CHILD SAFE VIEWING ACT OF 2007

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 588, S. 602.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 602) to develop the next generation of parental control technology.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Safe Viewing Act of 2007''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Video programming has a direct impact on a child's perception of safe and reasonable behavior.

(2) Children may imitate actions they witness on video programming, including language, drug use, and sexual conduct.

(3) Studies suggest that the strong appeal of video programming erodes the ability of parents to develop responsible attitudes and behavior in their children.

(4) The average American child watches 4 hours of television each day.

(5) 99.9 percent of all consumer complaints logged by the Federal Communications Commission in the first quarter of 2006 regarding radio and television broadcasting were because of obscenity, indecency, and profanity.

(6) There is a compelling government interest in empowering parents to limit their children's exposure to harmful television content.

(7) Section 1 of the Communications Act of 1934 requires the Federal Communications Commission to promote the safety of life and property through the use of wire and radio communications.

(8) In the Telecommunications Act of 1996, Congress authorized Parental Choice in Television Programming and the V-Chip. Congress further directed action on alternative blocking technology as new video technology advanced.

SEC. 3. EXAMINATION OF ADVANCED BLOCKING TECHNOLOGIES.

(a) INQUIRY REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Federal Communications Commission shall initiate a notice of inquiry to consider measures to examine—

(1) the existence and availability of advanced blocking technologies that are compatible with various communications devices or platforms; and

(2) methods of encouraging the development, deployment, and use of such technology by parents that do not affect the packaging or pricing of a content provider's offering.

(b) CONTENT OF PROCEEDING.—In conducting the inquiry required under subsection (a), the Commission shall consider advanced blocking technologies that—

(1) may be appropriate across a wide variety of distribution platforms, including wired, wireless, and Internet platforms;

(2) may be appropriate across a wide variety of devices capable of transmitting or receiving video or audio programming, including television sets, DVD players, VCRs, cable set top boxes, satellite receivers, and wireless devices;

(3) can filter language based upon information in closed captioning;

(4) operate independently of ratings pre-assigned by the creator of such video or audio programming; and

(5) may be effective in enhancing the ability of a parent to protect his or her child from indecent or objectionable programming, as determined by such parent.

(c) REPORTING.—Not later than 270 days after the enactment of this Act, the Commission shall issue a report to Congress detailing any findings resulting from the inquiry required under subsection (a).

(d) DEFINITION.—In this section, the term ''advanced blocking technologies'' means technologies that can improve or enhance the ability of a parent to protect his or her child from any indecent or objectionable video or audio programming, as determined by such parent, that is transmitted through the use of wire, wireless, or radio communication.

Mr. DODD. Mr. President, I ask unanimous consent that a Pryor amendment, which is at the desk, be agreed to, the committee-reported substitute, as amended, be agreed to, the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The amendment (No. 5684) was agreed to, as follows:

On page 6, beginning in line 4, strike ''**TECHNOLOGIES.**'' and insert ''**TECHNOLOGIES AND EXISTING PARENTAL EMPOWERMENT TOOLS.**''.

On page 6, line 12, strike ''and''.

On page 6, line 16, strike ''offering.'' and insert ''offering; and''.

On page 6, between 16 and 17, insert the following:

''(3) the existence, availability, and use of parental empowerment tools and initiatives already in the market.''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 602), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 602

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 ''Child Safe Viewing Act of 2007''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Video programming has a direct impact on a child's perception of safe and reasonable behavior.

(2) Children may imitate actions they witness on video programming, including language, drug use, and sexual conduct.

(3) Studies suggest that the strong appeal of video programming erodes the ability of parents to develop responsible attitudes and behavior in their children.

(4) The average American child watches 4 hours of television each day.

(5) 99.9 percent of all consumer complaints logged by the Federal Communications Commission in the first quarter of 2006 regarding radio and television broadcasting were because of obscenity, indecency, and profanity.

(6) There is a compelling government interest in empowering parents to limit their children's exposure to harmful television content.

(7) Section 1 of the Communications Act of 1934 requires the Federal Communications Commission to promote the safety of life and property through the use of wire and radio communications.

(8) In the Telecommunications Act of 1996, Congress authorized Parental Choice in Television Programming and the V-Chip. Congress further directed action on alternative blocking technology as new video technology advanced.

SEC. 3. EXAMINATION OF ADVANCED BLOCKING TECHNOLOGIES AND EXISTING PARENTAL EMPOWERMENT TOOLS.

(a) INQUIRY REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Federal Communications Commission shall initiate a notice of inquiry to consider measures to examine—

(1) the existence and availability of advanced blocking technologies that are compatible with various communications devices or platforms;

(2) methods of encouraging the development, deployment, and use of such technology by parents that do not affect the packaging or pricing of a content provider's offering; and

(3) the existence, availability, and use of parental empowerment tools and initiatives already in the market.

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(3) can filter language based upon information in closed captioning;

(4) operate independently of ratings pre-assigned by the creator of such video or audio programming; and

(5) may be effective in enhancing the ability of a parent to protect his or her child from indecent or objectionable programming, as determined by such parent.

(c) REPORTING.—Not later than 270 days after the enactment of this Act, the Commission shall issue a report to Congress detailing any findings resulting from the inquiry required under subsection (a).

(d) DEFINITION.—In this section, the term ''advanced blocking technologies'' means technologies that can improve or enhance the ability of a parent to protect his or her child from any indecent or objectionable video or audio programming, as determined by such parent, that is transmitted through the use of wire, wireless, or radio communication.

UNITED STATES-INDIA NUCLEAR COOPERATION APPROVAL AND NONPROLIFERATION ENHANCEMENT ACT—Continued

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, first, let me thank Senator DORGAN for his leadership on this issue and for his heartfelt and very well-articulated statement about the reasons why we need to amend this agreement before we proceed any further. I strongly agree with him, and I am honored to join with him in proposing an amendment that will improve the agreement that is coming to the Senate floor tonight for consideration.

The bill we are dealing with tonight seeks to obtain expedited approval of

the United States-India nuclear cooperation agreement. The agreement was the result of a bill we passed into law 2 years ago—nearly 2 years ago—that exempted India from the very export controls that were placed into the Atomic Energy Act as a result of India's decision to detonate a nuclear weapon in 1974—with United States-supplied technology, I would point out.

Let me be clear: I do believe it is time that we as a nation did more to reach out to India in areas such as energy and high technology. The President deserves credit for recognizing that the India of the 1960s and 1970s is not the India of today. India is a great leader in technology and needs to be an ally of our country on a great many issues, but I cannot support the proposed agreement before us today in the form we are being presented.

By modifying our nonproliferation laws for India, and just for India, and in a circumstance where India has not signed the nonproliferation treaty, not only are we sending the wrong signal to Iran, which is a signatory and desires to have its own nuclear program, but we are also sending the wrong signal to North Korea, to Pakistan, and to Israel. Those three countries are not signatories to the nonproliferation treaty, and they have detonated nuclear weapons. So approval of the agreement as it is now presented makes it difficult for us to justify our nonproliferation policies to the world at large, and in particular it makes it very difficult for us to justify them to other nonproliferation treaty signatories, such as South Africa, Brazil, and Taiwan, which have foresworn their nuclear weapons program as part of signing up for the nonproliferation treaty.

The net result of approving the agreement as proposed today is that we are making India a de facto weapon state without them having to sign the nonproliferation treaty. India gets to have their cake and to eat it too. They obtain nuclear weapon state status but, by not signing the NPT, they do not have to adhere to its fundamental article VI requirement that nuclear weapon states shall ''pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race.''

The amendment Senator DORGAN and I are offering seeks to make several improvements to the underlying bill that relate to the question of what happens if India again decides to detonate a nuclear weapon. The first section, developed by Senator DORGAN, states simply that the United States will not conduct trade in nuclear technology with India if they detonate a nuclear weapon. That is sensible policy. It is consistent with the Atomic Energy Act, which cuts off trade in nuclear technology if states such as India detonate a nuclear device.

The second part of the amendment, which I have added to the combined amendment, requires the President to certify to Congress that the United States-supplied technology is not what has enabled India to go forward with detonation of a nuclear weapon.

Let me explain why this is important. India detonated five nuclear weapons in 1998 without the aid of advanced technology supplied by other nations. The reason is because the 45-nation group that is called the Nuclear Suppliers Group, or NSG, developed a consensus that they would not ship to India sensitive nuclear technology. As a result of the bill we passed 2 years ago, this Nuclear Suppliers Group has now approved the export of sensitive nuclear technology to India. It is entirely conceivable that India may want to improve their nuclear weapons now that they have access to advanced technology from this Nuclear Suppliers Group.

The certification we provide for in this amendment would force the President to ensure ahead of time that appropriate export controls are in place to begin with. It is one of the strictest conditions Congress can place on a President, but it can be met. We routinely require end-use monitoring of sensitive technologies that we export to other countries. Embassy personnel inspect their purported destination to make sure they are not used for illicit purposes. Certification, as we provide for in this amendment, also places pressure on the President to work with the IAEA to ensure that the safeguards applied to Indian facilities are effective so the exported technology does not make its way into their weapons program. It seems to me that the President should place this level of scrutiny on our nuclear exports to India.

Let me put up a chart to make the point I am trying to make with this part of the amendment. This chart tries to make the distinction between—that is reflected in the underlying agreement we are going to be voting on—between the parts of India's nuclear program that are safeguarded—and that is, to be specific, 14 nuclear reactors and 1 fuel reprocessing plant—and then the parts of India's nuclear program that are not subject to any safeguards—and that is substantially more. That is eight power reactors, a fast breeder program, and its entire military program, which consists of two plutonium reprocessing plants, two uranium enrichment plants, and two heavy water plutonium production reactors.

The underlying agreement we are voting on contemplates that all the nonsafeguarded parts of the nuclear weapons program in India will be supplied only with domestically produced fuel. The safeguarded parts are the parts that can be supplied with imported uranium fuel. So the theory is we can take great consolation in knowing that nothing we are sending to India is, in fact, affecting the nonsafeguarded part of their nuclear program.

Now, around here, I don't know if you would call this a Chinese firewall or what you would call it—this yellow line that separates the safeguarded from the nonsafeguarded parts of the nuclear weapons program—but the truth is, under this agreement and the way it now stands, it is virtually impossible for us to be assured, in any credible way, that what is being provided in the way of technologies or fuel to India for its nuclear program is, in fact, being kept just for the safeguarded part.

Obviously, the other point is, as to the fuel, it is all fungible. If, in fact, we are providing imported uranium fuel that can be used for safeguarded reactors, there is no reason why the domestically produced fuel can't be used for the nonsafeguarded reactors.

It is, in my view, vitally important that we try to make some amendment to ensure that there is some degree of scrutiny over what is, in fact, occurring there, and that is the second part of the amendment I referred to—the net result of improving this. By modifying our nonproliferation laws for India, which has not signed the nonproliferation treaty, it is clear we are making an exception that will cause great difficulty in our ability to encourage other countries to comply with the nonproliferation treaty.

The third part of the amendment we are offering requires that if India tests a nuclear weapon, we will not enable other countries to further India's nuclear program. This is called the third-party problem; whereby, we enable other countries to help India's nuclear program. If India detonates a nuclear weapon, the President, under our amendment, would have to recommend to Congress what export control authorities can be used so our exports to other nuclear suppliers do not end up helping India's program. The President, of course, would have a wide array of such authorities to apply—from end-use monitoring of the technologies that were supplied to outright prohibition on providing any of these technologies.

The United States and India, obviously, have deep and important ties. Many of our leading citizens have ancestry in India. Many of our leading citizens in our high-tech community were originally born in India. They have greatly contributed to the strength of our Nation. We owe them a great debt of gratitude, and we honor them as we raise questions about this agreement.

We need to draw a line in the sand in certain areas. The area of nonproliferation, and the nonproliferation treaty in particular, is one such area where we do need to maintain black and white distinctions, given the terrible consequence we face if a nuclear detonation were to occur, either on our soil or on the soil of any other nation.

The amendment Senator DORGAN and I are offering that will be voted on this evening places clear and unambiguous requirements on the President, should India detonate another nuclear weapon. I think that is the least we should

do in our consideration of this very important agreement. I urge my colleagues to support the amendment.

I yield the remainder of the time.

The PRESIDING OFFICER. Does the Senator wish to call up his amendment?

AMENDMENT NO. 5683

Mr. BINGAMAN. Mr. President, I do call up amendment No. 5683.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DORGAN, Mr. AKAKA, Mr. HARKIN, Mr. FEINGOLD, and Mrs. BOXER, proposes an amendment numbered 5683.

Mr. BINGAMAN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit nuclear trade with India in the event that India detonates a nuclear weapon and to impose certain certification, reporting, and control requirements)

At the end of title I, add the following:

SEC. 106. PROHIBITION OF NUCLEAR TRADE IN EVENT OF NUCLEAR WEAPON DETONATION BY INDIA.

Notwithstanding any other provision of law, the United States may not export, transfer, or retransfer any nuclear technology, material, equipment, or facility under the Agreement if the Government of India detonates a nuclear explosive device after the date of the enactment of this Act.

SEC. 107. CERTIFICATION, REPORTING, AND CONTROL REQUIREMENTS IN EVENT OF NUCLEAR WEAPON DETONATION BY INDIA.

In the event the Government of India detonates a nuclear weapon after the date of the enactment of this Act, the President shall—

(1) certify to Congress that no United States technology, material, equipment, or facility supplied to India under the Agreement assisted with such detonation;

(2) not later than 60 days after such detonation, submit to Congress a report describing United States nuclear related export controls that could be utilized with respect to countries that continue nuclear trade with India to minimize any potential contribution by United States exports to the nuclear weapons program of the Government of India; and

(3) fully utilize such export controls unless, not later than 120 days after such detonation, Congress adopts, and there is enacted, a joint resolution disapproving of the full utilization of such export controls.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. First, let me thank my two colleagues from North Dakota and New Mexico for combining their amendments in a way that I think makes sense. My colleague can correct me if I am wrong, the House was similar to both. There were somewhat different approaches, but I think they offer some clarity as to their concerns which, let me say at the outset, these are concerns I believe all of us share. There is not a single one of us, that I am aware of, in this body who doesn't have the same worries and concerns that my colleague from North Dakota expressed, as well as my friend and colleague from New Mexico. I will not debate the number, whether it was 25,000 or 30,000 or 20,000—clearly, the problem with having a proliferation of nuclear devices around is a concern to all of us. Obviously, each and every one of us bears a responsibility to do everything we can to minimize the threat such weapons pose.

I don't know anyone more vigilant in that effort than my colleague from Indiana, along with my former colleague, Senator Nunn. The Nunn-Lugar proposals, which regrettably were not pursued as aggressively as I think they should have been by the Bush administration, were to convince the former Soviet Union and other nations to dismantle weapons of mass destruction and nuclear weapons in particular. That exists, and there are those of us who would like to see it pursued more aggressively. There are countless examples over the years of Members who have sought various means by which we could reduce the threat. I would argue, and I will, that this bill is very much in that tradition. This is not a deviation from that effort. It is very much in that same tradition others have pursued, to create and formulate the means by which we can reduce those threats.

This bill is comprehensive in many ways. It is certainly not perfect by anyone's stretch of imagination. Contrary to the suggestion that there has been one hearing on this, as if somehow this has been thrown together in the last couple weeks, there have been five major hearings with multiple panels conducted by Senators BIDEN and LUGAR. The other body has conducted at least that many hearings. It all began about 4 years ago, this process, not something just a week or two ago that has led to this.

You heard Senator LUGAR say that he alone submitted 174 questions to the State Department and other agencies, demanding their responses to those questions and publicized them on his Web site. So the very questions many of us have, have been addressed, maybe not to the satisfaction of everyone but certainly pursuing the very issues.

The reason I mentioned that is if, in fact, this amendment were adopted, of course, there would be no means by which you could resolve these matters with the other body. They have already adopted a bill without this language in it. Therefore, this would presumably pass without consideration. The fact is, that come next year the administration—because the time runs out on this—would be submitting the agreement without any of the agreements we have included in this bill, many of which do exactly what my colleagues from New Mexico and North Dakota are seeking to achieve. So the irony of ironies would be that while I respect immensely their intent, what they seek, in fact, it would be counterproductive of the very goal they are trying to achieve and that is to strip away everything we have achieved under the leadership of Senators LUGAR and BIDEN, along with HOWARD BERMAN's leadership in the other body, to include the kind of understandings and requirements this bill mandated.

Is this a perfect bill? Absolutely not. But if we allow the perfect to become the enemy of the good, we are going to find ourselves, I think, in a far more serious situation than the one Senator DORGAN and Senator BINGAMAN has described to you.

I would never make the argument to my colleagues that if you adopt this amendment—I don't say hate; my wife advises that I don't use the word ''hate'' in front of the children—I deplore arguments that suggest that if you adopt this, it is a killer amendment, and we would have to go back and do further work. I think that is an insulting argument. In fact, if an amendment is a good amendment and ought to be adopted, we ought not to shy away from our responsibility. As a matter of fact, I will argue, the amendment is unnecessary; existing law does exactly what my colleagues are asking us to do today. But if we adopt them, we run the risk of something coming back a lot worse than what Senator BIDEN, Senator LUGAR, the Foreign Relations Committee, over extensive hearings, along with the work of the other body, have accomplished and achieved. As my colleagues listen to this debate, I hope they will take that under consideration.

I point out, the United States-India agreement will be resubmitted in January if it is not approved now. The next President would not have to seek any special law, which is what we have, to speed up the process. Rather, he could wait us out until the Atomic Energy Act forces us to take a vote on a clean resolution of approval of the agreement, without any of the amendments we have adopted and worked on over the years.

Let me mention an argument Senator LUGAR raised; I didn't. I regret not having mentioned it because I think it is a compelling argument as well. One of the arguments people need to understand is India does not have an unlimited supply of materials by which to create nuclear weapons. They will be faced, without outside sources of supply, to make a choice between nuclear weapons or the commercial powerplants.

I do not intend to speak as a great expert on Indian politics or the public mood in India, but nations, particularly ones that live in the neighborhood—I don't have the map up here any longer—where India resides, what choice would they make if they could only make one? Is it going to be energy or security? That is a difficult choice. While all of us want to see the energy choices made, a nation surrounded by nations that have nuclear capabilities, not exactly close to the democracy India is, by the way, may very well decide to have different alternatives. If

you are sitting in India's Parliament, you are a member of their Congress and you have one choice to make, security or energy, security or energy—how would we vote? How would we vote confronted by that choice?

That is a choice with which India may well be confronted without additional sources of energy here or supplies that would allow them to promote the more commercial use of this power.

I don't necessarily want to put India in that position to make that choice because I think I know what choice they would make. I suspect it is the same choice we would make. We bear an obligation to the people of this country to keep them secure. I suspect the Indian parliamentarians feel likewise. When confronted by that choice, my view is they would choose to make security the choice, the very thing my colleagues argued against would, in fact, be driving them to that conclusion.

Obviously, the energy debate is a critical one. Again, no one has been more of an advocate of green technologies than our colleague from New Mexico, one of the stalwarts in this debate for many years—not just recently, where it has become popular to argue for alternative energy resources. But if we take away this alternative, India is growing—1.3 billion people. It has 300 million people living at middle-class or upper middle-class standards. They have a billion people living in abject poverty in India. They are seeking ways, of course, to bring many of those people out of poverty and improve the quality of their lives.

India understands that coal-fired electrical power plants are a liability, but India cannot afford to slow the growth of energy production at the same time its population is growing and trying to deal with the economic circumstances of its people.

India says we would like to build more commercial powerplants. It seems to me, for those of us who want to reduce the carbon footprint, the carbon emitters with India being a major supplier of carbon emissions it is in our interests to encourage them to move in a different direction. If we do not have some sort of arrangement or understanding on how to achieve that while simultaneously moving them away from that choice I mentioned a moment ago, we end up potentially where they have more weapons, doing little or nothing about energy production. It is a lose-lose proposition. We end up with India with nuclear weapons, and we end up with a nation that continues to use coal-fired plants, of course, endangering us further when it comes to the issue of global warming and the like. That is a further reason, I would argue, we ought seriously to understand the import of these amendments and appreciate the alternative presented by the bill before us.

I mentioned earlier, in fact, the very concerns raised by my two colleagues are covered by existing law. It is not as if there is some vacuum that exists, that there would be no repercussions should India decide to pursue and test nuclear weapons. Let me share with my colleagues. Again, I invite Members or their staffs to come over and be briefed by staff who spent literally their adult lives, their professional careers working on these bills. The suggestion that this was thrown together somehow in a quick hearing before the Foreign Relations Committee in a sense fails to understand the work done by our collective staffs on these matters going back years. In fact, previous Members of this body—no one cared more about this issue than John Glenn of Ohio. He was an advocate on this issue long before many were. I am going to share in a minute some of the law that bears his name and is still the law of the land when it comes to these issues, the Glenn amendment, and how we deal with the issue of countries that would, in a sense, go into the use of nuclear weapons.

This amendment would bar any and all nuclear exports for all time, without any exception or waiver, if India detonates a nuclear device.

Section 106 sets a different standard for India than we have for any other nonnuclear weapons state, which is what it is under the Nuclear Non-Proliferation Treaty and U.S. law. There is no need, I think. I think it would be very harmful to single India out in such a manner. There are other nations in a similar situation. I don't hear amendments being offered to suggest they all ought to be treated the same way. I suspect you would run into a buzzsaw if you did so. We are picking out the one great democracy in south Asia, with whom we have had a very testy relationship for 35 years, which is critical for dealing with the fragile issues that section of the world poses, and we are going to say: They and no one else gets that kind of treatment.

You can imagine the reaction we might get from a nation that is now reaching out to us for the first time in approaching half a century to get us back on a far different track than the one we are on.

India would clearly see this provision as an effort to put in place special penalties against that nation, if it were ever to respond.

Frankly, the proposed new section, as I said earlier, is a section I think poses some serious issues. I have commented before, I have put the language in of the administration. I think everyone mentioned earlier, and I will quote from the Secretary of State, she said:

We have been very clear with the Indians. Should India test, as it has agreed not to do so, or should India in any way violate the IAEA safeguards agreements to which it would be adhering, the deal from our point of view would be at that point off.

Under Secretary of State Bill Burns, before our committee, repeated that quote to us.

What is more, as I said, the amendment is unnecessary. Several provisions of existing law already apply to India.

The Glenn amendment sanctions under the Arms Export Control Act cut off a wide array of foreign aid, defense exports, bank credits and dual-use items.

There is no waiver. No waiver under the Glenn amendment. That was modified some years later, but there would be no waiver. The Glenn amendment is tougher in many ways than what we talking about here, we can argue, in that it doesn't provide any kind of relief. Congress enacted a waiver in 1999, somewhat of a waiver, after India and Pakistan tested in the 1990s, but that waiver authority terminates for either country that tests again. So under the modified Glenn amendment, there is no waiver authority. Under Glenn, the role of the United States and our relationship with India is clear.

Section 129 of the Atomic Energy Act already prohibits exports to a nonnuclear weapon State if it detonates a nuclear device. That one is subject to waiver by the President. India is still a nonnuclear weapon state by definition, and therefore would be included under this. That law is on the books, very similar to what is being advocated in the amendment posed by our two colleagues. The President could only use the waiver under section 129, I would add, if he finds that ceasing exports would be ''seriously prejudicial'' to the achievement of the U.S. nonproliferation objectives or would otherwise ''jeopardize the common defense and security of the country.'' That is a high standard, I might add, for the waiver authority.

Even if the President makes that determination, cooperation cannot proceed until 60 days of continuous session has passed after that determination has been submitted to Congress, further making that provision almost impossible to apply that waiver standard.

So there are two sections, one under the Atomic Energy Act, one under the Glenn amendment, that virtually do what our two colleagues talk about with their amendment. The bill before us would amend the Atomic Energy Act to ensure, by the way, that the Senate can take advantage of expedited procedures—limits on debate and amendment—to pass a joint resolution to overturn such a Presidential waiver.

Even if you got to that point, we have now put a further safeguard in against it, making it virtually impossible to waive the authority under section 129 of the Atomic Energy Act.

So the bill already improves the law relating to what could happen with a so-called nonnuclear weapons state. We are using the language here, but this applies to states that we all, to be honest, know have nuclear weapons. There are several nations we all know about in that category, but they are called nonnuclear weapons states. And yet, here the language is very strong.

Again, I think these sections are important to note. The combination of

the two amendments does cover the ground on all of this. I point out that Senator BINGAMAN's part of this amendment, this new section 107, is not necessary either.

U.S. obligations under the Nuclear Non-Proliferation Treaty already compel the United States to assure that its nuclear exports do not help nonnuclear weapons states to produce weapons. That obligation bars helping not only India but any nonnuclear weapons state. The Atomic Energy Act and the Hyde Act already provide tools to address the concern Senator BINGAMAN has raised.

Let's look at the specific provision, if you will, under the proposed section 107. It would require a certification in the event of a nuclear detonation by India that no United States material, equipment, or technology contributed to the detonation.

And what happens if the President makes that certification? The amendment does not say what happens. What happens if the President does not make the certification, or says it does not know whether any U.S. material, equipment, or technology was involved? This is a certification that may well be impossible to make under the law as drafted in this amendment.

So even with the intent to do something about it, how can you make it? How are you going to determine whether, in fact, materials have been used, or is it just the assumption that if one occurred, it would be, which may be an entirely false assumption when it comes to that country? How will we ever know for sure that no U.S. technology was diverted?

In any case, it is the certification that carries no consequences. The certification is not needed. Again section 104 of the Hyde act already requires the President to keep Congress fully and currently informed of any violation by India of its nonproliferation commitments and of this agreement.

Any contributions by U.S. exports to an India weapons program under the United States-India agreement would certainly be a violation of India's commitments and of the agreement, and so would need to be reported to us, and would very likely be reported to us long before any detonation, I might add.

Section 2 of the proposed act requires a report from the President after an Indian test describing those United States export controls that could be used to minimize any potential contribution that United States nuclear exports to third countries might make to an Indian nuclear weapons program.

The Hyde act and the Atomic Energy Act already address this issue. And let me quote to my colleagues again. I apologize for citing in detail these things, but you need to know this, because statements being made here on the floor about this, I say respectfully, are not accurate, about what existing laws require and mandate and demand in these areas.

Section 104(d)(5) of the Hyde act requires the President of the United States:

> shall ensure that all appropriate measures are taken to maintain accountability with respect to nuclear materials, equipment and technology . . . reexported to India so as to ensure . . . United States' compliance with [obligations under] article I of the Nuclear Non-Proliferation Treaty.

Section 104(g)(2) of the Hyde Act explicitly requires detailed reporting on any United States authorizations for the reexport to India of nuclear materials and equipment.

The Atomic Energy Act further requires that the United States not engage in civil nuclear cooperation with any country without an agreement for nuclear cooperation and that every such agreement must contain a guarantee by the other country that it will not transfer any nuclear material or facility to a third country without the prior approval of the United States.

Section 127 of that act makes it explicit that for any U.S. export of source or special nuclear material, nuclear facilities, or sensitive nuclear technology, that material, facility, or technology may not be retransferred to a third party without the United States's prior consent. The transfer cannot go forward unless the third party agrees to abide by all of the agreements of section 127.

That section also requires that the source and special nuclear material, nuclear facilities, and sensitive nuclear technology being exported must be under IAEA safeguards, and may not be used in or for research and development on a nuclear explosive device.

This assures us that any such report does not contribute to India's weapons program. The truth is that if India were to conduct another nuclear test or reexport by third countries, United States-origin nuclear material, equipment, or technology would be the least likely way for India to evade a cut-off of cooperation.

If any third country were to provide United States-origin nuclear material, or equipment, or material device from the United States-origin material or equipment for India without the United States's consent, the United States would have the right to cease nuclear cooperation with that country and to demand the return of material and/or equipment that has been provided under that country's nuclear cooperation agreement with the United States.

So third countries are highly unlikely, given the implications under the existing law, to reexport without our permission, or run the risk, obviously, of facing all of the admonitions that the previously existing law requires. A much more serious concern would be the risk that other countries would export their own nuclear material or equipment, not our material but their own nuclear equipment and material technology, to India after we had cut off exports. That concern is not addressed at all by the Dorgan and Bingaman amendment. But the bill before us does address that concern. Their amendment leaves that out entirely, which is actually a far more dangerous way that this may happen.

So under the bill before us, by reiterating a provision under the Hyde Act that if India should test again:

> It is the policy of the United States to seek to prevent a transfer to India of nuclear equipment, of materials or technology from other participating governments in the Nuclear Suppliers Group or from any other source.

This bill already lays down a marker regarding the real concern if India were to test. Again, whether it is reexport or direct shipments, we are in a position, I think, to respond aggressively. I point out, you defeat this bill, we are back to the agreement and a lot of this, other than what I have mentioned in existing law, does not apply.

So, again, I say to my friends and colleagues who offered the amendment, this is not a debate about whether some people care about nuclear weapons and others do not. The question is, are we being smart and intelligent about moving a major democracy that lives in a dangerous part of the world into a direction that will make it far more cooperative with us in doing exactly what the underlying amendment seeks to do, that is, to move away from weapons to commercial use, to dealing with the carbon emissions that are occurring here, to provide that kind of new relationship with India that I think is absolutely critical for our safety and security in the 21st century.

Walk away from this, drive a wedge between India and the United States in that part of the world, then I think you are going to have exactly the kind of problem our two colleagues have suggested. It gets closer to what they fear most. I believe what we have offered our colleagues today drives us further away from that outcome, which is what all of us ought to be trying to achieve. That is the reason I reject these amendments, and urge my colleagues to do so when they occur on a vote later today. I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I join my distinguished colleague Senator DODD in rising in opposition to the amendment offered by the Senators from North Dakota and New Mexico.

I believe the bill before us today and the Hyde act passed by Congress in 2006 addressed the possibility of a future Indian nuclear test in a very clear and definitive way. I am confident the Congress has provided the necessary assurances and authorities to protect United States interests and promote strong nonproliferation policies in the event of an Indian nuclear detonation.

The amendment seeks to address a concern that the Foreign Relations Committee addressed in 2006, and last month when we voted 19 to 2 to report the legislation pending before the Senate. Both bills ensure that there is no

ambiguity about the United States's legal and policy responses to a future Indian nuclear test.

If India tests a nuclear weapon, the 123 Agreement is over. This means the President could terminate all United States nuclear cooperation with India and fully and immediately use the United States's rights to demand the return of all items previously exported to India. This would include any special nuclear material produced by India, through the use of any nuclear materials and equipment or sensitive nuclear technology exported or reexported to India by the United States. These steps can occur as a response to any nuclear test, including instances in which India describes its actions as being ''for peaceful purposes.''

In addition, the United States could suspend and revoke any current or pending licenses. One of the primary purposes of this agreement is to deter India from testing nuclear weapons. New Delhi has more to gain from peaceful nuclear cooperation through this agreement than in testing.

The Hyde act and the bill before us were crafted to ensure that this is the case. Indian leaders argue that they retain the right to test. This is true. They are a sovereign nation. However, India has been warned repeatedly that consequences of another nuclear test would be dire.

In 2006, Secretary Rice stated in testimony that:

> We have been very clear with the Indians. Should India test, as it has agreed not to do, or should India in any way violate the IAEA safeguards agreements to which it would be adhering, the deal from our point of view would at that point be off.

In a question for the record, I asked Secretary Rice at that time what the consequences of an Indian test would be. And she noted that under existing law:

> No nuclear materials and equipment or sensitive nuclear technologies shall be exported to any nonnuclear weapons state that is found by the President to have detonated a nuclear explosive device.

Now, under United States law, and the Nuclear Non-Proliferation Treaty, India is a nonnuclear weapons state. In 2006 the Hyde act waived the application of the sanctions in the Atomic Energy Act to events that occurred before July 2005 when President Bush and Prime Minster Singh signed the joint statement. This waiver was intended to capture India's nuclear tests of 1974 and 1998, and permit U.S.-Indian cooperation in spite of those actions.

This does not apply to future Indian actions. So if India were to test tomorrow, the waiver provided by Congress in 2006 would not apply, and nuclear cooperation could be terminated. Let me repeat that. Under a law passed 2 years ago setting the parameters for congressional consideration of this agreement, if India were to test a nuclear weapon, terminate, or abrogate IAEA safeguards, materially violate IAEA safeguards, violate an agreement for cooperation with the United States, encourage another nonnuclear weapons state to engage in proliferation activities, or engage in unauthorized proliferation of sensitive nuclear technology, the agreement and United States cooperation could be terminated.

If that is not enough to satisfy the Senators' concerns, I would direct them to article 14 of the agreement:

> Should India detonate a nuclear explosive device, the United States has the right to cease all nuclear cooperation with India immediately, including the supply of fuel as well as the request for the return of any items transferred from the United States, including fresh nuclear fuel.

Under Secretary Rood stated in testimony before the Foreign Relations Committee on September 18, 2008 that:

> Just as India has maintained its sovereign right to conduct a test, so too have we maintained our right to take action in response.

Under article 14, the United States can also demand the return of any nuclear materials and equipment transferred pursuant to the agreement for cooperation as well as any special nuclear material produced in India, if it detonates a nuclear explosive device. This was confirmed in response to a question posed by the House of Representatives. The administration answered that even ''the fuel supply assurances [contained in the 123 agreement] are not . . . meant to insulate India against the consequences of a nuclear explosive test or a violation of nonproliferation commitments.

The United States would be able to exercise its right under article 14 of the agreement to require the return of materials and equipment subject to the agreement after, one, giving written notice to India that the agreement is terminated and, two, ceasing all cooperation based on a determination that a mutually acceptable resolution of outstanding issues has been impossible or cannot be achieved through consultation.

Both of these actions are within the discretion of the U.S. Government and do not require Indian agreement, and both can be taken at once.

In sum, the United States-India peaceful nuclear cooperation agreement ceases if India tests. This conclusion is consistent with any reasonable interpretation of the Atomic Energy Act, the Hyde Act, and article 14 of this agreement. As a result, this amendment is unnecessary. The issues it seeks to address have been remedied. I urge colleagues to vote against the amendment. The real effect of adoption of this amendment would be to, once again, delay consideration and approval of this important agreement. It is time to move forward and to vote on this legislation and start peaceful nuclear cooperation between the world's two largest democracies.

The second portion of the amendment we are considering now requires a certification and a report that are at best duplicative of provisions already in law. This amendment would simply delay implementation of the U.S.-India 123 agreement in order to effect requirements that have already been enacted. First, the amendment requires the President to certify to Congress that no technology, material, or equipment, nor any facility supplied by the United States to India under the 123 agreement assisted with a nuclear detonation, if one occurs in India. In my opinion, this provision is duplicative of section 104(g) of the Hyde Act passed by Congress in 2006. Under that existing law, the President is already required to report annually on whether U.S. civil nuclear cooperation with India is in any way assisting India's nuclear weapons program. This report is to include information on whether any U.S. technology has been used by India for any activity related to the research, testing, or manufacture of nuclear explosive devices. It is unclear what additional information is required by the Senator's amendment than is available each year now to Congress under the Hyde Act.

Second, the amendment requires a report on any export controls that could be used by the United States if India detonated a nuclear explosive. The purpose of the export controls would be to ensure that no U.S. materials, equipment, or technology that may be in countries other than India could be reexported by those nations to India so as to minimize all trade with India and ensure that no U.S. technology or exports contributed to their nuclear weapons program.

Again, this provision is repetitive. In 2006, Congress endorsed section 105 of the Hyde Act that created a Nuclear Export Accountability Program for all U.S. exports to India. The purpose of section 105 was to ensure that our country was taking all appropriate measures to maintain accountability of all nuclear materials, equipment, and technology sold, leased, exported, or reexported to India to ensure full implementation of the IAEA safeguards in India and U.S. compliance with article I of the NPT. The program created by the Hyde Act is a highly detailed accounting system focused on ensuring that India is complying with the relevant requirements, terms, and conditions of any licenses issued by the United States regarding exports to India. This program represents the most comprehensive and detailed system of accounting ever imposed. I believe it provides substantially the same information that is required in the Senator's amendment, without the need for a new law.

The Hyde Act also addressed the concern that other nations might continue to supply India with any technology or fuel in the event of a cutoff by the United States. Section 103 of the Hyde Act makes it the policy of the United States to strengthen the guidelines and decisions of the Nuclear Suppliers Group to move other nations toward ''instituting the practice of a timely

and coordinated response by [Nuclear Suppliers Group] members to all such violations, including termination of nuclear transfers to an involved recipient'' and discourage ''individual NSG members from continuing cooperation with such recipient until such time as a consensus regarding a coordinated response has been achieved.''

The conference report on the Hyde Act clearly states the definitive interpretation of that provision. It reads:

> The conferees intend that the United States seek agreement among [Nuclear Suppliers Group] members that violations by one country of an agreement with any NSG member should result in joint action by all members, including, as appropriate, the termination of nuclear exports. In addition, the conferees intend that the Administration work with individual states to encourage them to refrain from sensitive exports.

Section 103 of the Hyde Act also made it U.S. policy to seek to prevent the transfers of nuclear equipment, material, or technology from NSG participating governments to those countries with whom nuclear commerce has been suspended or terminated pursuant to the Hyde Act, the Atomic Energy Act, or any other U.S. law.

In other words, if U.S. exports to a country were to be suspended or terminated pursuant to U.S. law, it would be U.S. policy to seek to prevent the transfer of nuclear equipment, material, or technology from other sources, including from other countries with which the United States has substantial nuclear trade.

In sum, the amendment is duplicative. The issues raised here have been thoroughly dealt with under the Hyde Act of 2006, and the legislation currently before us. As a result, the impact of this amendment would simply be to delay congressional approval of this important agreement by sending it back to the House of Representatives. I do not believe such a course serves the U.S. security interests, and I urge defeat of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

FINANCIAL RESCUE

Mr. BOND. Mr. President, I am in strong agreement with the bipartisan leadership of the Foreign Relations Committee. I will address those issues shortly. But, first, since we have a rather full legislative calendar this evening, I will touch briefly on the financial system rescue, a rescue of a locked-up credit system which is having its impact on Main Street, where I live in the hearthand, and in every community in the Nation where credit is locked up.

Today I was advised that the State of Missouri cannot issue bonds to build highways. The State of Maine is also having trouble. Local governments can't get loans. There is no money available in the credit markets for municipal bonds at reasonable rates. There is a threat that workers will not get their paychecks if businesses or payroll companies cannot get the loans they need. Families will not be able to get loans for college education, to buy a car, to buy a home. Farmers will not be able to get operating loans they must have in Missouri to begin their normal agricultural operations.

When I came to the floor a week ago yesterday, I said we must pass something. At that time I said the Treasury's proposal lacks accountability, taxpayer protection, and transparency. Thanks to the good work of our negotiators—and I commend the Senator from Connecticut, Mr. DODD, Senator GREGG from our side, and the House negotiators for putting in those elements, as they are critical—the taxpayers have a triple level of protection against losses. The CBO has come out with a score saying it will be far less than the $700 billion. There are some who think we might recoup all of it, but it is far cheaper than continuing the process we have right now where Federal tax dollars are being used to come to the rescue of failing savings and loans, investment banks, and we don't get any equity from those efforts. We don't have a means of recouping it. What is even more important, it does nothing to unlock the credit gridlock that threatens to bring this economy to a halt, with workers losing their jobs, small businesses unable to operate.

Yesterday, I strongly urged that we raise the Federal deposit insurance limit from $100,000 so small businesses that have more than $100,000 don't have to continue taking their money out of the banks, leaving the banks less capital available to make loans, in order to get protection of U.S. Treasury deposits. I heard the stories, and I talked with a broker in Missouri yesterday who said: Small business clients are trying to move all their money out of banks above $100,000 and put it into Treasuries. Again, I am delighted that the leaders, our negotiators, and the bipartisan leadership in both Houses agreed to extend the FDIC limit to $250,000. We will be looking at all of those things, as well as general regulation of the financial markets when we return. I have lots of ideas. If anybody cares, I will be sharing them at the appropriate time.

I am also delighted that we are going to include the tax extenders, tax extenders that businesses need to continue to operate; tax extenders that, unfortunately, would only extend on a year-to-year basis but are necessary for profitable operation so businesses can continue to hire and build the economy. Probably the greatest part of that is delaying the burdensome and punitive alternative minimum tax that is now threatening to hit many middle-income working Americans, unless we pass this bill. Another element, on which my colleague from Iowa, Senator HARKIN, has been a leader, is getting disaster relief. Residents in Missouri need it. Iowa needs it. Our neighbors in Illinois need it. Many other places in the Nation need disaster relief. That is another must-pass piece of legislation.

To return to the subject that the Senators from Connecticut and Indiana are addressing, we currently have before us a number of legislative opportunities that, if we act and act properly, would send a reinforcing signal to our allies and friends in the world that the United States values and appreciates their support and cooperation. We all know that anti-Americanism is growing throughout the world. It is most evident in the socialist vitriol being spewed by Hugo Chavez in Venezuela, Mahmoud Ahmadinejad in Iran, and the widespread suspicion throughout the Muslim world about America's intentions. In places such as Southeast Asia and south Asia, where we are competing for influence with an emerging China, we must increase our engagement and strengthen our economic and strategic links with countries such as India, which I will speak to in a minute.

Let's face it, we have a lot of work to do in rebuilding America's image abroad and increasing security and stability throughout the world. But we have a number of opportunities before us, opportunities we must act upon. The way in which we get there is by engaging and deploying our Nation's smart power. This consists of, but is not limited to, public diplomacy efforts, educational exchanges, deployment of more Peace Corps volunteers and USAID foreign service officers, and supporting free-trade agreements and increased economic engagement.

The first target of opportunity where America must act is Colombia. Congress must act on the Colombia FTA and renew the Andean Trade Preferences. Doing so would solidify our image as a nation committed to helping a strategic ally in Latin America that is, in fact, standing shoulder to shoulder with us.

Colombia is a remarkable success in the fight against terrorism and narcotrafficking that needs to be told. It is a country where its pro-American leader, President Alvaro Uribe, has led a surge against narcoterrorists militarily while simultaneously improving the overall security, economy, and safety of the civilian population. They have done so while ensuring that protection of human rights and adherence to international humanitarian law are fully integrated into their security forces.

In my visit there just over a month ago, I was greatly encouraged by the tangible evidence I saw of a country in complete transformation. Just 6 years ago, in 2002, as much as 40 percent of Colombia was controlled by terrorist groups and ruthless narcotics-trafficking cartels. Many of my colleagues visited Colombia at that time and brought back grim reports of a country slipping into a failed state.

The PRESIDING OFFICER. There is an agreement to recess at 12:30.

Mr. BOND. Well, Mr. President, might I ask consent to conclude my remarks.

Mr. DODD. I say to the Senator, he can do that. I will propound a consent request, Mr. President, that the Senator be allowed to conclude in 5 minutes. Is that appropriate?

Mr. BOND. Yes.

Mr. DODD. Five minutes; and my colleague would like 15 minutes. So I ask, Mr. President, unanimous consent that the Senator from Missouri be allowed to proceed for 5 minutes and the Senator from Iowa for an additional 20 minutes.

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

Mr. BOND. Mr. President, I thank the Chair and thank my colleagues.

Since 1998, the United States has been supporting the counternarcotics effort President Clinton initiated known as Plan Colombia, and today our mutual objectives have evolved from a strict counternarcotics focus to encompass counterterrorism activities as well. Our investment has paid off.

With U.S. aid to Colombian security forces and assistance and trade preferences under the Andean trade preferences agreement, the Colombian people have been positively transforming their nation. Others, however, under the Andean trade preference agreement in Bolivia and Ecuador have produced less encouraging results, even taking sides with aggressively hostile Hugo Chavez.

I believe we ought to have a debate about extending them the full benefits of the Andean trade agreement. If I had the opportunity to offer an amendment, I would have limited the questionable Governments of Ecuador and Bolivia to 1 year while giving much longer protection to Colombia.

The message is simple: reward our friends and allies in the world, not those who wish us ill or support our enemies.

Colombia has been our friend and ally in an increasingly left-leaning, anti-American Latin America. We must take the opportunity to reward and thank them by passing the Colombia FTA.

This agreement also benefits America's economy by increasing exports and generating jobs. Upon entry into force of the agreement, over 80 percent of U.S. exports of agricultural, consumer, and industrial goods to Colombia would enter duty-free immediately.

The Colombian free-trade agreement will benefit America.

Another strategically important part of the world where the United States has an opportunity to increase cooperation and deploy its smart power is in India.

India is a friendly democracy strategically sitting between the two places American strategists worry most about: China and the Middle East.

We are natural allies as two of the world's largest democracies and we should be much closer. And the feeling, by and large, is mutual among the people of India.

India has more Muslims—150 million or so—than any other country in the world except Indonesia, which I have spoken extensively on this floor about engaging more proactively. Positive engagement of American smart power and increased economic opportunities will help prevent the likelihood of al-Qaida or radicalization of this large Muslim population.

During my trip to India in March of 2006, the major item of interest to all of the Government and private-sector officials I met, from Prime Minster Singh to businessmen in New Dehli, was the support for the civilian nuclear technology agreement which was signed as I was in the air. I was asked about it when I landed and could not answer. But I spent a day being fully briefed by our Embassy and intelligence officials.

After extensive discussions with Indian and American officials, as well as intelligence briefings, I reached the conclusion that this agreement is a very positive step for the United States and India.

It would aid in cementing a good working relationship with the world's largest democracy in a strategic part of the world. I support this agreement and agree with our bipartisan leadership that we must defeat the amendments which would merely delay and possibly sidetrack approval.

India has three paramount challenges ahead that it must address: First, it must improve its infrastructure and roads. Second, it must deal with the extreme poverty of its huge rural population. Thirty percent of its population live below the official poverty line. Third, India, just like the United States, must be able to meet the demand for increases in energy.

A strong relationship between India and the U.S. is vital to ensuring peaceful development and continued prosperity in South and Southeast Asia.

Regional rivalries, particularly with China will continue to heat up in a race for energy to fuel both India's and China's rapidly expanding economies and societies. An increase in nuclear power production in India through the U.S.-India Civil Nuclear Agreement would help to cool these rivalries in their race for energy resources.

In a land where air quality is a major problem, despite recent improvements, this agreement would allow India to meet its surging energy requirements in an environmentally friendly manner.

Further, increasing the supply of energy in India, make no mistake about it, also indirectly helps consumers at the pump here at home as well.

In addition to nuclear power, during my visit I also encouraged the development of clean coal technology. With the fourth largest coal reserves in the world, India and the U.S. should work together to develop that source of energy as well.

Developing energy solutions together with India will increase our engagement and lead to other economic opportunities for Americans.

I hope my colleagues will support this agreement between the United States and India without amendment.

It will safeguard Indian nuclear facilities and help meet the surging demand for global energy supplies in this critical Nation.

And most importantly, it will solidify our relationship with a strategically important country that for too long suffered under the burden of a Soviet-style economy. Now it is opening its market, shares our democratic values, and is on its way to becoming one of the world's three largest economies.

I urge my colleagues to act on solidifying our partnership with two critically important countries, Colombia and India.

TRIBUTE TO SENATOR PETE DOMENICI

Mr. President, I want to say that the passing of the mental health parity bill will be a great tribute to a wonderful friend, PETE DOMENICI, a true icon. He has been a longtime champion of this issue, and this will be a great testament to his leadership.

I worked with PETE on the Budget Committee. I say thanks, PETE, for making me take all the tough votes. It was ugly but necessary, just like the financial rescue package.

He is most recognized for his work on energy. I am very proud to have supported him in his efforts over many years to develop an abundant energy resource, long before $4 gasoline brought the issue home to every American.

Just as important to me, I will miss the great friendship of a wonderful man, PETE DOMENICI, and his magnificent wife Nancy.

PETE is known for his devotion to his friends and family—to his wife Nancy of 50 years and their 8 children.

PETE is also known for his devotion and dedication to New Mexico.

Born and raised in New Mexico, PETE has served his State in the U.S. Senate now for 36 years—making him the most senior Senator New Mexico has ever had.

PETE has also earned the title as the only Republican to ever be elected by New Mexico for a 6-year Senate term—in a State not known to lean Republican.

PETE's contributions to his State are well known to his constituents in New Mexico—whether it is fighting for solutions to the State's water crisis, supporting New Mexico schools, or ensuring New Mexico gets their fair share of tax dollars.

PETE's contributions to our Nation are also well known. He understands the importance of keeping America as a leader in science and technology and has worked for improvements to the math and science education our school children need to succeed.

PETE has also fought passionately for fiscal responsibility to ensure tax

payer dollars are spent wisely and curbing nuclear proliferation to keep our communities safe.

In recent years, PETE has used his role as chairman or ranking member of the Energy and Natural Resources Committee to fight for our Nation's energy security.

PETE worked across the aisle to pass the first comprehensive energy legislation since 1992. Because of PETE and the bill he got through Congress, our Nation began investing in our own energy sources.This bill provided incentives to expand the production of energy from wind, solar, geothermal and biomass sources to promote cleaner alternative sources of energy.

PETE also ensured that this bill promoted research and development of hydrogen and fuel-cell technology.

PETE didn't end the fight for our Nation's energy independence in 2005 though.Since that time, he has been a leader in the Senate calling for more action.

Before the gas price crisis that is now affecting families across the country, PETE sounded the alarm.He has called for bringing relief to families struggling with pain at the pump by tapping our own domestic supplies of gas and oil.

PETE has proposed the commonsense proposal—the Gas Price Reduction Act—to end our Nation's energy crisis.

It is this foresight, this leadership, and this passion to making our Nation a better place and for making our communities better for our families that will make PETE DOMENICI missed by all—Republicans and Democrats alike.

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

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Virginia.

Mr. WARNER. Mr. President, I understand there is an order that the distinguished Senator from Iowa will be recognized next. But I asked him graciously, would he give me a minute to speak in support of the United States-India nuclear cooperation agreement. I strongly endorse this agreement because as one of those who advocate greater nuclear power in our Nation, the industrial base of India will work with our industrial base at this time when we need to increase the number of plants we have in our Nation.

The United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act will provide congressional approval of the agreement reached between the United States and India that will pave the way for bilateral cooperation in civilian nuclear energy. This agreement resulted from years of diplomatic negotiations. I note that my dear friend, Ambassador Nick Burns, helped lay the foundation for this agreement during his tenure as Under Secretary of State for Policy.

As I publicly stated when this agreement was first announced in March 2006, it is important that as we move to implement this historic arrangement with India, we preserve two equally important objectives: a strengthened strategic partnership with India that includes mutually beneficial cooperation in civilian nuclear energy; and preservation of the nuclear nonproliferation regime to prevent the further spread of nuclear weapons and related technologies. I believe the bill ably crafted by Senators BIDEN and LUGAR seeks to advance both of those objectives.

As part of this agreement, India has agreed to separate its civilian nuclear fuel cycle from its military program, and to place the civilian program under full safeguards to be monitored by the International Atomic Energy Agency. This arrangement is intended to ensure that cooperation in civil nuclear energy will not assist India's nuclear weapons program in any way. India has also agreed to maintain its moratorium on nuclear testing, work toward a Fissile Material Cutoff Treaty, and strengthen its domestic nuclear export control laws. The bill providing congressional approval for the agreement makes clear that in the event India were to test a nuclear weapon in the future, cooperation under this agreement would be terminated.

Facilitating India's development of civilian nuclear energy will make an important contribution to a cause I value highly: reducing the emission of greenhouse gasses into the environment. As nations such as India grow and have increasing requirements for energy, it is imperative for the health of our global environment that they turn increasingly to clean sources of energy such as nuclear power.

I am also hopeful that this agreement will open the door to United States-India trade and investment in nuclear energy, and lead to new business opportunities for American firms with expertise in civilian nuclear power. Today, the United States is looking to expand its production of civilian nuclear power; to do so with the participation of the industrial base of India should help to expand the safe and economical production of civilian nuclear energy in both countries.

Mr. President, I support Senate approval of the United States-India Nuclear Cooperation Agreement because I believe it will advance the United States-India strategic partnership, promote a clean energy source to meet India's growing demand for energy, open the door to new business opportunities for the U.S. nuclear energy sector, and still promote and preserve important nonproliferation practices and principles which remain in the interest of the United States and indeed the international community.

I thank the Presiding Officer and my colleagues.

The PRESIDING OFFICER (Mr. TESTER). The Senator from Iowa.

Mr. HARKIN. Mr. President, I come to the floor to express my opposition to this deeply unwise United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act. In truth, this is not a nonproliferation enhancement act; it is a nonproliferation degradation and weakening act. If we pass this legislation, we will reward India for flouting the most important arms control agreement in history, the Nuclear Non-Proliferation Treaty, and we will gravely undermine our case against hostile nations that seek to do the same.

At a time when one of our primary national security objectives is to mobilize the global community to prevent Iran from producing nuclear weapons, the legislation before us would severely undermine our credibility and consistency.

India has refused to sign the 1968 Nuclear Non-Proliferation Treaty—one of only four nations, by the way—and, three decades ago, produced its first nuclear weapon. It was precisely for this reason that following India's first nuclear test in 1974, the United States felt compelled to create the Nuclear Suppliers Group.

Since the 1954 Atomic Energy Act, the United States has prohibited—has prohibited—the sale of any nuclear technology, peaceful or not, to any nation, such as India, that does not have full nuclear safeguards—full nuclear safeguards. As was pointed out earlier by my colleague from North Dakota, Senator DORGAN, right now India has 22 nuclear reactors. Under this agreement, only 14 will come under IAEA, International Atomic Energy Agency, safeguards—14. What about the other eight? What is going to happen to them? They are not under any safeguards at all. So, again, we are undermining and we are overturning what the United States has been doing for over 50 years.

The legislation we now have before us permits the United States to unilaterally break that ban. It will open the floodgates for other nations, such as France and Russia, that already have agreements to sell to India pending—pending—the approval of this deal.

Listen to the views of LTG Robert Gard, chairman of the Center for Arms Control and Proliferation. I quote his words:

> The greatest threat to the security of the United States is the proliferation of nuclear weapons. This deal [with India] significantly weakens U.S. and international security by granting an exception to the rules of the Nuclear Suppliers Group and American laws, thereby undermining the entire non-proliferation regime and inviting violations by other nations.

I would add there is nothing in this agreement to prevent India from continuing on a parallel path its robust nuclear weapons program. India is allowed to continue producing—to continue producing—bomb-making material, and it is free to expand its arsenal of nuclear weapons. Even worse, there is nothing in this legislation to prevent India from resuming nuclear weapons testing.

So I ask, why, in the twilight of the Bush Presidency—and we know what

his ratings are and how the people feel about this Presidency—why are we rushing to pass this gravely flawed agreement? It was hustled through the other body without any hearings and without a vote in the House Foreign Affairs Committee. Here in the Senate, the Foreign Relations Committee held just one hearing with just one witness who spoke in support of the agreement. Until Senators objected, an attempt was made to pass the bill on the floor without any debate whatsoever. Given the monumental national security implications of this legislation—casting aside core principles of the Nuclear Non-Proliferation Treaty—this lack of debate and due diligence is simply extraordinary.

Leading arms control experts have condemned this agreement. Leonor Tomero, director of nuclear nonproliferation at the Center for Arms Control and Nonproliferation, rendered this verdict:

> The Bush administration ignored congressional conditions and gave away the store in its negotiations with India, with nothing to show for the deal now except having helped foreign companies, enabled the increase of nuclear weapons and nuclear-weapons materials in India, and seriously eroded a thirty-year norm of preventing nuclear proliferation.

India is a peaceful nation, a strong democracy, and a friend of the United States. I have tremendous respect for India. But there are facts that must be acknowledged: India is one of only four states that have refused to sign the Nuclear Non-Proliferation Treaty; India continues to produce fissile material and expand its nuclear arsenal; India does not have International Atomic Energy Agency safeguards on all elements of its civilian nuclear program; and India has failed to file a list of facilities that will be subject to the IAEA safeguards. According to the U.S. Department of State, in the past, Indian entities have sold sensitive missile technologies to Iran—to Iran—in violation of U.S. export control laws.

I might just add one other thing. It has been said time and time again that India is a great friend of the United States. I suggest that one go back and look at the votes in the United Nations General Assembly and see how many times India votes with the United States and has since the establishment of the United Nations. It is dismal. I was trying to get that before the debate today, going all the way back. I had that at one time. But I can tell you, last year, in 2007, in the General Assembly, India voted with the United States 14 percent of the time—one of the lowest in the world. This great friend of the United States supported us in the United Nations 14 percent of the time. Is that a real friend?

As I said, one more item: India, 22 reactors; only 14 are going to come under IAEA safeguards, the other 8 used for military weapons programs. Yet, despite this record, the legislation before us would give India the rights and privileges of civil nuclear trade that heretofore have been restricted to members in good standing of the nonproliferation treaty.

As others have pointed out, this would create a dangerous precedent. It would create a distinction between kind of ''good'' proliferators and ''bad'' proliferators. It would send mixed, misleading signals to the international community with regard to what is and is not permitted under the nonproliferation treaty. Under this legislation, the United States would be saying, in effect, that India is a ''good'' proliferator and it should get special favorable treatment. What if, in the months ahead, China or Russia decides to recognize Iran as a ''good'' proliferator? On what grounds would we object, having rewritten the rules to suit our own interests and certain special interests with regard to India?

I oppose this legislation. But there is one element of this prospective agreement with India that I believe is particularly dangerous and needs to be changed. It was talked about earlier. Under the 2006 Henry J. Hyde Act, the United States must—must—ban the transfer of enrichment or reprocessing technologies to India and it must cut off—must cut off—nuclear trade with India if that nation resumes nuclear testing. The administration has successfully pressured the Nuclear Suppliers Group to approve an India-specific waiver that does not incorporate these consequences if India resumes nuclear testing. This is virtually an invitation to India to resume nuclear testing, secure in the knowledge that a resumption of testing would not nullify this new nuclear trade agreement.

I believe this to be a grave mistake. That is why I am joining with Senator DORGAN and Senator BINGAMAN and others to offer a commonsense amendment to this legislation in order to send an unambiguous warning to India with regard to resumption of nuclear testing. Our amendment states:

> Notwithstanding any other provision of law, the United States may not export, transfer, or retransfer any nuclear technology, material, equipment, or facility under the Agreement if the Government of India detonates a nuclear device after the date of the enactment of this Act.

It is very simple, very straightforward.

In order to protect the integrity of the world's nonproliferation regime, I urge my colleagues to vote against the United States-India nuclear energy cooperation agreement. It will set a dangerous precedent, and it will weaken our efforts to deny Iran a nuclear weapon. But if nothing else, at least we can adopt the amendment being offered by Senator DORGAN and Senator BINGAMAN and others to say that if, in fact, they do detonate a nuclear device, the United States will stop any export, transfer, or retransfer of any nuclear technology, material, or equipment to India. So, again, I am a realist. I recognize that this seems to be on a fast track. It will likely go to passage. So to minimize the damage, I urge Senators to support the Dorgan-Bingaman amendment which will give India strong incentives not to resume nuclear testing.

Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:47 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Acting President pro tempore.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I wish to proceed at this time as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO SENATORS

Mr. WARNER. Mr. President, I rise today, as one of those who made the weighty decision not to seek reelection, to share my most personal thoughts—tributes—to my esteemed colleagues who will quietly, humbly, and with a deep sense of gratitude to their States, to our Nation, bring to a conclusion their public service as U.S. Senators.

This is a diverse group of Senators. Whether we hail from small farms, small cities or, in my case, from major metropolitan areas, we bring different backgrounds, different interests. That diversity gives the Senate its strength to serve equally all Americans. What we share, however, is an unwavering love for our States, our country and for the institution of the U.S. Senate.

We aspire to Winston Churchill's quote: ''We make a living by what we get; we make a life by what we give.''

It has been my privilege, over my 30 years in the Senate, to serve with a total of 261 Members. Each, almost, shall be remembered as a friend.

I want to say a few special, heartfelt words about Senator PETE DOMENICI.

PETE DOMENICI

I first came to know PETE DOMENICI when I arrived in the Senate in 1979. He beat me here by 6 years, and now has served New Mexico with distinction for 36 years. PETE is a veritable renaissance man: baseball player, math teacher, lawyer, city commissioner, senator and, most importantly, a loving husband, father and grandfather.

Senator DOMENICI made his mark with his leadership on fiscal and energy