the peacekeeping effort in the Republic of Bosnia and Herzegovina shall be entitled to certain tax benefits in the same manner as if such services were performed in a combat zone; to the Committee on Finance.

By Mr. COCHRAN:

S. 1554. A bill to amend the Fair Labor Standards Act of 1938 to clarify the exemption for houseparents from the minimum wage and maximum hours requirements of that Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DOLE (for himself, Mr. ROTH, Mr. MCCAIN, and Mr. DOMENICI):

S. 1555. A bill to guarantee the timely payment of social security benefits in March 1996; read twice.

By Mr. KOHL (for himself and Mr. SPECTER):

S. 1556. A bill to prohibit economic espionage, to provide for the protection of United States proprietary economic information in interstate and foreign commerce, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER (for himself and Mr. KOHL):

S. 1557. A bill to prohibit economic espionage, to provide for the protection of United States vital proprietary economic information, and for other purposes; to the Select Committee on Intelligence.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER (for himself, Mr. SIMON, Mr. DOLE, Mr. LAUTENBERG, Mrs. BOXER, Mr. COCHRAN, Mr. HEFLIN, Ms. MIKULSKI, Ms. SNOWE, Mr. GRASSLEY, Mr. THURMOND, Mr. GLENN, Mr. BRADLEY, Mr. KENNEDY, Mr. KERRY, Mr. REID, Mr. MACK, Ms. MOSELEY-BRAUN, Mr. SARBANES, Mrs. FEINSTEIN, Mr. COHEN, Mrs. MURRAY, Mr. BIDEN, Mr. PRESSLER, Mr. LEVIN, Mr. THOMAS, Mr. DODD, and Mr. WARNER):

S. Res. 219. A resolution designating March 25, 1996 as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy''; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. DASCHLE, and Mr. WARNER):

S. Res. 220. A resolution in recognition of Ronald Reagan's 85th birthday; considered and agreed to.

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

S. Res. 221. A resolution to authorize testimony by a former Senate employee; considered and agreed to.

S. Res. 222. A resolution to authorize the production of documents by the Permanent Subcommittee on Investigations; considered and agreed to.

By Mrs. HUTCHISON (for herself and Mr. GRAMM):

S. Res. 223. A resolution to commemorate the sesquicentennial of Texas statehood; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROWN:

S. 1549. A bill to improve regulation of the purchase and sale of municipal securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE MUNICIPAL SECURITIES INVESTOR PROTECTION ACT OF 1996

Mr. BROWN. Mr. President, I rise to offer a bill to protect municipal securities investors.

The Securities Act of 1933, and the Exchange Act of 1934 were drafted in response to the stock market crash of 1929. Congress passed the 1933 and 1934 acts to prevent fraud in the securities markets and ensure uniform and reliable information for investors. At that time however, Congress decided to exempt the relatively insignificant municipal securities market from new laws, because unlike corporations, the States, cities, and counties issuing bonds could back their obligations with their power to raise taxes.

Now, with over 52,000 municipal issuers, and $1.2 trillion in outstanding debt obligations, the municipal securities market in one of the largest unregulated markets in the world. Complex financing arrangements are created behind the shelter of the municipal securities exemption. Over 70 percent of all municipal bonds are revenue bonds, backed not by tax revenues, but the isolated revenues of special projects like toll roads, powerplants and airports. Revenue bonds for major projects can exceed $1 billion, and are often bought and sold internationally by individuals, corporations, banks, and governments. These revenue bonds present many of the same investment risks as corporate enterprises, but because they are municipal securities, they are subject only to voluntary market guidelines and the SEC's authority to prevent fraud.

Since its inception, people have questioned whether the Security and Exchange Commission's lack of authority over the municipal securities market was adequate to protect investors. A 1993 staff report of the Securities and Exchange Commission examined that question and commented on the shortcomings of the SEC's authority: ''Because of the voluntary nature of municipal issuers disclosure, there is a marked variance in the quality of disclosure, during both the primary offering stage and in the secondary market.'' Other groups have echoed the SEC's sentiment. The Public Securities Association testified that, ''secondary market information is difficult to come by even for professional municipal credit analysts, to say nothing of retail investors.'' The SEC staff concluded that while the SEC could take steps to improve disclosure, any comprehensive changes to the existing system would require congressional action.

The SEC took an indirect step toward improving municipal securities disclosure when it began enforcing 15c2–12 last summer. That rule requires municipal securities dealers to contract with issuers for the provision of disclosure documents and annual reports. These regulations however, fall short of the protections offered investors in the 1933 and 1934 acts because they do not give the SEC the authority to review municipal disclosures, regulate content, or require continuing disclosure of financial information.

This bill would take additional steps toward full disclosure. Under my proposal, a municipal security issuer who offers more than $1 billion in related securities, but does not pledge its taxing authority toward repayment of the obligations, must conform to the registration and continuous reporting requirements of the Securities Act of 1933 and the Exchange Act of 1934. In other words, when a municipal issuer acts like a corporation by pledging the revenues of a particular project toward repayment of debt, it should be treated like a corporation.

Recent collapses in the municipal securities market underline the need for congressional action:

New York: After issuing record levels of debt from 1974 through 1975, New York City was unable to issue additional debt to cover maturing obligations. As a result, $4 billion of the city's short-term bonds lost over 45 percent of their value by December 1975, and interest rates for municipalities across the Northeast and Mid-Atlantic regions rose 0.05 percent. The subsequent SEC investigation uncovered distorted financial information including a systematic overstatement of revenues.

Washington Public Power Supply System: With an initial cost estimate of $2.25 billion to build nuclear reactors, the Washington Public Power Supply System issued bonds between 1977 and 1981. By the time the final bond sale was issued, the project's estimated cost exceeded $12 billion. Construction was halted, the WPPSS went into default, and the SEC began investigating the WPPSS's disclosure practices.

The SEC found that the WPPSS had mislead investors by not releasing reports about cost overruns, that underwriters failed to critically analyze the information provided by the WPPSS, that bond rating agencies failed to conduct due diligence to confirm WPPSS information, and that attorneys provided unqualified legal opinions as to the validity of the financing agreements. Ultimately no enforcement action was taken because several class action civil suits concluded with the Federal district court approving a $580 million global settlement.

Orange County: In 1994, a lack of disclosure led many investors of Orange County bonds to be surprised when the Orange County investment fund declared bankruptcy. The fund's risky investments in derivatives led to a loss of over $1.7 billion and put every debt obligation of the county at risk.

Denver International Airport: Original plans called for Denver to finance its new $1.3 billion international airport with bonds backed by operation revenues following its October 1993 opening. The actual cost of the Denver International Airport [DIA] exceeded

$4.8 billion and construction delays postponed its opening to February 28, 1995. Questions regarding contracting practices, construction problems, and delays caused by its high-technology baggage system led to several Federal and State investigations and class action lawsuits, including an investigation by the SEC to review Denver's knowledge and disclosure of delays with the baggage system.

These examples demonstrate how the voluntary nature of the municipal market is failing to adequately inform investors. Whereas updated, accurate information is readily available to investors of corporate securities, municipal securities investors are often caught offguard and unaware of the risks associated with their investment. Current law only encourages municipalities to comply with the voluntary guidelines of the Government Finance Officers Association, and only requires disclosure of facts so as not to violate the antifraud provisions of the 1933 and 1934 acts. In other words, municipal issuers are under no obligation to provide annual financial information, conform to generally accepted accounting principals, or report conflicts of interest. In addition, disclosure is only necessary to avoid making a material misstatements of fact, a standard which some commentators argue is met by remaining silent even as material events and facts change. The end result can be uniformed investors who suffer losses from undisclosed risks.

This legislation is designed to protect investors by requiring municipal issuers who act like corporations to meet the same requirements as corporations. Instead of receiving guidance from voluntary standards, municipalities and investors would have the benefit of mandatory guidelines and requirements for judging what information needs to be disclosed and what form it needs to take. Instead of relying on documents which can be outdated and unaudited, investors would be able to review the latest numbers when analyzing risk. The end result would be greater information for investors, more security for issuers, and lower cost for consumers.

In Denver's case, the requirements of the 1933 and 1934 acts could have eliminated some of the problems the city now faces. Since issuers under the 1933 act are strictly liable for misinformation in their documents, the city would have taken extra precautions to accurately disclose information in a timely manner—a practice which could have prevented the facts driving the current SEC investigation. Investors would be more willing to invest because they would be able to easily obtain current, audited financial information similar in form and content to other offerings. Finally, without the specter of pending lawsuits and investigations, the cost of borrowing would go down saving millions of dollars for the city and allowing it to lower rents to airlines. Lower rents in turn would allow the airlines to pass savings on to consumers in the form of lower ticket prices.

As the Denver example shows, everyone can benefit from the accurate and continuous disclosure required of corporations by the securities acts. If municipalities are going to operate like corporations, and back securities with revenues from specific projects, then the investing public deserves to receive complete and updated information regarding those revenues. This bill takes the commonsense approach of bringing municipalities who offer revenue bonds totaling more than $1 billion, under the same rules and regulations as faced by private companies.

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

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

S. 1549

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 ''Municipal Securities Investor Protection Act of 1996''.

SEC. 2. TREATMENT OF MUNICIPAL SECURITIES IN THE SECURITIES ACT OF 1933.

Section 3 of the Securities Act of 1933 (15 U.S.C. 77c) is amended by adding at the end the following new subsection:

''(d)(1) Notwithstanding subsection (a)(2), a security issued by a municipal issuer shall only be exempt from the provisions of this title—

''(A) if the municipal issuer pledges the full faith and credit or the taxing power of that municipal issuer to make timely payments of principal and interest on the obligation; or

''(B) if the municipal issuer—

''(i) offers or sells such securities in a single transaction in an aggregate principal amount equal to less than $1,000,000,000; or

''(ii) offers or sells such securities in a series of related transactions, and at the time of the offer or sale of such securities, does not reasonably anticipate that the aggregate principal amount of the series of related transactions will exceed $1,000,000,000.

''(2) For purposes of this subsection—

''(A) the term 'municipal issuer' means—

''(i) a State, the District of Columbia, or a Territory of the United States; or

''(ii) a public instrumentality or political subdivision of an entity referred to in clause (i);

''(B) the term 'series of related transactions' means a series of separate securities offerings made—

''(i) as part of a single plan of financing; or

''(ii) for the same general purpose; and

''(C) the term 'reasonably anticipate' shall have the meaning provided that term by the Commission by regulation, taking into consideration, as necessary or appropriate—

''(i) the public interest;

''(ii) the protection of investors; and

''(iii) the need to prevent the circumvention of the requirements of this subsection.''.

SEC. 3. TREATMENT OF MUNICIPAL SECURITIES IN THE SECURITIES EXCHANGE ACT OF 1934.

(a) IN GENERAL.—Section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

''(ii) any security issued by a municipal issuer with respect to which the municipal issuer—

''(I) pledges the full faith and credit or the taxing power of that municipal issuer to make timely payments of principal and interest on the obligation; or

''(II)(aa) offers or sells such securities in a single transaction in an aggregate principal amount equal to less than $1,000,000,000; or

''(bb) offers or sells such securities in a series of related transactions, and at the time of the offer or sale of such securities, does not reasonably anticipate that the aggregate principal amount of the series of related transactions will exceed $1,000,000,000;'';

(2) in subparagraph (B)(ii), by striking ''municipal securities'' and inserting ''the securities described in subparagraph (A)(ii)'';

(3) by redesignating subparagraph (C) as subparagraph (D); and

(4) by inserting after subparagraph (B) the following:

''(C) For purposes of subparagraph (A)(ii)—

''(i) the term 'municipal issuer' means—

''(I) a State or any political subdivision thereof, or an agency or instrumentality of a State or any political subdivision thereof; or

''(II) any municipal corporate instrumentality of a State;

''(ii) the term 'series of related transactions' means a series of separate securities offerings made—

''(I) as part of a single plan of financing; or

''(II) for the same general purpose; and

''(iii) the term 'reasonably anticipate' shall have the meaning provided that term by the Commission by regulation, taking into consideration, as necessary or appropriate—

''(I) the public interest;

''(II) the protection of investors; and

''(III) the need to prevent the circumvention of the requirements of subparagraph (A)(ii).''.

(b) TREATMENT OF MUNICIPAL SECURITIES THAT ARE NOT EXEMPTED SECURITIES.—The third sentence of section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(d)) is amended by inserting before the period the following: '', except that, with respect to a class of municipal securities that are not exempted securities, the duty to file under this subsection may not be suspended by reason of the number of security holders of record of that class of municipal securities''.

(c) REPORTING PRIOR TO THE SALE OF SECURITIES.—Section 15B(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*–4(d)(1)) is amended—

(1) by striking ''(d)(1) Neither'' and inserting ''(d)(1)(A) Except as provided in subparagraph (B), neither''; and

(2) by adding at the end the following new subparagraph:

''(B) Subparagraph (A) does not apply to an issuer of any municipal security that is not an exempted security.''.

SEC. 4. TREATMENT OF CERTAIN MUNICIPAL SECURITIES IN THE TRUST INDENTURE ACT OF 1939.

Section 304(a)(4) of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd(a)(4)) is amended by striking ''of subsection 3(a) thereof'' and inserting ''of subsection (a), or subsection (d) of section 3 of that Act''.

By Mr. DASCHLE:

S. 1552. A bill to amend the Railroad Retirement Act of 1974 to prevent the canceling of annuities to certain divorced spouses of workers whose widows elect to receive lump sum payments; to the Committee on Labor and Human Resources.

THE RAILROAD RETIREMENT AMENDMENT ACT OF 1996

Mr. DASCHLE. Mr. President, today I am introducing legislation on behalf

of Valoris Carlson of Aberdeen, SD, and the handful of others like her whose lives have been terribly disrupted. This legislation will right a wrong that was not due to any error or deception on Valoris' part, but due to an administrative error by the Railroad Retirement Board [RRB].

In 1984 Valoris, as the divorced spouse of a deceased railroad employee, applied for a survivor's pension. The RRB failed to check if a lump sum withdrawal had previously been made on the account at the time of her former spouse's death—even though Valoris clearly stated on her application that there was a surviving widow. In fact, a lump sum payment had been made, but not identified. The RRB began paying Valoris $587 per month in 1984 and continued to pay her benefits for 11 years. Only recently did they discover that an error had been made over a decade ago.

Not until 1995 was Valoris told she was not eligible for the pension she was awarded in 1984. Had the RRB reviewed their records, they would have seen that a lump-sum payment had been made on that account. Valoris, who was married for 26 years, lost her eligibility to the widow of the railroad worker who had been married to him for only 3 years. Valoris made an honest application for benefits. The RRB failed to do their job properly, resulting in 11 years of ''overpayments'' to Valoris.

These payments affected Valoris' planning for the future. Valoris planned her retirement on that modest sum of $587. Had she been told she was not eligible for benefits, she would have worked longer to build up her own Social Security benefits. Her railroad divorced widow's pension has been her only steady income. She has picked up a few dollars here and there by renting out rooms in her home, but without her pension income, Valoris does not know how she will live.

The bill I am introducing today will address the errors made by the RRB that have disrupted the life of Valoris Carlson and others like her. The RRB advises that 17 other widows are similarly situated, and their pensions would also be restored by this bill.

The bill, which was developed with technical assistance from the RRB, would allow the 18 women impacted by the RRB's administrative error to begin receiving their monthly benefits again. It requires them to repay the lump sum, but they are allowed to do so through a marginal withholding from their monthly benefit. The monthly withholding can be waived if it would cause excessive hardship for a widow.

Mr. President, I will work to enact this legislation as quickly as possible to restore the benefits to those women who are now suffering as a result of the Government's mistakes. There is no excuse for further delay in providing these Americans with benefits they were led to expect by the RRB.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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 ''Railroad Retirement Amendment Act of 1996''.

SEC. 2. PROTECTION OF DIVORCED SPOUSES.

(a) IN GENERAL.—Section 6(c) of the Railroad Retirement Act of 1974 is amended—

(1) in the last sentence of paragraph (1), by inserting ''(other then to a survivor in the circumstances described in paragraph (3))'' after ''no further benefits shall be paid''; and

(2) by adding at the end the following:

''(3) Notwithstanding the last sentence of paragraph (1), benefits shall be paid to a survivor who—

''(A) is a divorced wife; and

''(B) through administrative error received benefits otherwise precluded by the making of a lump sum payment under this section to widow;

if that divorced wife makes an election to repay to the Board the lump sum payment. The Board may withhold up to 10 percent of each benefit amount paid after the date of the enactment of this paragraph toward such reimbursement. The Board may waive such repayment to the extent the Board determines it would cause an unjust financial hardship for the beneficiary.''.

(b) APPLICATION OF AMENDMENT.—The amendment made by this section shall apply with respect to any benefits paid before the date of enactment of this Act as well as to benefits payable on or after the date of the enactment of this Act.

By Mr. MCCAIN:

S. 1553. A bill to provide that members of the Armed Forces performing services for the peacekeeping effort in the Republic of Bosnia and Herzegovina shall be entitled to certain tax benefits in the same manner as if such services were performed in a combat zone; to the Committee on Finance.

TAX RELIEF LEGISLATION

Mr. MCCAIN. Mr. President, as we continue to debate a balanced budget, 20,000 of our service men and women are participating in Operation Joint Endeavor in war torn Bosnia and Herzegovina.

The bill I am introducing today is designed to provide some peace of mind to our troops and their families. This bill is identical to H.R. 2778 introduced earlier this month by Congressman BUNNING from Kentucky. Specifically, this bill would provide a tax exemption and additional benefits for our service men and women serving in Bosnia, which is but a small gesture showing our support.

I hope and pray that this operation will remain a peaceful deployment, but the fact remains that the lives of our military personnel are continually at risk from landmines, sniper fire, or accident in this peacekeeping operation.

I know personally the character of the Americans who take up arms to defend our Nation's interests and to advance our democratic values. I know of all the battles, all the grim tests of courage and character, that have made our Armed Forces the envy of our allies and enemies alike.

Our people are our greatest asset. They make sacrifices day after day, and are prepared to make the ultimate sacrifice. Without the ''can do'' attitude our military personnel persistently display, we would not have the finest military force in the world today. As our troops carry out their assigned duties in Bosnia, we must do our part to let them know how much their dedication and efforts are appreciated by the American people.

Because it is a peacekeeping mission, Bosnia has not been declared a ''combat zone'' by the Department of Defense. Had the designation been made, tax exemptions and other benefits, as well as hazardous duty pay, would automatically be invoked without this bill. This bill would ensure that tax and certain other benefits are provided. I want to point out, however, that it does not authorize hazardous duty pay which would entail a very significant cost. In these times of fiscal constraint, we must take a conscientious look at the financial impact on the Federal budget of this initiative and how this standard may be applied to future peacekeeping or other non-combat missions.

I hope that the potential danger to our troops remains low. If, however, any U.S. soldiers were to be fatally injured while serving in this peacekeeping operation, this bill would provide additional benefits to their families.

Mr. President, the men and women participating in Operation Restore Hope in Somalia did not receive these benefits, and unfortunately some of those men lost their lives in a mission gone tragically awry. This bill is intended to help relieve some of the financial burdens on our service men and women caused by their deployment and allay the economic concerns of their families. I believe this measure deserves our careful and full review, and I intend to seek expeditious consideration of this legislation.

By Mr. COCHRAN:

s. 1554. A bill to amend the Fair Labor Standards Act of 1938 to clarify the exemption for houseparents from the minimum wage and maximum hours requirements of that Act, and for other purposes; to the Committee on Labor and Human Resources.

THE FAIR LABOR STANDARDS ACT OF 1938 AMENDMENT ACT OF 1996

● Mr. COCHRAN. Mr. President, today I am introducing legislation to provide a specific exemption for houseparents from the minimum wage and overtime requirements of the Fair Labor Standards Act. This bill will provide significant relief to orphanages and group homes throughout the United States.

Houseparents are men and women who work and live in a group home setting to care for, nurture, and supervise children. These children may live at

the home for any number of reasons. They may be abused, neglected, orphaned, or homeless. The importance of houseparents in providing a family-like, healthy environment for these children cannot be overstated. It is the love, hard-work, and dedication of these people that enables the children at the home to enjoy a caring and stable environment.

As compensation for their services, houseparents receive a very unconventional package of benefits, including a fixed annual salary, food, housing, and transportation. The Department of Labor, however, has determined that these men and women are also entitled to overtime wages.

For example, in Mississippi, the Department of Labor determined that since houseparents at a particular home answered long-distance calls, opened out-of-State mail, and took the children on trips across the State line that houseparents were engaged in commerce and therefore covered by the minimum wage and overtime provisions of the Fair Labor Standards Act. This interpretation has threatened the houseparent system by placing an unbearable burden on the extremely limited resources of non-profit group homes.

The legislation I am introducing today will remedy this situation by providing nonprofit group homes with a specific exemption for houseparents from minimum wage and overtime requirements. Without such an exemption, these homes would be forced to use a shift model of employment where quasi-houseparents work 8 hour shifts to care for the children. This alternative would not furnish the same family-like setting for these children that the houseparent system provides.

It is important to note that this measure creates only a very narrow exemption from the Fair Labor Standards Act. This bill would only exempt those houseparents who meet the following criteria: First, the houseparents must be employed by nonprofit homes; second, the group home in question must be the children's primary residence; third, the houseparents must reside with the children at the home for a minimum of 72 hours per week; and fourth, the houseparent must receive board and lodging from the home, free of charge, and be compensated, on a crash basis, at an annual rate of not less than $8,000.

This legislation will allow nonprofit group homes to continue to provide the best possible care for children. I hope my colleagues will carefully consider it and join me in support of its enactment.●

By Mr. KOHL (for himself and Mr. SPECTER):

S. 1556. A bill to prohibit economic espionage, to provide for the protection of United States proprietary economic information in interstate and foreign commerce, and for other purposes; to the Committee on the Judiciary.

THE ECONOMIC ESPIONAGE ACT OF 1996

● Mr. KOHL. Mr. President, we have a problem in America today: The systematic pilfering of our country's economic secrets by our trading partners which undermines our economic security. It would not be unfair to say that America has become a full-service shopping mall for foreign governments and companies who want to jump start their businesses with stolen trade secrets.

Sadly, we are under-unequipped to fight this new war. Our laws have glaring gaps, allowing people to steal our economic information with vitual impunity.

So I introduce the Industrial Espionage Act of 1996 with Senator SPECTER. I am also pleased to cosponsor with Senator SPECTER the Economic Security Act of 1996. Together these laws will enable Federal law enforcement agencies to catch and vigorously prosecute anyone who tries to steal proprietary information from American companies. Our two measures should be read together as a unified approach to the problem. They are not panaceas, but they are an effort to deal with this problem systematically and comprehensively. The Department of Justice and the FBI have also been extremely helpful in drafting these pieces of legislation, and we look forward to working with them as we move these measures forward.

Mr. President, businesses spend huge amounts of money, time, and thought developing proprietary economic information—their customer lists, pricing schedules, business agreements, manufacturing processes. This information is literally a business's lifeblood. And stealing it is the equivalent of shooting a company in the head. But these thefts have a far broader impact than on the American company that falls victim to an economic spy. The economic strength, competitiveness, and security of our country relies upon the ability of industry to compete without unfair interference from foreign governments and from their own domestic competitors. Without freedom from economic sabotage, our companies loose their hard-earned advantages and their competitive edge.

The problem is not new. But with expanding technology and a growing global economy, economic espionage is entering its boom years. American companies have estimated that in 1992, they lost $1.8 billion from the theft of their trade secrets. A 1993 study by the American Society for Industrial Security found a 260-percent increase in the theft of proprietary information since 1985. And the theft of these secrets is not random and disorganized. The press has reported that one government study of 173 nations discovered that 57 of them were trying to get advanced technologies from American companies. The French intelligence service has even admitted to forming a special unit devoted to obtaining confidential information from American companies.

Let me give you a few examples. Just last year, a former employee of two major computer companies admitted to stealing vital information on the manufacture of microchips and selling it to China, Cuba, and Iran. For almost a decade, he copied manufacturing specifications—information worth millions of dollars. And armed with it, the Chinese, Cubans, and Iranians have been able to close the gap on our technology leads. Late last year, the FBI arrested this man and charged him with the interstate transportation of stolen property and mail fraud. It appears that the charges may be a bit of a stretch because he did not actually steal tangible property. He only stole ideas.

Not all of the theft is sponsored by foreign governments. Domestic theft is as reprehensible and as threatening as theft by foreign governments. For example, in Arizona, an engineer for an automobile air bag manufacturer was arrested in 1993 for selling manufacturing designs, strategies, and plans. He asked the company's competition for more than half a million dollars—to be paid in small bills. And he sent potential buyers a laundry list of information they could buy: $500 for the company's capital budget plan; $1,000 for a piece of equipment; $6,000 for planning and product documents.

Sadly, current civil remedies are inadequate to deal with these problems. Although many companies can privately sue those who have stolen from them, these private remedies are too little, too late. A private suit against a foreign company or government often just goes nowhere, and the company continues to use the stolen information without pause.

Similarly, our current criminal laws are not specifically targeted at protection of proprietary economic information. Most of our Federal theft statutes deal with tangible property and not intellectual property. Federal prosecutors have done a valiant job finding laws they can use against these people, but they need something stronger and more coherent than what they have gerry-rigged.

Mr. President, the Industrial Espionage Act and the Economic Security Act provide the solution we need. These measures are simple, straightforward, and effective. They carefully define proprietary economic information—the data that corporations privately develop and need to maintain in secrecy. People who steal that information in order to harm the business that rightfully owns and developed it are subject to criminal penalties. They can serve up to 15 years in jail. And if the theft is sponsored by a foreign government, the penalties are even harsher. Moreover, the bills include forfeiture provisions, so that people will not benefit from their illegal acts. They authorize the President to impose sanctions on countries that engage in these activities. And they assure companies that their proprietary information will

not seep out during a criminal persecution.

We need to take steps to stem the flow of information out of our country. We need a new law that definitively and harshly punishes anyone who steals information from American companies. Over the coming months, these measures will provide a framework for our discussions about the best way to solve this problem, and we plan to hold hearings on them in both the Intelligence and Judiciary Committees.●

● Mr. SPECTER. Mr. President, I am pleased to join Senator KOHL as a cosponsor of this bill to make theft of proprietary information a crime. Senator KOHL is also a cosponsor of a bill I have introduced to cover economic espionage by foreign governments or those acting on their behalf and this bill is designed to protect that same vital economic information from theft by nongovernmental entities and individuals.

While economic espionage by foreign governments presents a clear issue of national concern, the economic cost of industrial espionage by domestic and nongovernment-owned foreign corporations may be even greater. Federal law already provides some sanctions to protect technology and innovation within the United States. For example, we accord protection to patents, trademarks, and copyrights. The Federal Government will not enter into a contract with a bidder who has inside information of another bidder's price. There are also laws in some States that specifically address the theft of proprietary information.

These laws may not, however, be adequate. Thus, I am also joining Senator KOHL in cosponsoring legislation to provide criminal penalties in title 18 of the United States Code for cases in which corporations and individuals, foreign or domestic, steal proprietary information from U.S. entities. While the bill I have introduced amending the National Security Act of 1947 focuses on our Nation's economic security against foreign governments, similar arguments can be made that protection is also needed for domestic economic interests from theft by nongovernmental sources. Moreover, even where there are strong indications that a foreign government is behind the theft of proprietary information, it may not be possible in all cases to prove such government involvement.

The normal recourse for protecting proprietary information from theft by private sector sources is through civil remedies governed by State law. Some businesses and Federal law enforcement agencies, however, believe that current State laws are inadequate and fail to provide remedies, particularly with respect to the kind of intangible proprietary information that is typical in today's computer age. They argue that comprehensive federal criminal sanctions are needed at this time to provide an adequate deterrent.

While I believe there are legitimate questions about the need for federal criminal penalties in this context, I am also convinced the issue needs to be considered. It may be that after thorough review, criminal penalties are the best means of deterring the misappropriation of proprietary information by individuals or business competitors. On the other hand, we may determine that a more efficient response would be to create a federal civil cause of action or to leave it to State law to develop sanctions against such theft if not committed by, or done on behalf of, a foreign government.

As part of this effort to address the economic threat from the theft of proprietary information from U.S. businesses, I therefore believe we need to consider how to address such thefts when carried out by the private sector. As a result, I am cosponsoring this second bill, with the expectation that it will generate discussion and debate and assist us in developing the best approach to this problem. I look forward to working with all interested parties to reach such a result.●

By Mr. SPECTER (for himself and Mr. KOHL):

S. 1557. A bill to prohibit economic espionage, to provide for the protection of United States vital proprietary economic information, and for other purposes; to the Select Committee on Intelligence.

THE ECONOMIC SECURITY ACT OF 1996

● Mr. SPECTER. Mr. President, I am introducing a bill today, along with my colleague, Senator KOHL, entitled the ''Economic Security Act of 1996,'' which amends the National Security Act of 1947 to protect against the theft of vital proprietary economic information by or for foreign governments.

The bill would punish those who steal vital proprietary economic information from a U.S. owner for the benefit of a foreign government or a corporation, institution, instrumentality, or agent that is owned or guided by a foreign government. It provides penalties of up to $500,000 in fines or 25 years in prison, except that corporations working on behalf of a foreign government can be fined up to $10,000,000. The law would ensure that fruits of the espionage would be forfeited, and that victims would receive some restitution from funds recovered. This bill also provides for a ban for up to 5 years on the importation into, or export from, the United States of any product produced, made, assembled, or manufactured by a person convicted under this provision.

To address concerns by industry that criminal proceedings might result in the disclosure of the very trade secret the prosecution is aimed at protecting, the bill also gives courts authority to enter protective orders and take any other such measures as may be necessary, consistent with the applicable rules and laws. It also provides for an interlocutory appeal by the United States from a decision or order of a district court authorizing the disclosure of vital proprietary economic information.

The bill provides for extraterritorial jurisdiction where the offender is a U.S. person or the victim of the offense is a U.S. owner and the offense was intended to have, or had, a direct or substantial effect in the United States. In addition, the bill adds this newly created crime to the list of offenses in title 18, chapter 119, of the United States Code—Wire and Electronic Communications Interception and Interception of Oral Communications—so that it may be investigated with authorized wire, oral, or electronic intercepts.

We have drafted this new provision as an amendment to the National Security Act of 1947 to emphasize the importance of this issue to the national security of our Nation. Anyone who doubts that this is a national security issue need only stop to consider why foreign governments would devote so much effort to obtaining this information from U.S. companies. The reality is that U.S. economic and technological information may be far more valuable to a foreign government than most of the information that is classified in the United States today. The March 1990 and February 1995 national security strategies published by the White House focus on economic security as an integral part not only of U.S. national interest but also of national security.

Economic espionage by foreign governments targeting U.S. industry and innovation is an issue the Senate Select Committee on Intelligence has been examining for some time. The Committee has held a number of hearings which addressed this issue and has met extensively with the intelligence and law enforcement communities. In 1992, then-Director of Central Intelligence Robert M. Gates told the Committee:

> We know that some foreign intelligence services have turned from politics to economics and that the United States is their prime target. We have cases of moles being planted in U.S. high-tech companies. We have cases of U.S. businessmen abroad being subjected to bugging, to room searches, and the like * * * [W]e are giving a very high priority to fighting it.

This reflects a shift from the traditional counterintelligence efforts directed at military, ideological, or subversive threats to national security. Beginning as early as 1990, the Intelligence and Counterintelligence Communities have been directed to detect and deter foreign intelligence targeting of U.S. economic and technological interests, including efforts to obtain U.S. proprietary information from companies and research institutions that form our strategic industrial base. These counterintelligence efforts, however, must be complemented by, and carefully coordinated with, a coherent and rigorous law enforcement effort. It is to strengthen this aspect of the fight against economic espionage that I introduce this bill today.

Some foreign governments have been quite open about the importance they attach to obtaining U.S. commercial secrets. Former French Intelligence Director Pierre Marion, for example, was quoted in a recent Foreign Affairs article as saying about the French-United States relationship: ''In economics, we are competitors, not allies. America has the most technical information of relevance. It is easily accessible. So naturally your country will receive the most attention from the intelligence services.''

It is important to emphasize that no one country can be singled out for engaging in economic espionage. While there are a handful of well-publicized incidents involving a few countries, the problem is actually much more widespread. FBI tells us that 23 countries are being actively investigated and that there has been a 100 percent increase in the number of investigative matters relating to economic espionage in the United States during the past year—from 400 to 800. Thus, this bill is not aimed at any one country, or even a handful of countries. It is designed to address a widespread threat from a broad spectrum of countries, including traditional counterintelligence adversaries and traditional allies.

Last year, the Congress included in the Intelligence Authorization Act for fiscal year 1995 a requirement that the President submit an annual report on the activities of foreign governments to obtain commercial secrets from U.S. companies and how the U.S. Government counters this threat. The Intelligence Committee received the first report in July 1995, accompanied by a classified annex.

According to the report, prepared by the National Counterintelligence Center in coordination with relevant agencies, ''economic and technological information is often not specifically protected by Federal laws, making it difficult to prosecute thefts of propriety technology or intellectual property. Law enforcement efforts instead must rely on less specific criminal laws—such as espionage, fraud and stolen property, and export statutes—to build prosecutable cases.'' At our request, the FBI has provided some examples of the difficulties caused by this patchwork of laws.

According to the Bureau, there have been three specific declinations of prosecution over the past year. In the first, passage to a foreign power of proprietary economic information was declined for lack of a specific statute. In the second case, the unauthorized disclosure of a confidential U.S. Trade Representative document was not prosecuted because the document was not considered to contain ''national defense information'' as required by the espionage statute. In a third case, a foreign government-owned corporation attempted to use its position of power after a merger to gain access to proprietary economic information despite a specific prohibition in the sales agreement which would have provided for a ''Chinese wall'' between the foreign government corporation and the information. Again, the U.S. Attorney declined to prosecute because of the lack of a specific statutory basis. These examples do not include cases that were not fully investigated because of the lack of adequate statutory basis.

A legal review by the Administration has shown that there is currently no specific criminal statute that would apply to many of the 800 cases involving 22 foreign countries currently being investigated.

The National Counterintelligence Center Report states that ''the aggregate losses that can mount as a result of [Foreign economic espionage] efforts can reach billions of dollars per year constituting a serious national security concern.'' Determining the full qualitative and quantitative scope and impact of economic espionage is difficult. Industry victims have reported the loss of hundreds of millions of dollars, lost jobs, and lost market share. However, U.S. industry may in fact be under-reporting these occurrences because of the negative impact publicity of a loss could have on stock values and customers' confidence, as well as the risk of broader exposure of the trade secret itself.

The industries that have been the targets in most cases of economic espionage, according to this report, include those ''of strategic interest to the Untied States because they produce classified products for the Government, produce dual use technology used in both the public and private sectors, and are responsible for leading-edge technologies, critical to maintaining U.S. economic security.''

Mr. President, these are complex issues and I do not assume that this bill represents the prefect solution. However, I believe this bill represents a reasonable and carefully tailored approach to addressing an issue of tremendous importance.●

ADDITIONAL COSPONSORS

S. 332

At the request of Mr. CONRAD, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 332, a bill to provide means of limiting the exposure of children to violent programming on television, and for other purposes.

S. 743

At the request of Mrs. HUTCHISON, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 743, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes.

S. 793

At the request of Mr. SIMPSON, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 793, a bill to amend the Internal Revenue Code of 1986 to provide an exemption from income tax for certain common investment funds.

S. 953

At the request of Mr. CHAFEE, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Missouri [Mr. ASHCROFT], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Louisiana [Mr. BREAUX], the Senator from Maryland [Mr. SARBANES], the Senator from California [Mrs. FEINSTEIN], and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 1093

At the request of Mr. REID, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1093, a bill to prohibit the application of the Religious Freedom Restoration Act of 1993, or any amendment made by such act, to an individual who is incarcerated in a Federal, State, or local correctional, detention, or penal facility, and for other purposes.

S. 1095

At the request of Mr. MOYNIHAN, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1095, a bill to amend the Internal Revenue Code of 1986 to extend permanently the exclusion for educational assistance provided by employers to employees.

S. 1219

At the request of Mr. MCCAIN, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 1219, a bill to reform the financing of Federal elections, and for other purposes.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1271, supra.

S. 1392

At the request of Mr. BAUCUS, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1392, a bill to impose temporarily a 25-percent duty on imports of certain Canadian wood and lumber products, to require the administering authority to initiate an investigation under title VII of the Tariff Act of 1930 with respect to such products, and for other purposes.

S. 1439

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1439, a bill to require the consideration of certain criteria in decisions to relocate professional sports teams, and for other purposes.