large numbers of Indian children from their families and tribes through adoption or foster care placements by the State courts. Studies conducted by the Association of American Indian Affairs [AAIA] in the mid-1970s revealed that 25 to 35 percent of all Indian children had been separated from their families and placed into adoptive families, foster care, or other institutions. For example, in the State of Minnesota nearly one in every four Indian children under the age of 1 year was placed for adoption between 1971 and 1972, and approximately 90 percent of adoptive placements of Indian children at that time were with non-Indian families. In response, Congress protected both the best interest of Indian children and the interest of Indian tribes in the welfare of their children, by carefully crafting ICWA to make use of the roles traditionally played by Indian tribes and families in the welfare of their children through a unique jurisdictional framework, favorably described in the majority opinion of the United States Supreme Court in Mississippi Band of Choctaw Indians versus Holyfield as follows:

> At the heart of the ICWA are its provisions concerning jurisdiction over Indian child custody proceedings. Section 1911 lays out a dual jurisdictional scheme. Section 1911(a) establishes exclusive jurisdiction in the tribal courts for proceedings concerning an Indian child 'who resides or is domiciled within the reservation of such tribe,' as well as for wards of tribal courts regardless of domicile. Section 1911(b), on the other hand, creates concurrent but presumptively tribal jurisdiction in the case of children not domiciled on the reservation: on petition of either parent or the tribe, state-court proceedings for foster care placement or termination of parental rights are to be transferred to the tribal court, except in cases of 'good cause,' objection by either parent, or declination of jurisdiction by the tribal court. 490 U.S. 30, 36 (1989).

The issue of Indian child welfare stirs the deepest emotions. Nothing is more sacred than children. And while developing common ground is always extremely difficult during a battle, it is especially difficult on such a deeply personal issue.

As with all compromises, I am sure each side would prefer language that is better for them. I am told many Indian tribes would rather not have any amendments at all, and that many in the adoption community would rather have the House-passed amendments be the law of the land. But on behalf of the Indian children and their parents, both biological and adoptive, I want to extend my personal thanks to persons on both sides of this debate who have led the way to a compromise in which both sides, and most importantly, Indian children, are the winners.

I am especially grateful for the position taken by the Indian tribes, and particularly, for the leadership of the National Congress of American Indians [NCAI], its President, the Honorable Ron Allen and his able NCAI staff, and that of Terry Cross, Jack Trope, Mike Walleri and other tribal leaders or representatives associated with the National Indian Child Welfare Association [NICWA], Tanana Chiefs Conference, and others. Their efforts to reach out to the adoption community, even as the debate was quickening, made all the difference.

Likewise, I am indebted to the courage and foresight that led adoption advocates like Jane Gorman and Marc Gradstein to pursue a reasonable and fair-minded approach in dialogue with their tribal counterparts. These two practicing attorneys gave many hours to the task of fashioning a compromise that has now been endorsed by their colleagues in the American Academy of Adoption Attorneys and the Academy of California Adoption Attorneys.

Finally, I want to commend the tribal delegates and representatives who labored for many long hours at the mid-year convention of the National Congress of American Indians in Tulsa, OK in early June in order to respond to the request I and Congressman DON YOUNG, Chairman of the House Committee on Resources, made to them, asking that they work in good faith with adoption attorneys to finalize a minimum set of compromise amendment provisions that could be adopted as an alternative to the House-passed amendments. I am told that hundreds of delegates worked around the clock for several days to come up with the language that I am introducing today. The process makes for a remarkable story.

And the product is even more remarkable. The bill I am introducing today will amend the Indian Child Welfare Act of 1978 to better serve the best interests of Indian children without trampling on tribal sovereignty and without eroding fundamental principles of Federal-Indian law.

The compromise bill would achieve greater certainty and speed in adoptions involving Indian children through new guarantees of early and effective notice in all cases combined with new, strict time restrictions placed on both the right of Indian tribes and families to intervene and the right of Indian birth parents to revoke their consent to an adoptive placement. The compromise bill would encourage early identification of the relatively few cases involving controversy, and promote settlement of cases by making visitation agreements enforceable.

It would limit when and how an Indian family or tribe may intervene in an adoption case involving an Indian child; 25 U.S.C. 1911(c) and 1913(e) would be substantially amended to curtail the present right of an Indian family or tribe to intervene at any point in the proceeding. Under the compromise, this right of intervention could be exercised only within the following periods of time: within 30 days of receipt of notice of a termination of parental rights proceeding, or within the later of 90 days of receipt of notice of an adoptive placement or 30 days of receipt of notice of a voluntary adoption proceeding. With proper notice, an Indian tribe's failure to act within these timeframes early in the placement proceedings would be considered final. An Indian tribe's waiver of its right to intervene would be considered binding. If an Indian tribe seeks to intervene, it must accompany its motion with a certification that the child at issue is, or is eligible to be, a member of the tribe and it must provide documentation of this pursuant to tribal law.

The compromise bill would limit when an Indian biological parent may withdraw his or her consent to adoption or termination of parental rights; 25 U.S.C. 1913(b) would be substantially amended to curtail the present right of an Indian parent to withdraw his or her consent to an adoption placement or termination of parental rights at any time prior to entry of a final decree. Under the bill, such consent could be withdrawn before a final decree of adoption has been entered only if less than 6 months has passed since the Indian child's tribe received the required notice, or if the adoptive placement specified by the parent ends, or if less than 30 days has passed since the adoption proceeding began. An Indian biological parent may otherwise revoke consent only under applicable State law. In the case of fraud or duress, an Indian biological parent may seek to invalidate an adoption up to 2 years after the adoption has been in effect, or within a longer period established by the applicable State law.

This legislation would require those facilitating an adoption to provide early and effective notice and information to Indian tribes; 25 U.S.C. 1913 would be substantially amended to add a requirement for notice to be sent to the Indian child's tribe by a party seeking to place or to effect a voluntary termination of parental rights

concerning a child known to be an Indian. Under the bill, this notice must be sent by registered mail within 100 days following a foster care placement, within 5 days following a pre-adoptive or adoptive placement, and within 10 days of the commencement of a termination of parental rights proceeding or adoption proceeding. The bill would specify the particular information that is to be provided. In addition, 25 U.S.C 1913(a) would be amended to require a certification by the State court that the attorney or public or private agency facilitating the voluntary termination of parental rights or adoptive placement has informed the biological parents of their placement options and of other provisions of ICWA and has certified that the natural parents will be notified within 10 days of any change in the adoptive placement.

The compromise bill would authorize and encourage open adoptions and enforceable visitation agreements between Indians and non-Indians; 25 U.S.C. 1913 would be amended to encourage and facilitate voluntary agreements between Indian families or tribes and non-Indian adoptive families for enforceable rights of visitation or continued contact after entry of an adoption decree. This provision would have the effect of authorizing such agreements where independent authority does not exist in a particular State's law. This should help encourage early identification and settlement of controversial cases.

Finally, this bill would apply penalties for fraud and misrepresentation as a sanction against efforts to evade responsibilities under the act. The bill would apply criminal penalties to any efforts to encourage or facilitate fraudulent representations or omissions regarding whether a child or biological parent is an Indian for purposes of the act. The exclusive jurisdiction of tribal courts under 25 U.S.C. 1911(a) would be clarified to continue once a child is properly made a ward of that tribal court, regardless of the location of the treatment ordered by the court. And the bill would make a few minor changes to existing law to clarify several issues which have caused delays in child custody and placement proceedings.

I view this compromise bill as a wholly appropriate and fair-minded alternative to the title III provisions which the Committee on Indian Affairs voted on June 19 to strike from H.R. 3286, the Adoption Promotion and Stability Act of 1996. Title III, proposed by Congresswoman DEBORAH PRYCE, WOULD SUBSTANTIALLY AMEND ICWA in ways I and many others on the committee concluded would eviscerate the act. Title III was passed by the House in May by a narrow margin after extended debate. The Senate Committee on Indian Affairs deleted that controversial title because of our serious concern about the breadth of its language and the fundamental changes it would make to the government-to-government relations between the United States and Indian tribes. Title III was strenuously opposed by virtually every tribal government in the Nation and by the Justice and Interior Departments.

At the same time, I told Congresswoman Pryce that I and many others believed that some of the problems identified by her and other proponents of title III were legitimate. It seemed to me that adoptive families seek certainty, speed, and stability throughout the adoption process. They do not want surprises that threaten to take away from them a child they have loved and cared for after they have followed the law. At the same time, Indian tribes have long sought early and substantive notice of proposed adoptions and the continued protections of tribal sovereignty. They do not want to learn that their young tribal members have been placed for adoption outside of the Indian community many months or years after the fact.

I was pleased to see that the negotiators of the compromise bill responded to these concerns. And I am extremely pleased to say that Congresswoman PRYCE has indicated to me she will now lend her support to prompt enactment of this landmark, compromise legislation. Because it is a delicately balanced package, I am strongly committed to moving this compromise language without substantial change as quickly as possible through the Senate and the House in the remaining weeks before the close of this Congress. Mr. President, I ask my colleagues to join me in this effort.

There is no doubt in my mind that in the case of an Indian child there are special interests that must be taken into account during an adoption placement process. But these interests, as provided for in ICWA, must serve the best interests of the Indian child. And those best interests are best served by certainty, speed, and stability in making adoptive placements with the participation of Indian tribes. This is the key, these concerns can be addressed in ways that preserve fundamental principles of tribal sovereignty by recognizing and preserving the appropriate role of tribal governments in the lives of Indian children.

Mr. President, I urge my colleagues to support the compromise bill so that the agreement reached by the parties can be realized.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

S. 1962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Indian Child Welfare Act Amendments of 1996''.

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

SEC. 2. EXCLUSIVE JURISDICTION.

Section 101(a) (25 U.S.C. 1911(a)) is amended—

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

(2) by striking the last sentence and inserting the following:

''(2) An Indian tribe shall retain exclusive jurisdiction over any child custody proceeding that involves an Indian child, notwithstanding any subsequent change in the residence or domicile of the Indian child, in any case in which the Indian child—

''(A) resides or is domiciled within the reservation of the Indian tribe and is made a ward of a tribal court of that Indian tribe; or

''(B) after a transfer of jurisdiction is carried out under subsection (b), becomes a ward of a tribal court of that Indian tribe.''.

SEC. 3. INTERVENTION IN STATE COURT PROCEEDINGS.

Section 101(c) (25 U.S.C. 1911(c)) is amended by striking ''In any State court proceeding'' and inserting ''Except as provided in section 103(e), in any State court proceeding''.

SEC. 4. VOLUNTARY TERMINATION OF PARENTAL RIGHTS.

Section 103(a) (25 U.S.C. 1913(a)) is amended—

(1) by inserting ''(1)'' before ''Where'';

(2) by striking ''foster care placement'' and inserting ''foster care or preadoptive or adoptive placement'';

(3) by striking ''judge's certificate that the terms'' and inserting the following: ''judge's certificate that—

''(A) the terms'';

(4) by striking ''or Indian custodian.'' and inserting ''or Indian custodian; and'' ;

(5) by inserting after subparagraph (A), as designated by paragraph (3) of this subsection, the following new subparagraph:

''(B) any attorney or public or private agency that facilitates the voluntary termination of parental rights or preadoptive or adoptive placement has informed the natural parents of the placement options with respect to the child involved, has informed those parents of the applicable provisions of this Act, and has certified that the natural parents will be notified within 10 days of any change in the adoptive placement.'';

(6) by striking ''The court shall also certify'' and inserting the following:

''(2) The court shall also certify'';

(7) by striking ''Any consent given prior to,'' and inserting the following:

''(3) Any consent given prior to,''; and

(8) by adding at the end the following new paragraph:

''(4) An Indian custodian who has the legal authority to consent to an adoptive placement shall be treated as a parent for the purposes of the notice and consent to adoption provisions of this Act.''.

SEC. 5. WITHDRAWAL OF CONSENT.

Section 103(b) (25 U.S.C. 1913(b)) is amended—

(1) by inserting ''(1)'' before ''Any''; and

(2) by adding at the end the following new paragraphs:

''(2) Except as provided in paragraph (4), a consent to adoption of an Indian child or voluntary termination of parental rights to an Indian child may be revoked, only if—

''(A) no final decree of adoption has been entered; and

''(B)(i) the adoptive placement specified by the parent terminates; or

''(ii) the revocation occurs before the later of the end of—

''(I) the 180-day period beginning on the date on which the Indian child's tribe receives written notice of the adoptive placement provided in accordance with the requirements of subsections (c) and (d); or

''(II) the 30-day period beginning on the date on which the parent who revokes consent receives notice of the commencement of the adoption proceeding that includes an explanation of the revocation period specified in this subclause.

''(3) The Indian child with respect to whom a revocation under paragraph (2) is made shall be returned to the parent who revokes consent immediately upon an effective revocation under that paragraph.

''(4) Subject to paragraph (6), if, by the end of the applicable period determined under subclause (I) or (II) of paragraph (2)(B)(ii), a consent to adoption or voluntary termination of parental rights has not been revoked, beginning after that date, a parent may revoke such a consent only—

''(A) pursuant to applicable State law; or

''(B) if the parent of the Indian child involved petitions a court of competent jurisdiction, and the court finds that the consent to adoption or voluntary termination of parental rights was obtained through fraud or duress.

''(5)(A) Subject to paragraph (6), if a consent to adoption or voluntary termination of parental rights is revoked under paragraph (4)(B), with respect to the Indian child involved—

''(i) in a manner consistent with paragraph (3), the child shall be returned immediately to the parent who revokes consent; and

''(ii) if a final decree of adoption has been entered, that final decree shall be vacated.

''(6) Except as otherwise provided under applicable State law, no adoption that has been in effect for a period longer than or equal to 2 years may be invalidated under this subsection.''.

SEC. 6. NOTICE TO INDIAN TRIBES.

Section 103(c) (25 U.S.C. 1913(c)) is amended to read as follows:

''(c)(1) A party that seeks the voluntary placement of an Indian child or the voluntary termination of the parental rights of a parent of an Indian child shall provide written notice of the placement or proceeding to the Indian child's tribe. A notice under this subsection shall be sent by registered mail (return receipt requested) to the Indian child's tribe, not later than the applicable date specified in paragraph (2) or (3).

''(2)(A) Except as provided in paragraph (3), notice shall be provided under paragraph (1) in each of the following cases:

''(i) Not later than 100 days after any foster care placement of an Indian child occurs.

''(ii) Not later than 5 days after any preadoptive or adoptive placement of an Indian child.

''(iii) Not later than 10 days after the commencement of any proceeding for a termination of parental rights to an Indian child.

''(iv) Not later than 10 days after the commencement of any adoption proceeding concerning an Indian child.

''(B) A notice described in subparagraph (A)(ii) may be provided before the birth of an Indian child if a party referred to in paragraph (1) contemplates a specific adoptive or preadoptive placement.

''(3) If, after the expiration of the applicable period specified in paragraph (2), a party referred to in paragraph (1) discovers that the child involved may be an Indian child—

''(A) the party shall provide notice under paragraph (1) not later than 10 days after the discovery; and

''(B) any applicable time limit specified in subsection (e) shall apply to the notice provided under subparagraph (A) only if the party referred to in paragraph (1) has, on or before commencement of the placement made reasonable inquiry concerning whether the child involved may be an Indian child.''.

SEC. 7. CONTENT OF NOTICE.

Section 103(d) (25 U.S.C. 1913(d)) is amended to read as follows:

''(d) Each written notice provided under subsection (c) shall contain the following:

''(1) The name of the Indian child involved, and the actual or anticipated date and place of birth of the Indian child.

''(2) A list containing the name, address, date of birth, and (if applicable) the maiden name of each Indian parent and grandparent of the Indian child, if—

''(A) known after inquiry of—

''(i) the birth parent placing the child or relinquishing parental rights; and

''(ii) the other birth parent (if available); or

''(B) otherwise ascertainable through other reasonable inquiry.

''(3) A list containing the name and address of each known extended family member (if any), that has priority in placement under section 105.

''(4) A statement of the reasons why the child involved may be an Indian child.

''(5) The names and addresses of the parties involved in any applicable proceeding in a State court.

''(6)(A) The name and address of the State court in which a proceeding referred to in paragraph (5) is pending, or will be filed; and

''(B) the date and time of any related court proceeding that is scheduled as of the date on which the notice is provided under this subsection.

''(7) If any, the tribal affiliation of the prospective adoptive parents.

''(8) The name and address of any public or private social service agency or adoption agency involved.

''(9) An identification of any Indian tribe with respect to which the Indian child or parent may be a member.

''(10) A statement that each Indian tribe identified under paragraph (9) may have the right to intervene in the proceeding referred to in paragraph (5).

''(11) An inquiry concerning whether the Indian tribe that receives notice under subsection (c) intends to intervene under subsection (e) or waive any such right to intervention.

''(12) A statement that, if the Indian tribe that receives notice under subsection (c) fails to respond in accordance with subsection (e) by the applicable date specified in that subsection, the right of that Indian tribe to intervene in the proceeding involved shall be considered to have been waived by that Indian tribe.''.

SEC. 8. INTERVENTION BY INDIAN TRIBE.

Section 103 (25 U.S.C. 1913) is amended by adding at the end the following new subsections:

''(e)(1) The Indian child's tribe shall have the right to intervene at any time in a voluntary child custody proceeding in a State court only if—

''(A) in the case of a voluntary proceeding to terminate parental rights, the Indian tribe filed a notice of intent to intervene or a written objection to the termination, not later than 30 days after receiving notice that was provided in accordance with the requirements of subsections (c) and (d); or

''(B) in the case of a voluntary adoption proceeding, the Indian tribe filed a notice of intent to intervene or a written objection to the adoptive placement, not later than the later of—

''(i) 90 days after receiving notice of the adoptive placement that was provided in accordance with the requirements of subsections (c) and (d); or

''(ii) 30 days after receiving a notice of the voluntary adoption proceeding that was provided in accordance with the requirements of subsections (c) and (d).

''(2)(A) Except as provided in subparagraph (B), the Indian child's tribe shall have the right to intervene at any time in a voluntary child custody proceeding in a State court in any case in which the Indian tribe did not receive written notice provided in accordance with the requirements of subsections (c) and (d).

''(B) An Indian tribe may not intervene in any voluntary child custody proceeding in a State court if the Indian tribe gives written notice to the State court or any party involved of—

''(i) the intent of the Indian tribe not to intervene in the proceeding; or

''(ii) the determination by the Indian tribe that—

''(I) the child involved is not a member of, or is not eligible for membership in, the Indian tribe; or

''(II) neither parent of the child is a member of the Indian tribe.

''(3) If an Indian tribe files a motion for intervention in a State court under this subsection, the Indian tribe shall submit to the court, at the same time as the Indian tribe files that motion, a certification that includes a statement that documents, with respect to the Indian child involved, the membership or eligibility for membership of that Indian child in the Indian tribe under applicable tribal law.

''(f) Any act or failure to act of an Indian tribe under subsection (e) shall not—

''(1) affect any placement preference or other right of any individual under this Act;

''(2) preclude the Indian tribe of the Indian child that is the subject of an action taken by the Indian tribe under subsection (e) from intervening in a proceeding concerning that Indian child if a proposed adoptive placement of that Indian child is changed after that action is taken; or

''(3) except as specifically provided in subsection (e), affect the applicability of this Act.

''(g) Notwithstanding any other provision of law, no proceeding for a voluntary termination of parental rights or adoption of an Indian child may be conducted under applicable State law before the date that is 30 days after the Indian child's tribe receives notice of that proceeding that was provided in accordance with the requirements of subsections (c) and (d).

''(h) Notwithstanding any other provision of law (including any State law)—

''(1) a court may approve, as part of an adoption decree of an Indian child, an agreement that states that a birth parent, an extended family member, or the Indian child's tribe shall have an enforceable right of visitation or continued contact with the Indian child after the entry of a final decree of adoption; and

''(2) the failure to comply with any provision of a court order concerning the continued visitation or contact referred to in paragraph (1) shall not be considered to be grounds for setting aside a final decree of adoption.''.

SEC. 9. FRAUDULENT REPRESENTATION.

Title I of the Indian Child Welfare Act of 1978 is amended by adding at the end the following new section:

''SEC. 114. FRAUDULENT REPRESENTATION.

''(a) IN GENERAL.—With respect to any proceeding subject to this Act involving an Indian child or a child who may be considered to be an Indian child for purposes of this Act, a person, other than a birth parent of the child, shall, upon conviction, be subject to a criminal sanction under subsection (b) if that person—

''(1) knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact concerning whether, for purposes of this Act—

''(A) a child is an Indian child; or

''(B) a parent is an Indian; or

''(2)(A) makes any false, fictitious, or fraudulent statement, omission, or representation; or

''(B) falsifies a written document knowing that the document contains a false, fictitious, or fraudulent statement or entry relating to a material fact described in paragraph (1).

''(b) CRIMINAL SANCTIONS.—The criminal sanctions for a violation referred to in subsection (a) are as follows:

''(1) For an initial violation, a person shall be fined in accordance with section 3571 of title 18, United States Code, or imprisoned not more than 1 year, or both.

''(2) For any subsequent violation, a person shall be fined in accordance with section 3571 of title 18, United States Code, or imprisoned not more than 5 years, or both.''.

SECTION-BY-SECTION ANALYSIS—INDIAN CHILD WELFARE ACT AMENDMENTS OF 1996

SECTION 1. SHORT TITLE; REFERENCES

Section 1 cites the short title of the bill as the ''Indian Child Welfare Act Amendments of 1996'' and clarifies that references in the bill to amendment or repeal relate to the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

SECTION 2. EXCLUSIVE JURISDICTION

Section 2 adds a provision to 25 U.S.C. 1911(a) to clarify that an Indian tribe retains exclusive jurisdiction over any child otherwise made a ward of the tribal court when the child subsequently changes residence or domicile for treatment or other purposes.

SECTION 3. INTERVENTION IN STATE COURT PROCEEDINGS

Section 3 makes a conforming technical amendment conditioning an Indian tribe's existing right of intervention under 25 U.S.C. 1911(c) to the time limitations added by Section 8 of the bill.

SECTION 4. VOLUNTARY TERMINATION OF PARENTAL RIGHTS

Section 4 amends 25 U.S.C. 1913(a) to clarify that the Act applies to voluntary consents in adoptive, preadoptive and foster care placements. In addition, Section 4 adds a requirement that the presiding judge certify that any attorney or public or private agency facilitating the voluntary termination of parental rights or adoptive placement has informed the birth parents of the placement options available and of the applicable provisions of the Indian Child Welfare Act, and has certified that the birth parents will be notified within 10 days of any change in the adoptive placement. An Indian custodian vested with legal authority to consent to an adoptive placement is to be treated as a parent for purposes of these amendments, including the requirements governing notice provided or received and consent given or revoked.

SECTION 5. WITHDRAWAL OF CONSENT

Section 5 amends the Act by adding several new paragraphs to 25 U.S.C. 1913(b). The additional paragraphs would set limits on when an Indian birth parent may withdraw his or her consent to an adoption. Paragraph (2) would permit revocation of parental consent in only two instances before a final decree of adoption is entered except as provided in paragraph (4). First, a birth parent could revoke his or her consent if the original placement specified by the birth parent terminates before a final decree of adoption has been entered. Second, a birth parent could revoke his or her consent if the revocation is made before the end of a 30 day period that begins on the day that parent received notice of the commencement of the adoption proceeding or before the end of a 180 day period that begins on the day the Indian tribe has received notice of the adoptive placement, whichever period ends first. Paragraph (3) provides that upon the effective revocation of consent by a birth parent under the terms of paragraph (2), the child shall be returned to that birth parent. Paragraph (4) requires that if a birth parent has not revoked his or her consent within the time frames set forth in paragraph (2), thereafter he or she may revoke consent only pursuant to applicable State law or upon a finding by a court of competent jurisdiction that the consent was obtained through fraud or duress. Paragraph (5) provides that upon the effective revocation of consent by a birth parent under the terms of paragraph (4)(B), the child shall be returned to that birth parent and the decree vacated. Paragraph (6) provides that no adoption that has been in effect for a period of longer than or equal to two years can be invalidated under any of the conditions set forth in this section, including those related to a finding of duress or fraud.

SECTION 6. NOTICE TO INDIAN TRIBES

Section 6 requires notice to be provided to the Indian tribe by any person seeking to secure the voluntary placement of an Indian child or the voluntary termination of the parental rights of a parent of an Indian child. The notice must be provided no later than 100 days after a foster care placement occurs, no later than five days after a preadoptive or adoptive placement occurs, no later than ten days after the commencement of a proceeding for the termination of parental rights, and no later than ten days after the commencement of an adoption proceeding. Notice may be given prior to the birth of an Indian child if a particular placement is contemplated. If an Indian birth parent is discovered after the applicable notice periods have otherwise expired, despite a reasonable inquiry having been made on or before the commencement of the placement about whether the child may be an Indian child, the time limitations placed by Section 8 upon the rights of an Indian tribe to intervene apply only if the party discovering the Indian birth parent provides notice to the Indian tribe under this section not later than ten days after making the discovery.

SECTION 7. CONTENT OF NOTICE

Section 7 requires that the notice provided under Section 6 include the name of the Indian child involved and the actual or anticipated date and place of birth of the child, along with an identification, if known after reasonable inquiry, of the Indian parent, grandparent, and extended family members of the Indian child. The notice must also provide information on the parties and court proceedings pending in State court. The notice must inform the Indian tribe that it may have the right to intervene in the court proceeding, and must inquire whether the Indian tribe intends to intervene or waive its right to intervene. Finally, the notice must state that if the Indian tribe fails to respond by the statutory deadline, the right of that Indian tribe to intervene will be considered to have been waived.

SECTION 8. INTERVENTION BY INDIAN TRIBE

Section 8 adds four new subsections to 25 U.S.C. 1913, which would limit the right of an Indian tribe to intervene in a court proceeding involving foster care placement or termination of parental rights and which would authorize voluntary agreements for enforceable rights of visitation.

Under subsection (e), an Indian tribe could intervene in a voluntary proceeding to terminate parental rights only if it has filed a notice of intent to intervene or a written objection not later than 30 days after receiving the notice required by Sections 6 and 7. An Indian tribe could intervene in a voluntary adoption proceeding only if it has filed a notice of intent to intervene or a written objection not later than the later of 90 days after receiving notice of the adoptive placement or 30 days after receiving notice of the adoption proceeding pursuant to sections 6 and 7. If these notice requirements are not complied with, the Indian tribe could intervene at any time. However, an Indian tribe may no longer intervene in a proceeding after it has provided written notice to a State court of its intention not to intervene or of its determination that neither the child nor any birth parent is a member of that Indian tribe. Finally, subsection (e) would require that an Indian tribe accompany a motion for intervention with a certification that documents the tribal membership or eligibility for membership of the Indian child under applicable tribal law.

Subsection (f) would clarify that the act or failure to act of an Indian tribe to intervene or not intervene under subsection (e) shall not affect any placement preferences or other rights accorded to individuals under the Act, nor may this preclude an Indian tribe from intervening in a case in which a proposed adoptive placement is changed.

Subsection (g) would prohibit any court proceeding involving the voluntary termination of parental rights or adoption of an Indian child from being conducted before the date that is 30 days after the Indian tribe has received notice under sections 6 and 7.

Subsection (h) would authorize courts to approve, as part of the adoption decree of an Indian child, a voluntary agreement made by an adoptive family that a birth parent, a member of the extended family, or the Indian tribe will have an enforceable right of visitation or continued contact after entry of the adoption decree. However, failure to comply with the terms of such agreement may not be considered grounds for setting aside the adoption decree.

SECTION 9. FRAUDULENT REPRESENTATION

Section 9 would add a new section 114 to the Indian Child Welfare Act that would apply criminal sanctions to any person other than a birth parent who—(1) knowingly and willfully falsifies, conceals, or covers up a material fact concerning whether, for purposes of the Act, a child is an Indian child or a parent is an Indian; or (2) makes any false or fraudulent statement, omission, or representation, or falsifies a written document knowing that the document contains a false or fraudulent statement or entry relating to a material fact described in (1). Upon conviction of an initial violation, a person shall be subjected to the fine prescribed in 18 U.S.C. 3571 for a Class A misdemeanor (not more than $100,000), imprisonment for not more than 1 year, or both. Upon conviction of any subsequent violation, a person shall be subjected to the fine prescribed in 18 U.S.C. 3751 for a felony (not more than $250,000), imprisonment for not more than 5 years, or both.

JULY 16, 1996.

Hon. JOHN MCCAIN,

Chairman, Senate Indian Affairs Committee, Washington, DC

DEAR CHAIRMAN MCCAIN: Thank you for your swift attention and hard work on the issue of the Indian Child Welfare Act (ICWA) as it relates to adoption.

I have reviewed a draft of the legislation you plan to introduce to amend the ICWA and, after careful consideration, have decided that I can lend the bill my qualified support. As you know, your legislation offers

a much different approach to reform of the ICWA than what I prefer and what was passed by the House, your changes being procedural and mine substantive. I believe, however, the procedural reforms will help to facilitate compliance with the ICWA and prevent some of the adoption tragedies that have occurred under the current Act.

Further, I appreciate your willingness to address some of my concerns by incorporating protections for adoptive parents in cases where there is no disclosure or knowledge of a child's Native American heritage. These provisions are necessary in situations like that of the Rost family of Columbus, Ohio. The Rosts were unaware of the Native American ancestry of their twin adoptive daughters because that information was withheld by the birth parents.

While I believe the reforms in your bill are useful, I still feel that additional reforms are necessary to address the underlying and fundamental problems with the ICWA as it relates to adoption. The definition and jurisdiction problems involved in the application of the ICWA remain unsolved, as it is still unclear to whom this Act should apply. More and more frequently, the courts are deciding that application of the ICWA based on race alone is unconstitutional. I believe it would be desirable for your committee to address this issue at some point, or the legitimate purpose of the ICWA—to preserve the Indian family and culture—may be lost with the Act's eventual demise.

However, at this point, I support your legislation, recognizing that it has the support of Native Americans, adoption attorneys, and the Rost family. In my view, this legislation represents a step toward ICWA reform that will provide stability and security to the adoption process and more importantly decrease the likelihood of adoption tragedies.

Thank you for your consideration of my views and for your hard work to develop a solution to some of the problems that the ICWA poses as currently applied. I look forward to continuing to work with you on this issue as we monitor the implementation of the changes purposed by your legislation.

Very truly yours,

DEBORAH PRYCE,
Member of Congress.

Mr. INOUYE. Mr. President, the Indian Child Welfare Act was enacted by the Congress in 1978 to secure long overdue protection for Indian children. In enacting the Indian Child Welfare Act, the Congress was concerned not only with the removal of Indian children from their families, but also their removal from their Indian heritage, culture, and identity.

For the past 18 years, the Indian Child Welfare Act has served as a ray of hope and promise to Indian people striving to protect their children and the security and integrity of their families and tribal communities.

While there is much debate about whether or not amendments are needed to the Indian Child Welfare Act, I have great respect for the leaders of the tribal governments who have come together to address the concerns of others notwithstanding the fact that these amendments will affect their most precious resource—the children of the native people of America.

I wish to take this opportunity to make it clear to my colleagues that the amendments contained in this bill are intended to and will apply to all child custody proceedings affecting Indian children and their families.

Mr. GLENN. Mr. President, I am pleased to join Senator MCCAIN as an original cosponsor of this legislation to amend the Indian Child Welfare Act [ICWA]. By clarifying and improving a number of provisions of ICWA, this legislation brings more stability and certainty to Indian child adoptions while preserving the underlying policies and objectives of ICWA. This bill embodies the consensus agreement reached when Indian tribes from around the Nation met in Tulsa, OK, to address questions regarding ICWA's application. Mr. President, I believe that the overriding goal of this agreement, which I support, is to serve the best interests of children.

The bill being introduced today deals with several issues critical to the application of ICWA to child custody proceedings including notice to Indian tribes for voluntary adoptions, time lines for tribal intervention in voluntary cases, criminal sanctions to discourage fraudulent practices in Indian adoptions and a mandate that attorneys and adoption agencies must inform Indian parents under ICWA. I believe that the formal notice requirements to the potentially affected tribe as well as the time limits for tribal intervention after the tribe has been notified are significant improvements in providing needed certainty in placement proceedings.

Mr. President, I am also pleased that this legislation contains provisions addressing my specific concern: the retroactive application of ICWA in child custody proceedings. ICWA currently allows biological parents to withdraw their consent to an adoption for up to 2 years until the adoption is finalized. With the proposed changes, the time that the biological parents may withdraw their consent under ICWA is substantially reduced. I believe that a shorter deadline provides greater certainty for the potential adoptive family, the Indian family, the tribe, and the extended family. This certainty is vital for the preservation of the interest of the child.

Mr. President, my concern with this issue and my insistence on the need to address the problem of retroactive application of ICWA was a direct response to a situation with a family in Columbus, OH. The Rost family of Columbus received custody of twin baby girls in the State of California in November 1993, following the relinquishment of parental rights by both birth parents. The biological father did not disclose his native American heritage in response to a specific question on the relinquishment document. In February 1994, the birth father informed his mother of the pending adoption of the twins. Two months later, in April 1994, the birth father's mother enrolled herself, the birth father, and the twins with the Pomo Indian tribe in California. The adoption agency was then notified that the adoption could not be finalized without a determination of the applicability of ICWA.

The Rost situation made me aware of the harmful impact that retroactive application of ICWA could have on children. While I would have preferred tighter restrictions to preclude other families enduring the hardships the Rosts have experienced, I appreciated the efforts of Senator MCCAIN, other members of the Committee and the Indian tribes to address these concerns. I believe that the combination of measures contained in this bill will significantly lessen the possibility of future Rost cases. Taken together the imposition of criminal sanctions for attorneys and adoption agencies that knowingly violate ICWA, the imposition of formal notice requirements and the imposition of deadlines for tribal intervention, provide new protections in law for children and families involved in child custody proceedings.

Mr. President, I have reviewed the Rost case to reiterate that my interest in reforming ICWA has been limited to the issue of retroactive application. I have no intention to weaken ICWA protection, to narrow the designation of individuals as members of an Indian tribe, or to change any tribes' ability to determine its membership or what constitutes that membership. Once a voluntary legal agreement has been entered into, I do not believe that it is in the best interest of the child for this proceeding to be disrupted because of the retroactive application of ICWA. To allow this to happen could have a harmful impact on the child. I know that my colleagues share my overriding concern in assuring the best interest of children.

Mr. President, I look forward to continued efforts to reform ICWA in ways that protect the best interest of children. I appreciate the work of Senator MCCAIN and others to accommodate my concerns in this legislation and am pleased to cosponsor the bill.

ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 773

At the request of Mrs. KASSEBAUM, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 773, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

S. 794

At the request of Mr. LUGAR, the name of the Senator from Kansas [Mrs. FRAHM] was added as a cosponsor of S. 794, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to facilitate the minor use of a pesticide, and for other purposes.

S. 1233

At the request of Ms. MIKULSKI, the names of the Senator from Montana [Mr. BAUCUS] and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 1233, a bill to assure equitable coverage and treatment of emergency services under health plans.

S. 1483

At the request of Mr. KYL, the name of the Senator from Kansas [Mrs. FRAHM] was added as a cosponsor of S. 1483, a bill to control crime, and for other purposes.

S. 1506

At the request of Mr. ABRAHAM, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 1506, a bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes.

S. 1632

At the request of Mr. LAUTENBERG, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1632, a bill to prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, and for other purposes.

S. 1651

At the request of Mr. WARNER, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1651, 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.

S. 1735

At the request of Mr. PRESSLER, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1735, a bill to establish the United States Tourism Organization as a nongovernmental entity for the purpose of promoting tourism in the United States.

S. 1756

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1756, a bill to provide additional pension security for spouses and former spouses, and for other purposes.

S. 1838

At the request of Mr. FAIRCLOTH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1838, a bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the centennial anniversary of the first manned flight of Orville and Wilbur Wright in Kitty Hawk, NC, on December 17, 1903.

S. 1898

At the request of Mr. DOMENICI, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 1898, a bill to protect the genetic privacy of individuals, and for other purposes.

S. 1911

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1911, a bill to amend the Internal Revenue Code of 1986 to encourage economic development through the creation of additional empowerment zones and enterprise communities and to encourage the cleanup of contaminated brownfield sites.

S. 1929

At the request of Mr. WELLSTONE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1929, a bill to extend the authority for the homeless veterans' reintegration projects for fiscal years 1997 through 1999, and for other purposes.

S. 1936

At the request of Mr. CRAIG, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Vermont [Mr. JEFFORDS], the Senator from New Hampshire [Mr. SMITH], the Senator from Virginia [Mr. WARNER], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Arizona [Mr. KYL], the Senator from Virginia [Mr. ROBB], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 1936, a bill to amend the Nuclear Waste Policy Act of 1982.

SENATE JOINT RESOLUTION 52

At the request of Mr. KYL, the name of the Senator from Kansas [Mrs. FRAHM] was added as a cosponsor of Senate Joint Resolution 52, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crimes.

AMENDMENT NO. 4446

At the request of Mr. SIMON, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of amendment No. 4446 intended to be proposed to S. 1894, an original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 4575

At the request of Mr. SPECTER, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of amendment No. 4575 intended to be proposed to S. 1894, an original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENTS SUBMITTED

THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1997

LEVIN AMENDMENTS NOS. 4579–4580

(Ordered to lie on the table.)

Mr. LEVIN submitted two amendments intended to be proposed by him to the bill (S. 1894) making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes; as follows:

AMENDMENT NO. 4579

On page 26, line 10, strike out ''$6,630,370,000'' and insert in lieu thereof ''$6,582,370,000''.

On page 34, between lines 19 and 20, insert the following:

ANTI-TERRORISM ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For anti-terrorism activities of the Department of Defense, $14,000,000 for transfer to appropriations available to the Department of Defense for operation and maintenance, for procurement, and for research, development, test, and evaluation: *Provided,* That the funds appropriated under this heading shall be available for obligation for the same period and for the same purposes as the appropriation to which transferred: *Provided further,* That the transfer authority provided under this heading is in addition to any other transfer authority contained in this Act.

On page 88, between lines 7 and 8, insert the following:

SEC. 8099. Beginning with fiscal year 1997, the Secretary of Defense shall establish a program element for the Office of the Secretary of Defense for the purpose of funding emergency anti-terrorism activities. Funds available for that program element for fiscal year 1997 shall be in addition to funds appropriated under other provisions of this Act for anti-terrorism and are available for the Secretary of Defense to respond quickly to emergency anti-terrorism requirements that are identified by commanders of the unified combatant commands or commanders of joint task forces in response to a change in terrorist threat level.

SEC. 8100. None of the funds appropriated under title III of this Act may be obligated or expended for more than six new production F–16 aircraft.

AMENDMENT NO. 4580

On page 26, line 10, strike out ''$6,630,370,000'' and insert in lieu thereof ''$6,582,370,000''.

On page 34, between lines 19 and 20, insert the following:

ANTI-TERRORISM ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For anti-terrorism activities of the Department of Defense, $14,000,000 for transfer to appropriations available to the Department of Defense for operation and maintenance, for procurement, and for research, development, test, and evaluation: *Provided,* That the funds appropriated under this heading shall be available for obligation for the same period and for the same purposes as the appropriation to which transferred: *Provided further,* That the transfer authority provided under this heading is in addition to any other transfer authority contained in this Act.

On page 88, between lines 7 and 8, insert the following:

SEC. 8099. It is the sense of the Congress that (1) beginning with fiscal year 1997, the Secretary of Defense should establish a program element for the Office of the Secretary of Defense for the purpose of funding emergency anti-terrorism activities, (2) funds appropriated for that program element should be in addition to other funds available under this Act for anti-terrorism, and (3) the funds appropriated for that program element should be available for the Secretary of Defense to respond quickly to emergency anti-terrorism requirements that are identified

by commanders of the unified combatant commands or commanders of joint task forces in response to a change in terrorist threat level.

SEC. 8100. None of the funds appropriated under title III of this Act may be obligated or expended for more than six new production F–16 aircraft.

GRAMM AMENDMENTS NOS. 4581–4582

(Ordered to lie on the table.)

Mr. GRAMM submitted two amendments intended to be proposed by him to the bill, S. 1894, supra; as follows:

AMENDMENT NO. 4581

Strike all after the first word and insert the following:

SEC. . Of the funds appropriated in title II of this act, not less than $7.1 million shall be available only to perform the environmental impact statement and associated baseline studies necessary to prepare an application for renewal of use of the McGregor Range at Fort Bliss, Texas.

AMENDMENT NO. 4582

At the appropriate place add the following: Of the funds appropriated in title II of this act, not less than $7.1 million shall be available only to perform the environmental impact statement and associated baseline studies necessary to prepare an application for renewal of use of the McGregor Range at Fort Bliss, Texas.

LEVIN AMENDMENTS NOS. 4583–4586

(Ordered to lie on the table.)

Mr. GRAMM submitted four amendments intended to be proposed by him to the bill, S. 1894, supra; as follows:

AMENDMENT NO. 4583

On page 88, between lines 7 and 8, insert the following:

SEC. 8009. Beginning with fiscal year 1997, the Secretary of Defense shall establish a program element for the Office of the Secretary of Defense for the purpose of funding emergency anti-terrorism activities. Funds available for that program element for fiscal year 1997 shall be in addition to funds appropriated under other provisions of this Act for anti-terrorism and are available for the Secretary of Defense to respond quickly to emergency anti-terrorism requirements that are identified by commanders of the unified combatant commands or commanders of joint task forces in response to a change in terrorist threat level.

SEC. 8100. None of the funds appropriated under title III of this Act may be obligated or expended for more than six new production F–16 aircraft.

AMENDMENT NO. 4584

On page 88, between lines 7 and 8, insert the following:

SEC. 8099. It is the sense of the Congress that (1) beginning with fiscal year 1997, the Secretary of defense should establish a program element for the Office of the Secretary of Defense for the purpose of funding emergency anti-terrorism activities, (2) funds appropriated for that program element should be in addition to other funds available under this Act for anti-terrorism, and (3) the funds appropriated for that program element should be available for the Secretary of Defense to respond quickly to emergency anti-terrorism requirements that are identified by commanders of the unified combatant commands or commanders of joint task forces in response to a change in terrorist threat level.

SEC. 8100. None of the funds appropriated under title III of this Act may be obligated or expended for more than six new production F–16 aircraft.

AMENDMENT NO. 4585

On page 34, between lines 19 and 20, insert the following:

ANTI-TERRORISM ACTIVITIES DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For anti-terrorism activities of the Department of Defense, $14,000,000 for transfer to appropriations available to the Department of Defense for operation and maintenance, for procurement, and for research, development, test, and evaluation: *Provided,* That the funds appropriated under this heading shall be available for obligation for the same period and for the same purposes as the appropriation to which transferred: *Provided further,* That the transfer authority provided under this heading is in addition to any other transfer authority contained in this Act.

AMENDMENT NO. 4586

On page 26, line 10, strike out ''$6,630,370,000'' and insert in lieu thereof ''$6,582,370,000''.

THE FAIR LABOR STANDARDS ACT OF 1938 CHILD LABOR PROVISION AUTHORIZATION ACT OF 1996

HARKIN (AND CRAIG) AMENDMENT NO. 4587

Mr. LOTT (for Mr. HARKIN, for himself and Mr. CRAIG) proposed an amendment to the bill (H.R. 1114) to authorize minors who are under the child labor provisions of the Fair Labor Standards Act of 1938 and who are under 18 years of age to load materials into balers and compactors that meet appropriate American National Standards Institute design safety standards; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORITY FOR 16- AND 17-YEAR-OLDS TO LOAD MATERIALS INTO SCRAP PAPER BALERS AND PAPER BOX COMPACTORS.

Section 13(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(c)) is amended by adding to the end thereof the following new paragraph:

''(5)(A) In the administration and enforcement of the child labor provisions of this Act, employees who are 16 and 17 years of age shall be permitted to load materials into, but not operate or unload materials from, scrap paper balers and paper box compactors—

''(i) that are safe for 16- and 17-year-old employees loading the scrap paper balers or paper box compactors; and

''(ii) that cannot be operated while being loaded.

''(B) For purposes of subparagraph (A), scrap paper balers and paper box compactors shall be considered safe for 16- or 17-year-old employees to load only if—

''(i)(I) the scrap paper balers and paper box compactors meet the American National Standards Institute's Standard ANSI Z245.5–1990 for scrap paper balers and Standard ANSI Z245.2–1992 for paper box compactors; or

''(II) the scrap paper balers and paper box compactors meet an applicable standard that is adopted by the American National Standards Institute after the date of enactment of this paragraph and that is certified by the Secretary to be at least as protective of the safety of minors as the standard described in subclause (I);

''(ii) the scrap paper balers and paper box compactors include an on-off switch incorporating a key-lock or other system and the control of the system is maintained in the custody of employees who are 18 years of age or older;

''(iii) the on-off switch of the scrap paper balers and paper box compactors is maintained in an off position when the scrap paper balers and paper box compactors are not in operation; and

''(iv) the employer of 16- and 17-year-old employees provides notice, and posts a notice, on the scrap paper balers and paper box compactors stating—

''(I) the scrap paper balers and paper box compactors meet the applicable standard described in clause (i);

''(II) 16- and 17-year-old employees may only load the scrap paper balers and paper box compactors; and

''(III) any employee under the age of 18 may not operate or unload the scrap paper balers and paper box compactors.

The Secretary shall publish in the Federal Register a standard that is adopted by the American National Standards Institute for scrap paper balers or paper box compactors. and certified by the Secretary to be protective of the safety of minors under clause (i)(II).

''(C)(i) Employers shall prepare and submit to the Secretary reports—

''(I) on any injury to an employee under the age of 18 that requires medical treatment (other than first aid) resulting from the employee's contact with a scrap paper baler or paper box compactor during the loading, operation, or unloading of the baler or compactor; and

''(II) on any fatality of an employee under the age of 18 resulting from the employee's contact with a scrap paper baler or paper box compactor during the loading, operation, or unloading of the baler or compactor.

''(ii) The reports described in clause (i) shall be used by the Secretary to determine whether or not the implementation of subparagraph (A) has had any effect on the safety of children.

''(iii) The reports described in clause (i) shall provide—

''(I) the name, telephone number, and address of the employer and the address of the place of employment where the incident occurred;

''(II) the name, telephone number, and address of the employee who suffered an injury or death as a result of the incident;

''(III) the date of the incident;

''(IV) a description of the injury and a narrative describing how the incident occurred; and

''(V) the name of the manufacturer and the model number of the scrap paper baler or paper box compactor involved in the incident.

''(iv) The reports described in clause (i) shall be submitted to the Secretary promptly, but not later than 10 days after the date on which an incident relating to an injury or death occurred.

''(v) The Secretary may not rely solely on the reports described in clause (i) as the basis for making a determination that any of the employers described in clause (i) has violated a provision of section 12 relating to oppressive child labor or a regulation or order issued pursuant to section 12. The Secretary shall, prior to making such a determination, conduct an investigation and inspection in accordance with section 12(b).

''(vi) The reporting requirements of this subparagraph shall expire 2 years after the date of enactment of this subparagraph.''.

SEC. 2. CIVIL MONEY PENALTY.

Section 16(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(e)) is amended in the first sentence—

(1) by striking ''section 12,'' and inserting ''section 12 or section 13(c)(5),''; and

(2) by striking ''that section'' and inserting ''section 12 or section 13(c)(5)''.

SEC. 3. CONSTRUCTION.

Section 1 shall not be construed as affecting the exemption for apprentices and student learners published in section 570.63 of title 29, Code of Federal Regulations.

THE IRAN OIL SANCTIONS ACT OF 1996

KENNEDY (AND D'AMATO) AMENDMENT NO. 4588

Mr. LOTT (for Mr. KENNEDY, for himself and Mr. D'AMATO) proposed an amendment to the bill (H.R. 3107) to impose sanctions on persons exporting certain goods or technology that would enhance Iran's ability to explore for, extract, refine, or transport by pipeline petroleum resources, and for other purposes; as follows:

On page 7, line 8, strike all through page 8, line 20 and insert:

(b) MANDATORY SANCTIONS WITH RESPECT TO LIBYA.—

(1) VIOLATIONS OF PROHIBITED TRANSACTIONS.—Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, with actual knowledge, on or after the date of the enactment of this Act, exported, transferred, or otherwise provided to Libya any goods, services, technology, or other items the provision of which is prohibited under paragraph 4(b) or 5 of Resolution 748 of the Security Council of the United Nations, adopted March 31, 1992, or under paragraph 5 or 6 of Resolution 883 of the Security Council of the United Nations, adopted November 11, 1993, if the provision of such items significantly and materially—

(A) contributed to Libya's ability to acquire chemical, biological, or nuclear weapons or destabilizing numbers and types of advanced conventional weapons or enhanced Libya's military or paramilitary capabilities;

(B) contributed to Libya's ability to develop its petroleum resources; or

(C) contributed to Libya's ability to maintain its aviation capabilities.

(2) INVESTMENTS THAT CONTRIBUTE TO THE DEVELOPMENT OF PETROLEUM RESOURCES.—Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, with actual knowledge, on or after the date of the enactment of this Act, made an investment of $40,000,000 or more (or any combination of investments of at least $10,000,000 each, which in the aggregate equals or exceeds $40,000,000 in any 12-month period), that directly and significantly contributed to the enhancement of Libya's ability to develop its petroleum resources.

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce that a hearing before the Committee on Energy and Natural Resources to receive testimony on S. 1920, a bill to amend the Alaska National Interest Lands Conservation Act, and for other purposes, has been cancelled.

The hearing was scheduled to take place Wednesday, July 17, 1996, at 9:30 a.m. in room SD—366 of the Dirksen Senate Office Building in Washington, DC.

I plan to reschedule this hearing at a later date. For further information, please contact Brain Malnak or Jo Meuse.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. Speaker, I would like to announce for the public that an oversight hearing has been scheduled from the Subcommittee on Forests and Public Land Management.

The hearing will take place Tuesday, July 30, 1996, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on the conditions that have made the national forests in Arizona susceptible to catastrophic fires and disease.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Judy Brown or Mark Rey.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, July 16, at 2 p.m., for a hearing on S. 1629, the Tenth Amendment Enforcement Act of 1996.

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

COMMITTEE ON THE JUDICIARY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, July 16, at 10:30 a.m., to hold an executive business meeting.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, July 16, 1996, at 9:30 a.m. until business is completed, to hold a hearing on ''Public Access to Government Information in the 21st Century, Title 44/GPO.''

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

SUBCOMMITTEE ON AGING

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources Subcommittee on Aging be authorized to meet for a hearing on ''Proposals for Reform: Ensuring Our Workers' Retirement Security'' during the session of the Senate on Tuesday, July 16, 1996, at 9 a.m.

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

SUBCOMMITTEE ON INVESTIGATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, July 16, to hold hearings on security in cyberspace.

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

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 16, 1996, at 2 p.m. to hold a hearing.

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

ADDITIONAL STATEMENTS

CHURCH ARSON PREVENTION ACT

• Mr. FAIRCLOTH. Mr. President, last week at the White House, the President held a ceremony to thank the Congress for acting swiftly on legislation to make it a Federal crime to burn a church.

H.R. 3525 passed the House on June 18, 1996 by a vote of 422 to 0. The Senate approved a broader bill on June 26, 1996 by a vote of 98–0. The House passed the Senate version on June 27, 1996 by unanimous consent.

Due to the compelling need to pass legislation, House and Senate Democrats and Republicans met on a bipartisan basis where the differences between the two bills were reconciled. Because of the speed with which we acted, there was little time to prepare a statement of the conferees.

In lieu of a conference report, I ask that this statement of managers be printed in the RECORD, and be made part of the legislative history of H.R. 3525.

The statement follows:

JOINT STATEMENT OF FLOOR MANAGERS REGARDING H.R. 3525, THE CHURCH ARSON PREVENTION ACT OF 1996

(By: Senators Faircloth and Kennedy, and Congressmen Hyde and Conyers)

I. INTRODUCTION

Recently, the entire Nation has watched in horror and disbelief as an epidemic of church arsons has gripped the Nation. The wave of arsons, many in the South, and a large number directed at African American churches, is simply intolerable, and has provoked a strong outcry from Americans of all races and religious backgrounds.

Congress has responded swiftly and in a bipartisan fashion to this troubling spate of arsons. On May 21, 1996, the House Judiciary Committee held an oversight hearing focusing on the problem of church fires in the

Southeast. Two days later, on May 23, Chairman Hyde and Ranking Member Conyers introduced H.R. 3525, the Church Arson Prevention Act of 1996. H.R. 3525 was passed by the House of Representatives on June 18, 1996, by a vote of 422–0. On June 19, 1996, the Senate introduced a companion bill, S. 1890.

In the interests of responding swiftly to this pressing national problem, Congressman Henry Hyde and Congressman John Conyers, the original authors of the bill in the House of Representatives, and Senator Lauch Faircloth and Senator Edward Kennedy, the original authors of the bill in the Senate, with the cooperation and assistance of the Chairman and Ranking Member of the Senate Judiciary Committee, have crafted a bipartisan bill that combines portions of H.R. 3525, as passed on June 18, 1996 by the House of Representatives, and S. 1890, as introduced in the Senate on June 19, 1996. On June 26, 1996, an amendment in the form of substitute to H.R. 3525 was introduced in the Senate, and passed by a 98–0 vote. This substitute embodies the agreement that was reached between House and the Senate, on a bipartisan basis. The House of Representatives, by unanimous consent, took up and passed H.R. 3525 as amended on June 27, 1996.

This Joint Statement of Floor Managers is in lieu of a Conference report and outlines the legislative history of H.R. 3525.

II. SUMMARY OF THE LEGISLATION

The purpose of the legislation is to address the growing national problem of destruction and desecration of places of religious worship. The legislation contains five different components.

1. AMENDMENT OF CRIMINAL STATUTE RELATING TO CHURCH ARSON

Section three of the bill amends section 247 of Title 18, United States Code to eliminate unnecessary and onerous jurisdictional obstacles, and conform the penalties and statute of limitation with those under the general Federal arson statute, Title 18, United States Code, Section 844(i). Section two contains the Congressional findings that establish Congress' authority to amend section 247.

2. AUTHORIZATION FOR LOAN GUARANTEES

Section four gives authority to the Department of Housing and Urban Development to use up to $5,000,000 from an existing fund to extend loan guarantees to financial institutions who make loans to organizations defined in Title 26, Section 501(c)(3), United States Code, that have been damaged as a result of acts of arson or terrorism, as certified by procedures to be established by the Secretary of Housing and Urban Development.

3. ASSISTANCE FOR VICTIMS WHO SUSTAIN INJURY

Section five amends Section 1403(d)(3) of the Victim of Crime Act to provide that individuals who suffer death or personal injury in connection with a violation described in Title 18, United States Code, Section 247, are eligible to apply for financial assistance under the Victims of Crime Act.

4. AUTHORIZATION OF FUNDS FOR THE DEPARTMENT OF THE TREASURY AND THE DEPARTMENT OF JUSTICE

Section six authorizes funds to the Department of Justice, including the Community Relations Service, and the Department of the Treasury to hire additional personnel to investigate, prevent and respond to possible violations of Title 18, United States Code, Sections 247 and 844(i). This provision is not intended to alter, expand or restrict the respective jurisdictions or authority of the Department of the Treasury and the Federal Bureau of Investigation relating to the investigation of suspicious fires at places of religious worship.

5. REAUTHORIZATION OF THE HATE CRIMES STATISTICS ACT

Section seven reauthorizes the Hate Crimes Statistics Act through 2002.

6. SENSE OF THE CONGRESS

Section eight embodies the sense of the Congress commending those individuals and entities that have responded to the church arson crisis with enormous generosity. The Congress encourages the private sector to continue these efforts, so that the rebuilding process will occur with maximum possible participation from the private sector.

III. AMENDMENT TO TITLE 18, UNITED STATES CODE, SECTION 247

Section 3 of H.R. 3525, as passed by the Senate and the House, amends section 247 in a number of ways.

1. EXPANSION OF FEDERAL JURISDICTION TO PROSECUTE ACTS OF DESTRUCTION OR DESECRATION OF PLACES OF RELIGIOUS WORSHIP

The bill replaces subsection (b) with a new interstate commerce requirement, which broadens the scope of the statute by applying criminal penalties if the ''offense is in or affects interstate or foreign commerce.'' H.R. 3525 also adds a new subsection (c), which provides that: ''whoever intentionally defaces, damages or destroys any religious real property because of the race, color, or ethnic characteristics of any individual associated with that religious property, or attempts to do so,'' is guilty of a crime. Section two of H.R. 3525 contains the Congressional findings which establish Congress' authority to amend section 247.

The new interstate commerce language in subsection (b) is similar to that in the general Federal arson statute, Title 18, United States Code, Section 844(i), which affords the Attorney General broad jurisdiction to prosecute conduct which falls within the interstate commerce clause of the Constitution.

Under this new formulation of the interstate commerce requirement, the Committee intends that the interstate commerce requirement is satisfied, for example, where in committing, planning, or preparing to commit the offense, the defendant either travels in interstate or foreign commerce, or uses the mail or any facility or instrumentality of interstate commerce. The interstate commerce requirement would also be satisfied if the real property that is damaged or destroyed is used in activity that is in or affects interstate commerce. Many of the places of worship that have been destroyed serve multiple purposes in addition to their sectarian purpose. For example, a number of places of worship provide day care services, or a variety of other social services.

These are but a few of the many factual circumstances that would come within the scope of H.R. 3525's interstate commerce requirement, and it is the intent of the Congress to exercise the fullest reach of the Federal commerce power.

The floor managers are aware of the Supreme Court's ruling in *United States* v. *Lopez*, 115 S.Ct. 1624 (1995), in which the Court struck down as unconstitutional legislation which would have regulated the possession of firearms in a school zone. In Lopez, the Court found that the conduct to be regulated did not have a substantial effect upon interstate commerce, and therefore was not within the Federal Government's reach under the interstate commerce clause of the Constitution.

Subsection (b), unlike the provision at issue in Lopez, requires the prosecution to prove an interstate commerce nexus in order to establish a criminal violation. Moreover, H.R. 3525 as a whole, unlike the Act at issue in Lopez, does not involve Congressional intrusion upon ''an area of traditional state concern.'' 115 S.Ct. at 1640 (KENNEDY, J. concurring). The Federal Government has a longstanding interest in ensuring that all Americans can worship freely without fear of violent reprisal. This Federal interest is particularly compelling in light of the fact that a large percentage of the arsons have been directed at African-American places of worship.

Congress also has the authority to add new subsection (c) to section 247 under the Thirteenth Amendment to the Constitution, an authority that did not exist in the context of the Gun Free School Zones Act. Section 1 of the Thirteenth Amendment prohibits slavery or involuntary servitude. Section 2 of the Amendment states that ''Congress shall have the power to enforce this article by appropriate legislation.'' In interpreting the Amendment, the Supreme Court has held that Congress may reach private conduct, because it has the ''power to pass all laws necessary and proper for abolishing all badges and incidents of slavery in the United States.'' *Jones* v. *Alfred H. Mayer Co.*, 392 U.S. 409, 439 (1968). *See also Griffin* v. *Breckinridge*, 403 U.S. 88 (1971). The racially motivated destruction of a house of worship is a ''badge or incident of slavery'' that Congress has the authority to punish in this amendment to section 247.

Section two of H.R. 3525 sets out the Congressional findings that establish Congressional authority under the commerce clause and the Thirteenth Amendment to amend section 247.

In replacing subsection (b) of section 247, H.R. 3525 also eliminates the current requirement of subsection (b)(2) that, in the case of an offense under subsection (a)(1), the loss resulting from the defacement, damage, or destruction be more than $10,000. This will allow for the prosecution of cases involving less affluent congregations where the church building itself is not of great monetary value. It will also enhance Federal prosecution of cases of desecration, defacement or partial destruction of a place of religious worship. Incidents such as spray painting swastikas on synagogues, or firing gunshots through church windows, are serious hate crimes that are intended to intimidate a community and interfere with the freedom of religious expression. For this reason, the fact that the monetary damage caused by these heinous acts may be de minimis should not prevent their prosecution as assaults on religious freedom under this section.

H.R. 3525 also amends section 247 by adding a new subsection (c), which criminalizes the intentional destruction or desecration of religious real property ''because of the race, color or ethnic characteristics of any individual associated with that property.'' This provision will extend coverage of the statute to conduct which is motivated by racial or ethnic animus. Thus, for example, in the event that the religious real property of a church is damaged or destroyed by someone because of his or her hatred of its African American congregation, section 247 as amended by H.R. 3525 would permit prosecution of the perpetrator.

H.R. 3525 also amends the definition of ''religious real property'' to include ''fixtures or religious objects contained within a place of religious worship.'' There have been cases involving desecration of torahs inside a synagogue, or desecration of portions of a tabernacle within a place of religious worship. These despicable acts strike at the heart of congregation, and this amendment will ensure that such acts can be prosecuted under section 247.

2. Amendment of Penalty Provisions

H.R. 3525 amends the penalty provisions of section 247 in cases involving the destruction

or attempted destruction of a place of worship through the use of fire or an explosive. The purpose of this amendment is to conform the penalty provisions of section 247 with the penalty provisions of the general Federal arson statute, Title 18, United States Code, Section 844(i). Under current law, if a person burns down a place of religious worship (with no injury resulting), and is prosecuted under section 247, the maximum possible penalty is 10 years. However, if a person burns down an apartment building, and is prosecuted under the Federal arson statute, the maximum possible penalty is 20 years. H.R. 3525 amends section 247 to conform the penalty provisions with the penalty provisions of section 844(i). H.R. 3525 also contains a provision expanding the statute of limitations for prosecutions under section 247 from 5 to 7 years. Under current law, the statute of limitations under section 844(i) is 7 years, while the statute of limitations under section 247 is 5 years. This amendment corrects this anomaly.

IV. Severability

It is not necessary for Congress to include a specific severability clause in order to express Congressional intent that if any provision of the Act is held invalid, the remaining provisions are unaffected. S. 1890, as introduced on June 16, 1996 contained a severability clause, while the original version of H.R. 3525 which was introduced in the House did not. While the final version of H.R. 3525, as passed by the Senate and the House of Representatives, does not contain a severability clause, it is the intent of Congress that if any provision of the Act is held invalid, the remaining provisions are unaffected.●

POSSESSIONS TAX CREDIT

● Mr. BREAUX. Mr. President, last week on Tuesday, July 9, the Senate passed H.R. 3448, the Small Business Job Protection Act of 1996. I rise today to speak about the provision in that bill relating to Section 936 of the Internal Revenue Code, the Possessions Tax Credit. The Senate passed version of this legislation creates a long-term wage credit for the 150,000 employees currently working in Puerto Rico through section 936 of the code. Without question, this provision represents a major step forward for those working Americans in our poorest jurisdiction. Unfortunately, Mr. President, the House passed bill contains no such long-term incentives for the economy of Puerto Rico. I want to urge the Conferees, under the leadership of the distinguished Chairman of the Senate Finance Committee, Senator ROTH, and the distinguished ranking member, Senator MOYNIHAN, to preserve the Senate position on section 936. Also, at the earliest opportunity we should address the important issues of economic growth, new jobs, and new investments in Puerto Rico including the proposals offered by the Governor of Puerto Rico, Pedro Rossello, to replace the possessions tax credit.●

CENTRALIA HIGH SCHOOL BOYS BASKETBALL TEAM

● Mr. SIMON. Mr. President, I would like to commend the Orphans of Centralia High School of Centralia, IL, for the amazing success of their boys basketball program. They have the best winning record of any high school basketball team in the Nation, according to the 1996 edition of the National High School Sports Record Book. Since 1907, the basketball program has been dedicated to excellence on the basketball court. In this span, the Centralia High boys team has recorded 45 regional championships, 16 district titles, 16 sectional crowns, two second-, one third- and one fourth-place finish in the State tournament. With 20 wins and 6 losses during the 1995–96 season, their record now stands at 1,780–761. This is quite an achievement.

I would also like to extend my appreciation to coach Rick Moss. In the three seasons he has been coach, he has posted a 71–12 record—a record that looks a lot like the Chicago Bulls' great success of the past season. Coach Moss and his staff have done a magnificent job in preparing his team for competition.

Again, I offer my congratulations to the Centralia High School boys basketball team for achieving this feat. I look forward to seeing them maintain this winning tradition during the 1996–97 season, which will make the 90th year of the boys basketball program.●

TRIBUTE TO CMDR. JOHN J. JASKOT, U.S. COAST GUARD

● Mr. KERRY. Mr. President, I want to take this opportunity to express my sincere thanks to Cmdr. John Jaskot of the U.S. Coast Guard who has served as the Coast Guard liaison to the Senate for the past 3 years and who will retire this month from the service after a distinguished 20-year career.

John, or J.J. as he is better known, has done an outstanding job in his role of Senate liaison and has honored himself and the Coast Guard with his dedication and devotion to duty. A graduate of the U.S. Coast Guard Academy and George Washington University Law School, J.J. has served commendably as the conduit between the Senate and the Coast Guard when Coast Guard-related legislation was under development and when difficult problems involving the Coast Guard were being dealt with by Members of the Senate.

Mr. President, it is my pleasure to serve as the ranking Democratic member of the subcommittee responsible for Senate oversight of the Coast Guard, the Senate Commerce Committee's Subcommittee on Oceans and Fisheries. It is from this position that my staff and I have had the pleasure to work on a continual basis with Commander Jaskot and the Coast Guard. Therefore, I know firsthand that J.J. is a professional who deservedly prides himself on being a responsive and efficient problem solver. His comprehensive knowledge of Coast Guard law and programs has been extremely valuable to the Senate. Coast Guard issues in general are nonpartisan and the Nation's oldest continuous maritime service enjoys support from both sides of the aisle. During his tenure, Commander Jaskot has been successful in continuing this bipartisan collegiality.

After an exemplary career and service to our country, J.J. is now retiring. His departure will be a loss to both the Coast Guard and the Senate, but I am sure that his family will be the ones to gain as they will see much more of him than they saw in the past 3 years. I am pleased for them—and pleased for him in this respect.

As he leaves the Senate and the Coast Guard, I join everyone who has had the pleasure to work with John Jaskot during his time in the Senate in wishing him well in whatever follows his Coast Guard service. Doubtlessly, he will have opportunities to do other useful and valuable work even as he spends more time with his family.

Good luck, Cmdr. John J. Jaskot, and thank you for a job well done.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: No. 258, No. 511, No. 678, No. 637 through No. 644.

I might note, this is for the appointment of Richard Stern to the National Council on the Arts, Mr. Greenaway to the New Jersey District Court, Mr. Kahn to the New York District Court, National Institute for Literacy Advisory Board, the James Madison Memorial Fellowship Foundation, the National Foundation on the Arts and Humanities, National Commission on Libraries and Information Science, the Corporation for National and Community Service, and the EEOC.

I further ask unanimous consent the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Richard J. Stern, of Illinois, to be a Member of the National Council on the Arts for a term expiring September 3, 2000.

THE JUDICIARY

Joseph A. Greenaway, of New Jersey, to be U.S. District Judge for the District of New Jersey.

NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD

Marciene S. Mattleman, of Pennsylvania, to be a Member of the National Institute for Literacy Advisory Board, for a term expiring October 12, 1998.

Reynaldo Flores Macias, of California, to be a Member of the National Institute for Literacy Advisory Board for a term expiring September 22, 1998.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

Alan G. Lowry, of California, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term expiring May 29, 2001.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Doris B. Holleb, of Illinois, to be a Member of the National Council on the Humanities for a term expiring January 26, 2002.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

LeVar Burton, of California, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Luis Valdez, of California, to be a Member of the National Council on the Arts for a term expiring September 3, 2000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Victor H. Ashe, of Tennessee, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2000.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Reginald Earl Jones, of Maryland, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2000.

THE JUDICIARY

Lawrence E. Kahn, of New York, to be U.S. District Judge for the Northern District of New York.

NOMINATION OF JOSEPH A. GREENAWAY

Mr. BRADLEY. Mr. President, I am extremely pleased that my colleagues voted today to confirm the nomination of Joseph Greenaway to the United States District Court for the District of New Jersey. Mr. Greenaway, who is currently a corporate attorney with Johnson and Johnson, is an extraordinarily talented attorney who will serve the State of New Jersey with distinction.

Mr. President, Mr. Greenaway was nominated by the White House to serve on the Federal district court in New Jersey on November 27, 1995. He was reported by unanimous vote out of the Judiciary Committee on March 13, 1996. During his hearing before the Judiciary Committee, Mr. Greenaway impressed Members on both sides of the aisle with his stately demeanor and intimate knowledge of the law.

Mr. President, Mr. Greenaway is no stranger to public service. Prior to joining Johnson and Johnson as a corporate attorney, Mr. Greenaway served as an assistant U.S. attorneys for the State of New Jersey from 1985 to 1990. While at the U.S. attorney's office, Mr. Greenaway, in his capacity as the chief of the narcotics division, coordinated narcotics investigations by all Federal agencies in New Jersey and supervised all narcotics prosecutions.

During his tenure at the U.S. attorney's office, Mr. Greenaway handled, in addition to narcotics prosecutions, bank fraud, hijacking, check kiting, sexual abuse, and mail fraud cases. Mr. Greenaway also prosecuted perhaps the most significant drug case in the history of New Jersey, United States versus Pray. His prosecution culminated in the conviction of Wayne Pray, AKA ''Akbar'', a notorious criminal who for almost 20 years masterminded a multimillion dollar cocaine operation in northern New Jersey.

In this case, Mr. Greenaway led a 15 month investigation, which required the cooperation of the DEA, FBI, Customs Service and ATF in New Jersey, Florida, Michigan, New York, and Texas. After a 6-month trial, the evidence showed that Akbar's operation imported 100-plus kilogram shipments of cocaine directly from Columbia to Mexico and across the United States border into New Jersey. The efforts of Mr. Greenaway resulted in Akbar being sentenced to life in prison without the possibility of parole. This court victory was indeed a victory for all New Jerseyans.

Mr. President, Mr. Greenaway graduated from Columbia University in 1978. After receiving his law degree from Harvard Law School, where he served as a teaching assistant to Prof. David Rosenberg and was a member of the Harvard Civil Rights and Civil Liberties Law Review, Mr. Greenaway secured a prestigious judicial clerkship with the Hon. Vincent Broderick of the United States District Court for the Southern District of New York. Following the clerkship, he specialized in complex commercial litigation at the law firm of Kramer, Levin, Nessen, Kamin, and Frankel.

Mr. President, Mr. Greenaway's nomination has been supported by the New Jersey legal community, including the New Jersey Bar Association; Garden State Bar Association; New Jersey Corporate Counsel Association; National Bar Association; and George Fraza, the vice president and general counsel of Johnson and Johnson.

Moreover, because of Mr. Greenaway's strong law and order background, New Jersey's law enforcement community has wholeheartedly endorsed the nomination. The New Jersey State Policemen's Benevolent Association, the New Jersey Fraternal Order of Police, the Policemen's Benevolent Association of Newark, and the State Troopers Non-Commissioned Officers Association of New Jersey proclaimed without reservation their strong support for Mr. Greenaway.

Mr. President, today is a great day for the citizens of New Jersey. Mr. Greenaway's impeccable character, excellent legal background, and demonstrated commitment to public service indicate that his addition to the court will only enhance the excellent reputation that the court enjoys. I applaud my colleagues for their action today, which will benefit the State of New Jersey for years to come. I also congratulate Mr. Greenaway, his wife, Veronica, and their son, Joey. I wish them every success as Joe Greenaway joins the Federal bench in service to people of New Jersey.

Mr. President, this is a proud day for Joe Greenaway and his family. Joe is an outstanding person and will be an outstanding judge.

Prior to this moment, he has had many highlights in his career. Probably the biggest professional highlight was his work over a lengthy trial of a drug kingpin in Newark, NJ, and sending that person to jail for life without parole. He is an outstanding law enforcement official. He was an outstanding corporate attorney, and he will be an outstanding judge. The people of New Jersey are fortunate to have his talents and the value of his service in the years to come. I thank the Chair.

Mr. LAUTENBERG. Mr. President, it is my pleasure to offer congratulations to Joseph A. Greenaway, Jr., President Clinton's nominee for appointment to one of the two vacancies on the District Court of New Jersey, on his confirmation to the Federal bench.

I also extend my congratulations to his very proud family—his father Joseph Greenaway, Sr., his wife Veronica, and son Joey Greenaway III.

Mr. President, although I have just recently met Mr. Greenaway, I can tell you that he has a strong record as a distinguished attorney, having practiced extensively in Federal court in both civil and criminal cases.

He has also expressed to me his honor at being nominated for this appointment and his deep commitment to serving the public and to administering justice fairly for all who appear before him.

Joe is very much a product of the American dream.

As a young man, he emigrated to this country from England and attended public schools in New York as his parents strove to provide a better future for their children. Joe was selected to attend the esteemed Bronx High School of Science, and he then attended Columbia University, from which he graduated in 1978.

Mr. Greenaway received his law degree from Harvard Law School, where he was the recipient of the Earl Warren Legal Scholarship, and where he served as a member of the Harvard Civil Rights and Civil Liberties Law Review.

After a year of private practice, Mr. Greenaway secured a prestigious judicial clerkship with the Hon. Vincent Broderick of the United States District Court for the Southern District of New York.

He then returned to private practice, where he specialized in commercial litigation.

His most recent employment with Johnson and Johnson in New Brunswick, NJ has deepened his knowledge of Federal civil law and taught him first hand how corporations function.

But, Mr. President, Joe also has a strong grounding in Federal criminal law. One of his strongest credentials as a nominee is his personal familiarity with our criminal justice system.

From 1985 to 1990, Mr. Greenaway served as an assistant U.S. attorney for the district of New Jersey.

While at the U.S. attorney's office, in his capacity as the chief of the narcotics division, Mr. Greenaway coordinated narcotics investigations by all Federal agencies in New Jersey and supervised all narcotics prosecutions.

During his tenure at the U.S. attorney's office, Joe handled, in addition to narcotics prosecutions, bank fraud, hijacking, check kiting, sexual abuse, and mail fraud cases.

Since 1990, Mr. Greenaway has served as a corporate counsel with Johnson and Johnson.

Mr. President, I want to again congratulate Joe on his appointment, and wish him all the best in his new position. I hope he will serve on our district court for many years. I know he will serve with distinction, dispensing justice to each person who appears before him with compassion, fairness, and wisdom.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

BALERS AND COMPACTORS SAFETY STANDARDS MODERNIZATION ACT

Mr. LOTT. Mr. President, I ask unanimous consent the Labor Committee be immediately discharged from further consideration of H.R. 1114, and that the Senate proceed to its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1114) to authorize minors who are under the child labor provisions of the Fair Labor Standards Act of 1938 and who are under 18 years of age to load materials into balers and compacters that meet appropriate American National Standards Institute design safety standards.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 4587

(Purpose: To provide for a substitute amendment)

Mr. LOTT. I understand there is a substitute amendment at the desk offered by Senators HARKIN and CRAIG. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. HARKIN, for himself and Mr. CRAIG, proposes an amendment numbered 4587.

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORITY FOR 16- AND 17-YEAR-OLDS TO LOAD MATERIALS INTO SCRAP PAPER BALERS AND PAPER BOX COMPACTORS.

Section 13(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(c)) is amended by adding to the end thereof the following new paragraph:

''(5)(A) In the administration and enforcement of the child labor provisions of this Act, employees who are 16 and 17 years of age shall be permitted to load materials into, but not operate or unload materials from, scrap paper balers and paper box compactors—

''(i) that are safe for 16- and 17-year-old employees loading the scrap paper balers or paper box compactors; and

''(ii) that cannot be operated while being loaded.

''(B) For purposes of subparagraph (A), scrap paper balers and paper box compactors shall be considered safe for 16- or 17-year-old employees to load only if—

''(i)(I) the scrap paper balers and paper box compactors meet the American National Standards Institute's Standard ANSI Z245.5–1990 for scrap paper balers and Standard ANSI Z245.2–1992 for paper box compactors; or

''(II) the scrap paper balers and paper box compactors meet an applicable standard that is adopted by the American National Standards Institute after the date of enactment of this paragraph and that is certified by the Secretary to be at least as protective of the safety of minors as the standard described in subclause (I);

''(ii) the scrap paper balers and paper box compactors include an on-off switch incorporating a keylock or other system and the control of the system is maintained in the custody of employees who are 18 years of age or older;

''(iii) the on-off switch of the scrap paper balers and paper box compactors is maintained in an off position when the scrap paper balers and paper box compactors are not in operation; and

''(iv) the employer of 16- and 17-year-old employees provides notice, and posts a notice, on the scrap paper balers and paper box compactors stating that—

''(I) the scrap paper balers and paper box compactors meet the applicable standard described in clause (i);

''(II) 16- and 17-year-old employees may only load the scrap paper balers and paper box compactors; and

''(III) any employee under the age of 18 may not operate or unload the scrap paper balers and paper box compactors.

The Secretary shall publish in the Federal Register a standard that is adopted by the American National Standards Institute for scrap paper balers or paper box compactors and certified by the Secretary to be protective of the safety of minors under clause (i)(II).

''(C)(i) Employers shall prepare and submit to the Secretary reports—

''(I) on any injury to an employee under the age of 18 that requires medical treatment (other than first aid) resulting from the employee's contact with a scrap paper baler or paper box compactor during the loading, operation, or unloading of the baler or compactor; and

''(II) on any fatality of an employee under the age of 18 resulting from the employee's contact with a scrap paper baler or paper box compactor during the loading, operation, or unloading of the baler or compactor.

''(ii) The reports described in clause (i) shall be used by the Secretary to determine whether or not the implementation of subparagraph (A) has had any effect on the safety of children.

''(iii) The reports described in clause (i) shall provide—

''(I) the name, telephone number, and address of the employer and the address of the place of employment where the incident occurred;

''(II) the name, telephone number, and address of the employee who suffered an injury or death as a result of the incident;

''(III) the date of the incident;

''(IV) a description of the injury and a narrative describing how the incident occurred; and

''(V) the name of the manufacturer and the model number of the scrap paper baler or paper box compactor involved in the incident.

''(iv) The reports described in clause (i) shall be submitted to the Secretary promptly, but not later than 10 days after the date on which an incident relating to an injury or death occurred.

''(V) The Secretary may not rely solely on the reports described in clause (i) as the basis for making a determination that any of the employers described in clause (i) has violated a provision of section 12 relating to oppressive child labor or a regulation or order issued pursuant to section 12. The Secretary shall, prior to making such a determination, conduct an investigation and inspection in accordance with section 12(b).

''(vi) The reporting requirements of this subparagraph shall expire 2 years after the date of enactment of this subparagraph.''.

SEC. 2. CIVIL MONEY PENALTY.

Section 16(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(e)) is amended in the first sentence—

(1) by striking ''section 12,'' and inserting ''section 12 or section 13(c)(5),''; and

(2) by striking ''that section'' and inserting ''section 12 or section 13(c)(5)''.

SEC. 3. CONSTRUCTION.

Section 1 shall not be construed as affecting the exemption for apprentices and student learners published in section 570.63 of title 29, Code of Federal Regulations.

Mr. HARKIN. Mr. President, I am pleased that we are taking action on, H.R. 1114, a common-sense bill that has broad bipartisan support. I especially want to thank my colleague, Senator CRAIG, from the State of Idaho for his hard work with me on this issue.

Use of scrap paper balers and paper box compactors in the grocery industry has expanded since the 1970's due to the increase in recycling of cardboard boxes. The balers and compactors that are prevalent today have gone through significant safety design improvements over the last 20 years-design features that, for example, prevent compression action unless a gate over the loading area is shut.

In other words, modern balers and compactors cannot be loaded while the machine is operating. Such safety features have, since 1982, been codified in design safety standards now recognized as the norm by the waste equipment industry as well as the insurance industry.

Back in 1954, however, balers did not have such safety features. Because they could be loaded while they were being operated they presented a significant danger to individuals unfamiliar with the machines. In response to this concern, the Labor Department issued hazardous occupation order No. 12 (HO 12), prohibiting 16- and 17-year-olds from loading, operating, or unloading balers.

Unfortunately, HO 12 has not been updated to account for the advances in baler and compactor safety. Modern balers cannot be operated when the loading gate is open and are shut off by a key lock held by the store manager or adult supervisor. They are safe, yet

16- and 17-year-olds are still prohibited from even placing cardboard boxes into balers.

As a result, grocery stores all over the country have been fined when 16- and 17-year-old part-time and summertime workers inadvertently toss cardboard into dormant balers. Millions of dollars in fines have been collected, resulting in a reluctance on the part of grocers to hire anyone under the age of 18. A survey of its members by the Food Marketing Institute showed that 60 percent of grocers reduce the employment opportunities for teenagers because of HO 12. Some simply no longer hire anyone under 18—a needless loss of teen employment. H.R. 1114 addresses this problem.

H.R. 1114 allows 16- and 17-year-olds simply to load—not operate or unload—balers and compactors that meet the safety standards established by the American National Standards Institute. Other provisions dealing with proper notice to employees and safety signs on the equipment further protect the safety of minors.

In order to track the safety impact of this bill, for 2 years employers would be obligated to report to the Secretary of Labor any injury or fatality of an employee under the age of 18 within 10 days of when the incident occurred. The maximum penalty for failure to file such a report would be $10,000 per violation.

Under these reporting requirements, it is not the intention of Congress to have an employer subjected to a fine of any amount if there is an inadvertent error, such as a wrong street number in an address, or a misspelled name.

Mr. President, I am especially pleased that the bill was negotiated with the United Food and Commercial Workers Union as well as the grocery industry, represented by the Food Marketing Institute and the National Grocers Association. These groups came together and were able to come up with a win-win scenario while still addressing each other's concerns.

This bill passed the House on a voice vote with several members speaking in favor. We are continuing in this bipartisan spirit today. I urge the immediate adoption of H.R. 1114.

Mr. CRAIG. Mr. President, I am pleased to join with the Senator from Iowa [Mr. HARKIN] in offering a substitute amendment to H.R. 1114, and I rise in support of that amendment and that bill. Last year, I introduced the companion bill in the Senate, S. 744.

This legislation, also referred to as the Balers and Compactors Safety Standards Modernization Act, is simple, common-sense legislation to end a regulatory prohibition on minor employees loading balers and compactors that are safe and locked in the off position. These machines commonly are used in supermarkets, grocery stores, and other retail establishments, for preparing and bundling cardboard and paper waste materials for recycling purposes.

Almost 2 years ago, Senator HARKIN and I stood on the floor of this Senate and engaged in a colloquy on this same issue. Then, we were demonstrating one last round of patience with the Department of Labor and discussing a congressional directive, in the Labor-HHS-Education appropriations bill, that DOL reevaluate and take action to update the rule in question.

Today, we urge the Senate to join the House of Representatives in passing a simple bill to accomplish this end.

The amendment offered today by Senator HARKIN and myself addresses concerns that some have had about continuing to ensure the safety of minor employees. This bill, with our amendment, is a balanced, bipartisan approach that has achieved consensus among employers, labor unions, and safety experts.

I commend the Senator from Iowa for his consistent efforts on this issue, and have appreciated working with him.

The Balers and Compactors Safety Standards Modernization Act will make long-overdue revisions to safety standards set by the Department of Labor [DOL] in its hazardous occupation order No. 12 (HO 12).

HO 12 is a regulation issued by DOL in 1954 and intended to protect employees who are under 18 years of age. In brief, it specifically prohibits minors from operating more than a dozen different types of equipment in the workplace. I certainly agree with the underlying purpose of HO 12, which is that younger workers should not be allowed to operate certain types of machinery when doing so would place them in harm's way.

DOL's current interpretation of HO 12 goes so far as to prohibit minors from placing, tossing, or loading cardboard or paper materials into a baler or compactor. Such activities take place during a loading phase that is prior to, and separate from, the actual operation of the machine. While such a loading-phase prohibition may have made sense 42 years ago, when HO 12 was originally issued, such is not the case today.

As often happens, technology has overtaken regulation. Significant safety advances have been made in the design and manufacture of balers and compactors. Much like a household microwave oven or trash compactor, the newest generation of balers now in use in grocery stores and other locations cannot be engaged and operated during the loading phase.

This important design feature is a result of safety standards issued by the American National Standards Institute [ANSI]. An employee is not at risk when placing cardboard materials into a baler that is in compliance with ANSI standard Z.245.5 1990, or putting paper materials into a compactor that is in compliance with ANSI standard Z245.2 1992.

Nonetheless, DOL treats all balers and compactors the same, and considers the placement of materials into these machines, if performed by a minor, to be a clear-cut violation of HO 12. Each violation can result in a fine of $10,000 against an employer.

If DOL could produce injury data showing that workers are at risk when loading materials into a machine that meets current ANSI standards, I might agree that the current interpretation and enforcement of HO 12 is warranted. However, DOL has acknowledged that it has no injury data for balers that meet current ANSI standards.

Despite the complete lack of evidence that workers are at risk in these situations, DOL has cited numerous supermarkets throughout the United States and has assessed several million dollars in fines against grocery owners in recent years.

It is difficult to understand the logic behind this kind of enforcement. It benefits no one, especially workers. Worker protection is not enhanced by issuing large fines against employers that use balers meeting current safety standards.

Such a policy also is clearly inconsistent with the goal of creating employment opportunities for young people. Because so many grocers have been fined by DOL for loading violations, the industry has become less inclined to hire younger workers.

Originally, DOL applied this interpretation of HO 12 to cardboard balers. As burdensome and objectionable as this policy has been, concerning cardboard balers, DOL more recently went a step farther and now is applying the same interpretation to compactors, a similar piece of equipment that retail establishments use to recycle paper materials.

Without the benefit of formal rulemaking and the opportunity for interested parties to file comments, DOL extended the jurisdiction of HO 12 to compactors at the beginning of 1994, and employers found themselves subjected to fines when it was documented that a minor had placed materials into a compactor.

This is one more example of the speed trap mentality of Federal agencies, and the Department of Labor, in particular. Balers and compactors are both governed by ANSI safety standards and cannot be engaged or operated during the loading phase. This means, to reemphasize, that employees loading machines meeting ANSI standards are not at risk.

Clearly, DOL's position on HO 12, as it relates to cardboard balers and compactors, is not in step with the technology being used in the workplace. In view of the fact that this equipment can not be operated during the loading phase, there is no compelling reason to continue treating the placement of materials by minors a violation of HO 12.

The old joke goes that, when something is difficult to accomplish, you compare it to passing an Act of Congress. If there is one process more intractable, it must be modernizing Federal agency regulations.

Our bill provides a narrow amendment to the Fair Labor Standards Act, to revise the application of HO 12, so that the placement of paper or cardboard materials into a baler or compactor that meets current ANSI safety standards by an employee under age 18 is no longer a violation of the regulation. It affects only the loading phase, which is completely distinguished from the operating phase of the machine.

I have seen these grocery store balers operate. What is needed is a simple, common-sense change, and the bill we are passing today will make that change in a simple, straightforward way.

This bill will open up thousands of youth summer job opportunities without relying on Government programs and grants. The jobs will be there. The young people want them. This bill will remove one significant, unnecessary, regulatory wall between them.

This bill will not change the critically important safety focus of the regulation. In fact, I agree that DOL should remain vigilant and enforce the regulation in cases when the safety of young workers is compromised by use of equipment that does not meet current ANSI safety standards.

This bill would provide only that young workers would be allowed to load balers and compactors that meet the current industry standards that ensure complete safety in their operation. The safety record of this new approach will be borne out by a compromise provision in this amendment that includes specific, modest reporting requirements.

I urge passage of H.R. 1114, with adoption of the amendment offered by Senator HARKIN and myself.

Mr. KENNEDY. Mr. President, I support the substitute for H.R. 1114 that Senator HARKIN and Senator CRAIG have proposed. This legislation is needed to clarify the prohibition in our child labor laws banning the employment of minors in the loading, unloading, or operation of paper balers and paper box compactors. The substitute retains the general prohibition in current law that applies to all such machines. However, where a baler or a compactor meets the current safety standards of the American National Standards Institute, and has an on-off switch with a key lock system in which the key is always in the possession of an adult, then 16- and 17-year-olds will be permitted to load, but not to operate or unload, such machines.

Paper balers have been responsible for the injury and death of too many minors. There is a real danger that the grocery stores that use these machines will allow minors to load balers and compactors that do not meet strict safety standards. Store managers may well assume their machines are safe and allow minors to load them without learning what the standards require.

To reduce that danger, the sponsors of the substitute have included a provision to require reports to the Secretary of Labor of all significant injuries to minor caused by these machines during the 2 years following enactment. The reports must be filed within 10 days of any injury or death, which will provide adequate time for the Department of Labor or the National Institute for Occupational Safety and Health to investigate the accident and determine its cause. If this change in the law leads to increased injuries or deaths of minors, Congress will have the information to act to require whatever additional prohibition is needed. Failure to make timely and complete injury reports will be penalized by fines up to $10,000.

We have also received written assurances from the Food Marketing Institute, the largest trade association representing stores that use balers and compactors, that it will undertake a thorough educational campaign to inform its members about the requirements of the standards and the legislation. They have agreed to supply warning labels for the machines their members own and operate that will distinguish between approved machines and those that do not meet the standards. Clearly, we must do all we can to protect those who use these machines.

Finally, the substitute makes two other changes. The bill is drafted as an amendment to the Fair Labor Standards Act, and all of the normal burdens of proof and interpretive principles that apply to exceptions to the act will apply to this amendment. To prevent an unconstitutional delegation of authority to a private organization, the substitute requires the Secretary of Labor to certify that any new standards must be at least as protective of the safety of minors as the current standards, before they take can effect.

The goal of this legislation is to make new—and safe—employment opportunities available for young men and women in grocery stores across the Nation.

In closing, I want to thank Dr. Linda Rosenstock and the staff of NIOSH for all of their help in increasing our understanding of the safety problems associated with these machines. Their expertise in occupational safety issues is truly invaluable.

Mr. LOTT. Mr. President, I ask unanimous consent the amendment be considered read and agreed to, the bill be deemed read the third time and passed, the motion to reconsider be laid upon the table, and any statement relating to the measure be printed at the appropriate place in the RECORD.

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

The amendment (No. 4587) was agreed to.

The bill (H.R. 1114), as amended, was deemed read the third time and passed.

MEASURE READ FOR THE FIRST TIME—H.R. 3396

Mr. LOTT. Mr. President, I understand H.R. 3396 has arrived from the House. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3396) to define and protect the institution of marriage.

Mr. LOTT. I now ask for a second reading.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. The bill will remain at the desk to be read, as I understand it, a second time upon the next adjournment of the Senate.

The PRESIDING OFFICER. The Senator is correct.

MEASURE READ FOR THE FIRST TIME—S. 1954

Mr. LOTT. Mr. President, I understand that S. 1954, introduced today by Senator HATCH, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1954) to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment.

Mr. LOTT. I now ask for a second reading, and I object to my own request on behalf of Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. Objection is heard.

Mr. BRADLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NUCLEAR WASTE POLICY ACT OF 1996—MOTION TO PROCEED

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

Mr. REID. Mr. President, what I was talking about when the majority leader came upon the floor—and I will also indicate that at such time as he or his representative returns for other unanimous consent requests, I will be happy to yield the floor at that time—Mr. President, in our open society, which is our national heritage and the essence of America, we cannot deny our enemies many of the same freedoms we ourselves enjoy. There are, as well, many foreign interests, some secret, that will want to promote and publicize their existence and goals through outrageous acts of blatant terrorism and destruction. We know this is happening. Indiscriminate killing of women and children is enough to tear at your heart strings.

What better stage could be set for these enemies than a trainload or a

truckload of the most hazardous material known to man, clearly and predictably moving through our free and open society.

Think of the train wreck that occurred in a remote area of Arizona. A man went there—they think they know who it is, but there has been no arrest made—and put something on the track to cause the train to go off the track. The train went head over heels, killing people, causing all kinds of damage to the load that was on the train.

Mr. President, this happens all over the country, and with nuclear waste being carried, certainly I think there will have to be some way to identify the nuclear waste. We face a fraction of risk every day in our cities, our airports and around our centers of local and State governments, but the opportunity to inflict widespread contamination, to engender real health risks to millions of Americans, to encumber our Treasury in hundreds of millions of dollars of cleanup costs, maybe billions, to further reduce the confidence of all Americans in our treasured freedoms will be irresistible to our enemies.

If Chernobyl happened in the United States, what would we have spent to clean up that mess? We must prepare for such realities that accompany the massive campaign to consolidate waste at a repository site. We are not yet ready, and this is a fact.

An example is, in Nevada earlier this year, there was an evaluation of emergency response capabilities along the potential WIPP waste routes in Nevada. This was prepared for the Western Governors Conference, and they clearly said that emergency plans in most areas lack radiological response sections or are vague. They certainly require updates.

The general lack of radiological training in outlying areas is a major issue affecting the capability for response of these transuranic waste incidents. There are few alpha radiation detection instruments available. It appears that notification procedures for radiological incidents are not well understood.

They concluded, among other things, that out of 60 departments surveyed, only 16 had emergency responder capabilities. Most of the responder departments surveyed cited weather, isolated roads, sheer distance, and open range with game animals as factors affecting emergency response in these areas. Only 16 of the 60 departments stated they felt equipped for a radiological incident. The remainder cited a need for training, protective clothing, and calibrated detection equipment, among other things.

This is the way it is all over America. I think probably, Mr. President, in Nevada, because we have been exposed to new things nuclear with the aboveground testing, the underground testing, the other things that go on at the test site, we are probably better prepared than most places, but this independent review by the Western Governors Conference said even Nevada is terribly inadequately prepared, and that must be the way it is all over the train routes and highways over which this dangerous substance would be carried.

I have already mentioned the growing danger in this country from both domestic and international terrorism. I described the irresistible target that tons and tons of high-level radioactive waste and spent fuel provide. This dangerous material would be shipped in lots of tens of tons to hundreds of tons in trucks on our highways, in rail cars on our railway system.

The material would be contained in substantial canisters that are resistant to some physical damage and some leakage. Just how survivable these canisters are to accident is questionable. But, Mr. President, we know that if the truck is not going very fast or the train is not going very fast, you are probably OK. If a fire occurs and does not last very long, not too hot, you are probably OK. But if those things do not occur, we have some problems.

So just how survivable these canisters are to both accident and potential assault is terribly important to our environment, our safety, our health, our lives, and our budgets. The canister's survivability is critical to all these things, because an accident or potential breach of these containers could lead to contamination of hundreds of square miles of rural, suburban, or urban areas.

That contamination would be, by some, the most dangerous that has ever occurred. Exposure could lead to immediate sickness and early death from acute exposure, and for less than acute exposure to years of anxiety and uncertainty as exposed populations would look for the first signs of the onset of cancer of the thyroid, of bone cancer, leukemia, liver, kidney, and other cancers.

We, in Nevada, have had firsthand experience with this kind of risk and its effect on the people of Nevada and on our regional development and economic options.

Mr. President, as young boys, well over 100 miles from where the bombs were set off, we would get up early in the morning in the dark skies of the desert and wait for the blast. The first thing we would see was the light, this orange ball we could see, and then sometimes we felt and heard the sound. Sound, though, bounces along. Sometimes the sound would bounce over us, and we would not hear the sound.

But, Mr. President, I was one of the lucky ones, because when these aboveground shots were fired, the winds did not blow toward Searchlight, NV. They blew toward Lincoln County. The winds blew toward southern Utah where these areas have the highest rate of cancer anyplace in the United States. These were known as downwinders. The problems were so bad that we had to pass a law here—Senator HATCH and I worked on that for a long time—to provide moneys for the damages that the Federal Government inflicted on these people.

So we have firsthand experience with this kind of risk and its effect on our people and regional development and even our economic options. It is paramount, not only to Nevada but to the whole country, that if and when we move this dangerous material, that we do it absolutely right, we do it the right way and that we do it absolutely right not the second time but the first time.

I have already spoken about the state of readiness to respond to emergencies anywhere anytime along the transportation routes proposed for this massive program of spent-fuel transportation, and it is quite clear—it is quite clear—that we have some problems along these transportation routes.

Mr. President, we are not ready yet to respond effectively to an accident or an incident were it to happen. Nevada has just completed a comprehensive assessment of its capacity to respond, and I have explained, sadly, that that assessment found the State of Nevada less than ready.

Sponsors of this bill have said, and I will say again, that the canisters will survive any kind of conceivable accident so that emergency preparedness, or lack thereof, is irrelevant. We have explained today on several occasions how these canisters will not survive a fire that is hot that lasts for more than 30 minutes. We have explained how the canisters are in trouble if you have an accident with a speed of over 30 miles an hour.

But let's also talk about terrorists. That is what we are doing here. I say, Mr. President, that I do not agree, because the requirements for certification of canisters will meet the stresses experienced in very common scenarios, that these canisters will survive being exposed to other types of incidents and accidents and terrorist activities.

Should the containers be manufactured to meet the performance standards claimed by the bill's sponsors—even if that were the case, which it is not—they would not survive the effects of a determined attack by terrorists. The sponsors claim, maybe, because they are privy to the same information we are—some tests had been performed some years ago that showed little or no leakage as a consequence of a terrorist attack on these canisters.

These tests were performed, but they were fatally flawed by the choice of weapon allowed by the so-called experimental terrorists.

The weapon used to test the canister's response was a device designed to destroy reinforced concrete pillars, piers, bridges, wharfs, and other structures. The weapon was not designed to attack structures like a nuclear waste canister. In fact, the weapon used for the testing performed its military mission so poorly that our military forces

have abandoned these weapons for a better desire. The tests that were done resulted in perforation of the canister, but the experimenter said the hole was so small that there was very little leakage.

Mr. President, the whole country has seen on TV, as a result of what we saw in the gulf war, the effects of modern weapons on enemy vehicles, especially tanks. These targets have many things in common with nuclear waste transportation containers. They have a substantial thickness of steel with intervening layers of different materials just like a tank. The effects of these modern weapons astonished even military professionals who marveled at the energy release and the damage inflicted on armored vehicles designed to survive environments of more stress than the benign accident requirement required by the NRC.

Let me remind us all of the images from Desert Storm. We can recall in our mind's eye, Mr. President, the sight of a 100-ton-tank turret spinning wildly up, landing more than 100 yards from the targeted tank.

Mr. President, this is the kind of attack we must be prepared for because these shipments will be irresistible targets to determined terrorists. They may do more than fix the train tracks out in remote rural Arizona that causes the train to go out into the desert. They may fire one of these weapons. Terrorists do have access to these weapons. These weapons will do, to waste containers, the same damage they do to enemy vehicles, including tanks. They will perforate, rupture, disburse the contents and burn the waste in these containers. They will cause a massive radioactive incident.

We have not invested in the transportation planning and the preparations that are absolutely necessary for the safe transportation of these dangerous materials through our heartland. We have not addressed the spectrum of threats to its safe transportation and have not developed a transportation process that guards against these threats. We are not ready to meet the emergencies that could develop because of accident or terrorism.

Mr. President, this bill is unnecessary. It is going to be vetoed by the President. We are going to sustain the veto if it carries that far. It is absolutely unnecessary. We know the nuclear waste can be stored on-site where it is now located. We know this because of eminent scientists that have told us so from the Nuclear Waste Technical Review Board.

I close, Mr. President, by saying that, as from the newspaper this morning, ''This is too important a decision to be jammed through the latter part of a Congress on the strength of the industry's fabricated claim it faces an emergency.'' These, Mr. President, are not my words. They are the words of the editorial department from the Washington Post.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Does the Senator from Nevada yield the floor?

Mr. REID. I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, how much time is remaining on this side relative to the business of the Senate?

The PRESIDING OFFICER. The Senator from Alaska has 8 minutes.

Mr. MURKOWSKI. I wonder if I could interrupt the majority leader at this time to determine whether he wants to propose a unanimous-consent agreement. I reserve the balance of my time and will seek recognition after that, Mr. President.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I want to thank the distinguished Senator from Alaska for the good work he has been doing and for his cooperation in getting this unanimous-consent agreement. I did just have an opportunity to check it further with the Democratic leader. I think this is a fair agreement and will help move things along, not only on nuclear waste, but on the Department of Defense appropriations bill and hopefully even other issues.

NUCLEAR WASTE POLICY ACT OF 1996

Mr. LOTT. I ask unanimous consent, Mr. President, that the motion to proceed to S. 1936 be withdrawn, that the Senate now proceed to its immediate consideration, without further action or debate, notwithstanding rule XXII.

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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 1936) to amend the Nuclear Waste Policy Act of 1982.

The Senate proceeded to consider the bill.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk to the nuclear waste bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 1936, the Nuclear Waste Policy Act.

Trent Lott, Frank H. Murkowski, Larry E. Craig, Don Nickles, Strom Thurmond, Rick Santorum, Conrad R. Burns, Kay Bailey Hutchison, Sheila Frahm, Mitch McConnell, Jim Jeffords, Jim Inhofe, Rod Grams, Dirk Kempthorne, Christopher S. Bond, Fred Thompson.

Mr. LOTT. Mr. President, I ask unanimous consent that the cloture vote occur on Thursday, July 25, at a time to be determined by the majority leader, after notification of the Democratic leader, and that the mandatory quorum under rule XXII be waived.

Mr. REID. Mr. President, I just reserve the right to object. I do not intend to object, but I ask the majority leader if he, in consultation with the minority leader sometime prior to that vote, would give us a reasonable period of time to talk before the cloture vote, whatever would be determined reasonable between the two leaders.

Mr. LOTT. Would the Senator repeat?

Mr. REID. The cloture vote will occur sometime on July 25. Can we have a few minutes to talk about that?

Mr. LOTT. Mr. President, I would rather not set the time right now.

Mr. REID. I did not want the time——

Mr. LOTT. It is a reasonable request we have some time before we go to a vote. We will consult with the Senator and the Democratic leader.

Mr. REID. I do not expect the time to be set now. I do not expect the leader to set the time. I am just asking if the majority leader and the minority leader would consider giving us a few minutes.

Mr. LOTT. We will.

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

UNANIMOUS-CONSENT AGREEMENT—S. 1894

Mr. LOTT. Mr. President, I further ask unanimous consent to resume the consideration of the DOD appropriations bill at 11 a.m., on Wednesday, and the cloture vote scheduled to occur be postponed to occur at a time determined by the majority leader after notification of the Democratic leader.

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

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, for the information of all Senators, the Senate has just begun consideration of the nuclear waste bill and will continue with that legislation next Thursday, July 25. The Senate will debate the Department of Defense appropriations bill tomorrow. It is the intention of the majority leader to reach an agreement that would significantly reduce the number of amendments to be offered to the DOD appropriations bill by 11 a.m., Wednesday. If agreement cannot be reached, then it would be my intent to have the cloture vote with respect to that bill, which would limit debate and amendments to 30 hours.

I want to say that we do have, however, cooperation now from both sides of the aisle, by the managers of the bill and Senators that have amendments that would like to have them considered. We are, again, talking with the

Democratic leader and trying to identify the serious amendments and see if we can get an agreement and deal with those in a reasonable period of time.

The Department of Defense appropriations bill is very important for the country. We need to get that done in a reasonable time tomorrow. So Senators should be on notice that a late session is expected in order to complete action on the Department of Defense appropriations bill tomorrow.

IRAN OIL SANCTIONS ACT OF 1996

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 450, H.R. 3107.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3107) to impose sanctions on persons exporting certain goods or technology that would enhance Iran's ability to explore for, extract, refine, or transport by pipeline petroleum resources, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 4588

(Purpose: To make sanctions against investments that contribute to the development of Libya's petroleum resources mandatory rather than discretionary)

Mr. LOTT. Mr. President, I understand that there is an amendment at the desk offered by Senators KENNEDY and D'AMATO. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] for Mr. KENNEDY, for himself and Mr. D'AMATO, proposes an amendment numbered 4588.

Mr. LOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 7, line 8, strike all through page 8, line 20 and insert:

(b) MANDATORY SANCTIONS WITH RESPECT TO LIBYA.—

(1) VIOLATIONS OF PROHIBITED TRANSACTIONS.—Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, with actual knowledge, on or after the date of the enactment of this Act, exported, transferred, or otherwise provided to Libya any goods, services, technology, or other items the provision of which is prohibited under paragraph 4(b) or 5 of Resolution 748 of the Security Council of the United Nations, adopted March 31, 1992, or under paragraph 5 or 6 of Resolution 883 of the Security Council of the United Nations, adopted November 11, 1993, if the provision of such items significantly and materially—

(A) contributed to Libya's ability to acquire chemical, biological, or nuclear weapons or destabilizing numbers and types of advanced conventional weapons or enhanced Libya's military or paramilitary capabilities;

(B) contributed to Libya's ability to develop its petroleum resources; or

(C) contributed to Libya's ability to maintain its aviation capabilities.

(2) INVESTMENTS THAT CONTRIBUTE TO THE DEVELOPMENT OF PETROLEUM RESOURCES.—Except as provided in subsection (f), the President shall impose 2 or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, with actual knowledge, on or after the date of the enactment of this Act, made an investment of $40,000,000 or more (or any combination of investments of at least $10,000,000 each, which in the aggregate equals or exceeds $40,000,000 in any 12-month period), that directly and significantly contributed to the enhancement of Libya's ability to develop its petroleum resources.

Mr. KENNEDY. Mr. President, I welcome the Senate's action to approve the amendment that Senator D'AMATO and I offered to restore mandatory sanctions against Libya.

The Government of Libya continues to harbor the suspects indicted for the terrorist bombing of PanAm flight 103 over Lockerbie, Scotland, in 1988, in which 270 people were killed, including 189 Americans. Colonel Qadhafi, the Libyan dictator, continues to defy the world community by refusing to surrender the suspects for trial.

Congress should not compromise with terrorism. The same sanctions that apply to Iran should apply to Libya too. I urge the House to join the Senate in standing firm for this fundamental principle. Foreign oil companies that traffic with terrorists should not expect subsidies from the United States to help them produce oil in Libya. Oil industry profits are not more important than justice for the victims of that atrocity.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendment be agreed to.

The amendment (No. 4588) was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed, as amended, the motion to reconsider be laid upon the table; further, that the Senate insist on its amendment and request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate and, finally, that any statements relating to the Senate's action be inserted at the appropriate place in the RECORD.

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

The bill (H.R. 3107), as amended, was deemed read the third time and passed.

The Chair appointed the following conferees from the Committee on Banking, Housing and Urban Affairs: Mr. D'AMATO, Mr. MACK, and Mr. SARBANES; from the Committee on Finance, Mr. ROTH and Mr. MOYNIHAN.

GAMBLING IMPACT STUDY COMMISSION

Mr. LOTT. Mr. President, for the information of all Senators, I do want to emphasize my continuing desire to get an agreement on the handling of the gaming commission. I believe we are very close to getting that agreement. I hope we will achieve that tomorrow and that issue can be taken up and dealt with expeditiously, hopefully, either by unanimous consent agreement or perhaps with a vote on the final passage. We are still working on that, and I want all Senators to know while we have not reached an agreement this afternoon, we will be pursuing that very aggressively tomorrow.

ORDERS FOR WEDNESDAY, JULY 17, 1996

Mr. LOTT. I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. on Wednesday, July 17; further, that following the prayer, the Journal of proceedings be deemed approved to date; the morning hour be deemed to have expired; the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 11:00 a.m. with Senators permitted to speak for up to 5 minutes with the following exceptions: Senator KYL for 10 minutes, Senator ROCKEFELLER for 15 minutes, Senator BYRD or DORGAN for 20 minutes, Senator FAIRCLOTH for 10 minutes, Senator BRADLEY for 15 minutes, and Senator THURMOND for 5 minutes.

I further ask at the hour of 11 a.m. the Senate resume consideration of the Defense appropriations bill.

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

PROGRAM

Mr. LOTT. For the information of all Senators, under the previous order, the Senate will resume the consideration of the DOD appropriations bill tomorrow. Amendments will be considered throughout the day, and we would like to reach an agreement with respect to the number of amendments to be offered to that bill. If an agreement cannot be reached on the bill, a cloture vote will occur during tomorrow's session. Senators can anticipate rollcall votes throughout Wednesday's session and the Senate may be asked to consider any other legislative or executive items that can be cleared for action, including the gaming commission measure.

Also, as a reminder to all Members, there will be a cloture vote on the Nuclear Waste Policy Act on Thursday, July 25.

ORDER FOR ADJOURNMENT

Mr. LOTT. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of the Senator from Alaska, Senator MURKOWSKI.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

NUCLEAR WASTE POLICY ACT OF 1996

The Senate continued with consideration of the bill.

Mr. MURKOWSKI. Mr. President, we had a good discussion today about the status of the proposed Yucca Mountain repository and I think the record should reflect discussion of some points that have been made that require a little further examination.

First of all, we have heard the terminology ''millirem'' as the standard measure for radioactivity. Much has been said about the 100-millirem standard in protecting the public health and safety. We have that responsibility, but I think we should put it in perspective because the average member of the public really does not know how to relate 100 millirems to his or her everyday life.

The proposed limit in the bill has been set at 100 millirems as a standard. It may interest my colleagues that one receives over 100 millirems extra per year by living in a house, a White House, at 1600 Pennsylvania Avenue. It is a stone building with attendant natural radiation. Now, the Senator from Nevada says 100 extra millirems is too high. Is the Senator suggesting that 100 extra millirems is OK for the White House but not OK for a fence line deep in the Nevada desert; that 100 extra millirems OK for the President of the United States, his family or Socks, the cat, but not OK for jackrabbits or roadrunners out in Nevada?

Mr. President, you also get 100 extra millirems from living in Denver, because of its altitude. Do we prohibit people from living in Denver? Of course not, because 100 millirems do not harm anyone. It is an internationally accepted standard. So the public should keep in perspective these terms.

Today, Mr. President, we got 65 votes for cloture. That was a good vote, but, unfortunately we did not get votes from some of the States where this nuclear waste issue is a legitimate concern. I had hoped we would get votes, say, from our Members from Connecticut. Now, what is the justification for Connecticut, you might wonder. Mr. President, we build naval submarines in Connecticut. These are nuclear submarines. These submarines produce waste. Connecticut gets the jobs. They do not have to keep the waste. Where does the waste go? Well, currently a lot of it is going to Idaho. My point is simple: we all have a responsibility. We all have a share in the question of what to responsibly do with nuclear waste.

Now, another interesting thing, as we look at the voting makeup of this body, Connecticut generates 73.7 percent of its electricity from nuclear power. Connecticut ratepayers have paid $429 million into the waste fund. What have they got to show for it? Absolutely nothing. I think as we look at the various States and their positions, we have to recognize we all have a share in this. Florida—well, we did not do quite as well as we had hoped, but we did about half-and-half. Florida ratepayers pay more than half a billion into the fund, yet nuclear waste sites at Turkey Point Power Plant right in between two national parks, the Everglades National Park and the Biscayne National Monument.

Now, there are other States where we did not get a level of support that we might have. My good friends from Hawaii do not have a nuclear power plant, but they do store highly enriched naval fuel. If we can't solve the waste problem this fuel in Hawaii has no place to go. It stays in Hawaii. Also, if we do not pass this bill, I assume we will see more and more pressure to find some site, perhaps in the Pacific. We have seen Palmyra brought up time and time again as a possible dump site. I do not support that at this time but, again, I think we all have a voice in resolving this issue.

There are other States that have an interest in resolving this issue. The State of Delaware imports nuclear power and has paid $29 million into the fund. New Mexico imports nuclear power and has paid $32 million into the fund. California, 26.3 percent of its generation is nuclear energy. California has paid $645 million into this fund that the Federal Government has collected, which now totals nearly $12 billion.

This was a fund established, if you will, Mr. President, to ensure that the Federal Government had the means in order to take this nuclear waste by 1998. Arkansas, 33 percent of the generation comes from nuclear power. They put $266 million into the fund.

Colorado has an interest. They are concerned about access of nuclear waste through their State, but they have a reactor that has been shut down, awaiting decommissioning, no place for the fuels to go. So what will happen, Mr. President? Well, nothing will happen. Colorado is going to be stuck with that reactor until such time as Congress authorizes a repository and the fuel can be removed.

Indiana imports nuclear power. It paid $288 million into the fund. North Dakota relies on nuclear power, it paid $11 million into the fund. Nebraska, 30 percent generating from nuclear power paid $136 million into the fund. Wisconsin, 23 percent of Wisconsin generation comes from nuclear energy, and they paid $336 million into the fund. Kentucky relies on nuclear power and $81 million has been paid into the fund. Ohio, 7.7 percent of their generation, $253 million into the fund. Iowa, 13 percent, $192 million. Massachusetts, 15 percent of the power comes from nuclear power. They paid $319 million. What do they have to show for it? What did the ratepayers get in Massachusetts? Absolutely nothing. Maryland, next door to us, 24 percent of their power is nuclear, $257 million paid in, nothing to show for it. New York, 28 percent of their power is nuclear, they paid in $734 million. Rhode Island relies on nuclear power, $8 million paid into the fund.

It is important, Mr. President, that every Senator reflect as he represents his or her own State, the realization that we are all in the nuclear waste situation together, and we all have to get out of it together. Senate bill 1936 is the most important meaningful environmental legislation to come before the Senate because it addresses the health, safety, and environment of the American people who live with this high-level waste in storage sites in 41 States in our Nation.

Senate bill 1936 was well-crafted and developed after years of study and months of discussion and negotiation. It is based on sound science and meets every legitimate concern imaginable. Much of the rhetoric we have heard today is based on fear, and a good deal is based on politics. The bottom line is that somebody has to get it and, unfortunately, the site that has been chosen is a site where we have had nuclear testing for some 50 years out in the desert in Nevada.

The opposition would, in my opinion, attempt to delay this process of addressing health, safety, and environmental issues on behalf of the American people for a short-term political advantage, and it also lacks the responsibility of coming up with viable alternatives. The right decision is to support Senate bill 1936. It is right in terms of health, safety, and the environment.

There are a couple of other points that I think are necessary to make as a consequence of the debate that we have had throughout the day. I compliment my two friends from Nevada because I know how they feel. I know how they are fighting to represent the interests of their State. But, again, somebody has to take this waste. Now, there has been generalization that somehow we are waiving some of the environmental laws. That is not the case, Mr. President. Complaints by environmental groups about the NEPA waivers in Senate bill 1271 have been addressed in S. 1936. We do not waive NEPA for the intermodal transfer facilities, as the previous bill did. Unlike the previous bill, there is no general limitation on NEPA in Senate bill 1936.

During the debate, there was a list of laws that were proposed that would be waived or would not be applicable that were suggested by the Senators from Nevada. I would like to briefly mention that S. 1936 contains a comprehensive regulatory licensing program plan for a permanent facility. This is a unique facility, Mr. President. There is no other facility like it. That is why. Thus, there are no specific environmental laws, other than the Nuclear Waste Policy Act that is designed to regulate permanent geologic repositories for nuclear waste. So it is self-evident. There

is no use in trying to develop a situation where we cannot possibly achieve this because we do not have a prototype to go on. We are bound by the existing environmental laws, the Nuclear Waste Policy Act. We are not waiving basically anything relative to this repository.

The language in S. 1936, section 501, simply provides that the specific environmental standards set forth in that bill will govern if they conflict with other more general laws that were mentioned by the Senators from Nevada.

Mr. President, the language in this bill merely prevents environmental law from being misused to reconsider the decisions that we are making today in this Congress. Senate bill 1936 is a bill to prevent a gridlock—and that is what we have been in—and to prevent stalemate—and that is what we have been in. All we have to do is to say that Congress has decided that we will build an interim site in Nevada, and we do not let the NEPA process revisit that decision. That is what we are saying, Mr. President.

We started on this, I think, in 1983 or thereabouts. We have expended 15 years. We have expended almost $6 billion trying to determine a process and a site. The responsibility to conclude that is now. As we proceed with a permanent repository at Yucca Mountain, this will provide the movement and the storage in casks of the high-level waste from the various sites around the country.

Mr. President, I have a couple of other points, and I will conclude because the hour is late.

The State of California, as an example, has six nuclear units, including the Rancho Seco. These are reactors that have been shut down since about 1989, or thereabouts. But they cannot be decommissioned until the spent fuel is taken away from the site. What do the people of California want? They want that former reactor removed and the site brought back to its previous state? Surely, they do. But it is not going to happen unless we pass a bill like this. The estimated cost of monitoring each shut down reactor is some $50 million per year. You will never get rid of them unless you have a place to put the spent fuel. And the place to put it is in the one place that has been designated in S. 1936.

Now, finally, there have been references to the industry's role and that somehow this process is a fabrication. The RECORD will note letters from some 23 Governors and attorneys general relative to the necessity of this bill passing, so that they can get some relief for the storage of nuclear waste that is in their States in pools and is about to exceed the licensing capability. And as far as suggesting that the Washington Post editorial somehow is the beneficial voice of reason, I think one should simply go back and read it. It says, ''Waste Makes Haste.'' Well, Mr. President, we have been at this 15 years. We have been at it to the tune of $6 billion. The Washington Post editorial does not propose a solution. S. 1936 is a responsible solution to the problem of nuclear waste. May I suggest that the Washington Post is a responsible solution to the problem of parakeet pet waste.

I was very pleased with the vote today. We got 65 votes for cloture on the motion to proceed. We had one Senator out, who is inclined to vote for us. So that gives us 66. That is one short of overriding the Presidential veto. That is why I went on to great length in my statement, to encourage those Senators who did not vote with us on cloture to reflect a little bit on their own situation in their own State relative to whether or not they are building nuclear submarines and do not want to have any part of the responsibility for the waste when those submarines are cut off, but purporting to simply give the responsibility to the State of Idaho is being unrealistic and unfair.

I am sure that, as we address the new technology in nuclear submarines, there are some Members here that will remind the Senators from Connecticut, as an example, that they, too, must bear the responsibility associated with what nuclear technology provides our country in the interest of our national defense, but, as well, in the responsibility of addressing what we could do with the nuclear waste in Senate bill 1936, which is the best answer we have had so far—certainly a responsible one, unlike the position of the administration, which has chosen to duck the issue.

We would have an entirely different matter if we were debating a proposal that the administration had vis-a-vis a proposal that had come through the Committee on Energy and Natural Resources. That is not the case, as the evidence has suggested. In the communications with the White House that I have had over the last couple of years relative to trying to address this, along with my colleague, Senator JOHNSTON, we have found that the White House has simply chosen to duck the issue. They do not want it to come up before the election. They are satisfied with the status quo. Well, the American public is not satisfied with the status quo. The Governors in the States are not satisfied with the status quo. The attorneys general are not satisfied. And the Government has reneged on its commitment to the ratepayers to provide, by 1998, the capability of storing that waste, and the Government is not prepared to deliver. Yet, they have collected $12 billion from the ratepayers.

I think I have made my case for the merits of this legislation. As we continue to debate, I urge my colleagues to reflect a little bit on the fact that we are all in this together and we all have to share the responsibility together.

Mr. President, I yield the floor. I see no other Senator wishing recognition. I wish the Chair a good day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, at 7:20 p.m., the Senate adjourned until Wednesday, July 17, 1996, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 16, 1996:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

RICHARD J. STERN, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2000.

NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD

MARCIENE S. MATTLEMAN, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD, FOR A TERM EXPIRING OCTOBER 12, 1998.

REYNALDO FLORES MACIAS, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 22, 1998.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

ALAN G. LOWRY, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING MAY 29, 2001.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DORIS B. HOLLEB, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2002.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

LEVAR BURTON, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

LUIS VALDEZ, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

VICTOR H. ASHE, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 5, 2000.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

REGINALD EARL JONES, OF MARYLAND, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2000.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE ON THE SENATE.

THE JUDICIARY

JOSEPH A. GREENAWAY, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

LAWRENCE E. KAHN, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK.