

program for oil, gas and steel—two important core industries. I am hopeful that the House will quickly name conferees and move the bill through the legislative process. Domestic oil and gas production is America's true national strategic petroleum reserve and we need to make sure there is an industry in the U.S. capable of meeting our strategic oil and gas needs.

I ask unanimous consent that an article that appeared in the June 30, 1999, *Wall Street Journal* be printed in the RECORD.

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

[From the *Wall Street Journal*, June 30, 1999]

**OIL PRODUCERS FILE ANTIDUMPING SUIT
GROUP OF INDEPENDENT FIRMS SAYS FOUR COUNTRIES SOLD AT CHEAP PRICES IN U.S.**

(By Helene Cooper and Christopher Cooper)

WASHINGTON—Thirty years ago, after a two-day debate over the difference between material injury and immaterial injury in America's dense antidumping laws, Sen. Russell Long issued a commentary still bandied about in international trade corridors today. The antidumping debate, he said, "sounds more like the difference between mumbo-jumbo and jumbo-mumbo."

Yesterday, that jumbo-mumbo erupted into a case that could smack consumers right in the wallets—and just before an election year, no less. A group of independent oil producers has filed an antidumping suit with the Commerce Department and the International Trade Commission. The oil companies—representing an industry that 20 years ago was a cartel that kept prices high—say four countries "dumped" cheap oil on the U.S. market in 1998 and 1999.

The group, called Save Domestic Oil Inc., wants the Clinton administration to impose dumping duties on oil from the four alleged offenders—Mexico, Venezuela, Saudi Arabia and Iraq—which together account for more than half of the oil imported into the U.S. The duties requested range from 33.37% (Mexico) to 177.52% (Venezuela). Many of the bigger U.S. oil companies, which import much of their oil, oppose the complaint.

In Washington, where politicians are still reeling from the steel industry's recent attempt to limit steel imports, the case is bound to be politically explosive. "This oil thing could kill us," says one Clinton administration official. Indeed, if the oilmen win—and in the world of U.S. antidumping statutes, he who complains usually wins—the Clinton administration could well find itself blamed for increased prices at the pump.

Energy Secretary Bill Richardson called the complaint a "serious charge, with potentially serious consequences." He added that the administration should seek to "bring all the parties together to see whether there is a way to resolve the concerns raised by this petition."

Many economists and trade lawyers who dislike the U.S. antidumping law say it's crazy to file an oil antidumping complaint because oil is a commodity regulated by world markets; as a commodity, oil's properties tend to be consistent, so the markets set a standard price. But Danny Briggs, proprietor of tiny Pickrell Oil Co. in northwest Kansas and a member of Save Domestic Oil's executive committee, says he's tired of watching cheap oil from abroad drive down the prices here. "We tried everything we could think of" before turning to the trade action, Mr. Briggs says. "It's been used by the apple growers and the steel manufacturers—why not the oil producers?"

Although most of the plaintiffs, advancing the trade complaint are small oil producers—strippers, as they're known in the business—one exception is Houston's Apache Corp., one of the nation's largest independent oil companies. Raymond Plank, Apache's chief executive, said he personally put up \$10,000 and his company anted up another \$10,000 to help pay the costs of the trade complaint, which is ultimately expected to cost the plaintiffs \$1.5 million in legal fees.

They hired Charles Verrill, a powerful Washington trade lawyer who, for 30 years, has represented U.S. businesses, including steelmakers, that complain about unfairly low prices from foreign competition. In this oil case, he says, "imports have increased significantly while prices have declined," noting that the price per barrel plunged to close to \$10 earlier this year before rebounding in the second quarter.

Economists opposed to the antidumping law said they want the oilmen to lose, but they relish the thought of a win embarrassing politicians into changing the law, which they see as protectionist and biased. "If this case succeeds, it may actually help put antidumping reform on the international trade agenda, where it should have been all along," says Robert Litan, an economist at the Brookings Institution and co-author of "Down In The Dumps," a book about antidumping law.

"Any economist who knows this subject will tell you these laws are ridiculous," Mr. Litan says. "They punish foreigners for selling below cost, activities which American companies do all the time in their domestic markets."

U.S. lawmakers, prodded by companies that wanted to protect their domestic sales from competition from cheap foreign imports, devised and refined the antidumping law as one weapon in the home-team arsenal. The rationale behind the law was simple: Hit the foreign countries with stiff duties to stop them from flooding the U.S. market with cheap goods and sending the U.S. companies out of business.

The wildcatters complain that Mexico, Venezuela and Iraq have been selling their oil in the U.S. at below the cost of production—the most widely accepted definition of dumping. Saudi Arabia, they complain, sold oil in Japan at higher prices than the oil it sold in the U.S.

Most trade lawyers say the oilmen have a good shot at victory. That's because U.S. antidumping law—conceived in the 1920s—has been refined by successive lawmakers to heavily favor the plaintiff. Indeed, in more than 90% of the cases filed, the Commerce Department finds in favor of the plaintiff.

The case will work its way through the Commerce Department and the International Trade Commission. The Commerce Department has as many as 20 days to decide whether to initiate an investigation. If the investigation goes forward, the department has 190 days to determine if dumping occurred. The ITC then determines whether "material injury" to the oilmen occurred. Duties, if warranted, would follow.

The four countries deny the allegations and say they will fight them. Roberto Mandini, president of Venezuelan state-oil monopoly Petroleos De Venezuela SA, says that "pushing down oil prices would be suicidal for Venezuela." Adds Luis de la Calle, Mexico's undersecretary for international trade negotiations: "Mexico is not in the practice of unfair commercial practices."

What is not in dispute is how hard a hit small domestic oil took during the recent downturn in oil prices. While larger oil companies with their huge asset bases and integrated businesses were able to weather the storm, many of the smaller producers, which

operate on low margins and minuscule volumes, lurched toward ruin.

These small producers, who mop up the tailings of the country's once-great oil fields primarily in the West and the Mid-west collectively produce about 1.4 million barrels of oil daily, an amount roughly equivalent to that imported to Saudi Arabia. And the total number of such subsistence wells, defined by the Interstate Oil and Gas Compact Commission as ones producing 10 barrels of crude a day or less, were abandoned at an accelerated rate during the downturn, experts say.

EFFECTIVE EXPORT CONTROLS

Mr. AKAKA. Mr. President, I wish to call attention to an important Governmental Affairs Committee hearing on export controls held last week.

In August 1998, the Chairman of the Governmental Affairs Committee requested the Inspectors General of the Departments of Commerce, Defense, Energy, State, and Treasury and the Central Intelligence Agency to conduct a review of their export license processes and to follow-up on an earlier set of reports that were done in 1993.

In their reports and at the hearing, the Inspectors General raised a number of important issues which, I believe, will require further oversight and clarification. These issues are especially important in light of the recent Cox Committee Report which highlighted espionage activities at our National Laboratories and the release of classified nuclear information. As we begin to debate the reauthorization of the Export Administration Act, the recommendations made by the Inspectors General should be considered in this context.

The Inspectors General concluded that the export control processes work relatively well, but they also highlighted additional issues that the Congress should continue to monitor. Certain of these issues include:

Inadequate monitoring by our National Laboratories of foreign visitors, who may be exposed to controlled technology which may require an export license.

Inadequate analysis by all of the agencies of the cumulative effect of dual-use and munitions list exports to a particular country or end-user.

Need to upgrade certain computer systems used in the export process.

Improve monitoring of conditions placed on licenses to ensure that sophisticated items are not diverted.

Enhance the processes for pre-license checks and post-shipment verifications of certain exports.

Enhance training and guidance of Licensing Officers.

I look forward to the Governmental Affairs Committee holding further hearings on this subject. We must ensure that the United States maintains an efficient and effective export control system. Further, our additional oversight on this issue will help ensure that exports of dual-use and munitions items will not go to rogue nations or individuals.

Our hearing last week raised important national security and proliferation issues, and I commend Senator THOMPSON and Senator LIEBERMAN, the ranking member of the Governmental Affairs Committee, for their leadership.

CBO COST ESTIMATE OF S. 1287

Mr. MURKOWSKI. Mr. President, in compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources has obtained a letter from the Congressional Budget Office containing an estimate of the costs of S. 1287, the Nuclear Waste Policy Amendments Act of 1999, as reported from the Committee. In addition, pursuant to Public Law 104-4, the letter contains the opinion of the Congressional Budget Office regarding whether the S. 1287 contains intergovernmental mandates as defined in that Act. I ask unanimous consent that the opinion of the Congressional Budget Office be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 14, 1999.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Nuclear Waste Policy Amendments Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kim Cawley (for federal costs), who can be reached at 226-2860, and Marjorie Miller (for state and local impact), who can be reached at 225-3220.

Sincerely,

DAN L. CRIPPEN.

Enclosure.

Summary: This bill would amend the Nuclear Waste Policy Act by directing the Department of Energy (DOE) to make a final decision by December 31, 2001, whether to recommend to the President that the Yucca Mountain site in Nevada be developed as a permanent waste repository. The bill would, under certain conditions, provide for storage of waste at Yucca Mountain before a permanent repository is completed, and would allow DOE to enter into agreements with nuclear utilities to assume responsibility for some waste at a utility's current storage site. In addition, the bill would authorize training programs and grants to states to prepare for transshipment of nuclear waste, and it would authorize the establishment of an Office of Spent Fuel Research in DOE.

Assuming appropriation of the necessary amounts, CBO estimates that implementing this legislation would cost about \$1.9 billion over the 2000-2004 period to continue DOE's efforts to characterize the Yucca Mountain site and submit a license application to the Nuclear Regulatory Commission (NRC). Enacting this bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

The state of Nevada and localities in the state would incur some additional costs as a result of this bill, but CBO is unsure whether the provisions causing those costs would be considered intergovernmental mandates, as defined in the Unfunded Mandates Reform

Act (UMRA). We estimate that the costs incurred by state and local governments would total significantly less than the threshold established in the law (\$50 million in 1996, adjusted annually for inflation). This bill contains no new private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of this bill is shown in the following table. The costs of this legislation fall within budget functions 270 and 050 (energy and defense).

[By fiscal year, in millions of dollars]

	1999	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION						
Spending on Nuclear Waste Disposal Under Current Law:						
Budget Authority ¹	358	0	0	0	0	0
Estimated Outlays	324	55	0	0	0	0
Proposed Changes:						
Estimated Authorization Level	0	390	365	340	430	455
Estimated Outlays	0	312	370	345	412	450
Spending on Nuclear Waste Disposal Under the Bill:						
Estimated Authorization	358	390	365	340	430	455
Estimated Outlays	324	367	370	345	412	450

¹The 1999 level is the amount appropriated for that year.

Basis of estimate: This estimate is based on DOE's current plan for the nuclear waste program, issued in July 1998. For purposes of this estimate, CBO assumes the bill will be enacted before the end of fiscal year 1999. We assume DOE will apply to the NRC for authorization to build a permanent repository at the Yucca Mountain site by March 31, 2002, so that the NRC may decide whether to authorize construction by December 31, 2006, as directed by section 101 of this bill.

Yucca Mountain. This legislation would authorize DOE to proceed with its Civilian Radioactive Waste Management Program plan of July 1998. This plan calls for continuing to evaluate the Yucca Mountain site as a permanent repository for nuclear waste and applying for a construction license from the NRC in 2002, if the site appears to be viable for this use. Based on information from DOE, CBO estimates that this effort would require appropriations averaging nearly \$400 million annually and totaling about \$2 billion over the 2000-2004 period. Substantial additional costs would be incurred after 2004 to construct and operate a nuclear waste repository at Yucca Mountain if the NRC issues a license to the department. In its December 1998 report, Analysis of the Total System Life Cycle Cost of the Civilian Radioactive Waste Management Program, DOE estimates the future cost to complete the program is "approximately \$26.6 billion, in constant 1998 dollars from 1999 through closure and decommissioning, assumed to be in 2116."

Backup storage. Section 102 would direct DOE to take title to any amounts of nuclear waste that the NRC determines cannot be stored at a utility's site, provided that such a utility would agree to waive any claim for damages against the United States because of DOE's failure to begin disposing of waste in 1998. DOE would be directed to transport this waste to the Yucca Mountain site following NRC authorization to construct a permanent repository there, or to transport it to a privately run facility for nuclear waste storage. DOE could incur additional discretionary costs for building waste storage capacity at the Yucca Mountain site before the facility opened or transporting waste to a private storage facility (if any private facilities are constructed), if any utilities require backup storage.

This cost estimate does not include any potential costs for backup storage, however, because it is not clear that there will be any demand for backup storage. Thus, there may not be a need for additional DOE spending

over 2003-2006 period. In addition, it is uncertain whether or not the NRC will authorize construction of a repository at the Yucca Mountain site in 2006. This authorization would be required before backup storage could be provided since it appears unlikely that any privately owned waste storage facilities will be developed over the next few years. If DOE were required to prepare the Yucca Mountain site for backup storage, additional costs could be substantial. Based on information from DOE, we estimated such costs could approach \$1 billion over the 2003-2006 period, subject to the availability of appropriated funds.

Settlement agreements. Section 105 would allow DOE to enter into settlement agreements with any utilities that were scheduled to have nuclear waste removed from their sites by DOE starting on January 31, 1998. If a utility waives any claim for damages against the United States because of DOE's failure to begin disposing of waste in 1998, then the department may take title to the utility's waste, provide waste storage casks to the utility, operate an existing dry cask storage facility for the utility, or compensate the utility for the cost of providing storage for this waste at the utility's site. The bill would restrict DOE from making expenditures from the Nuclear Waste Fund to pay for any settlement costs that would not otherwise be incurred under the existing contracts for nuclear waste disposal between DOE and nuclear utilities.

This estimate does not include any additional discretionary costs for settlement agreements that may be entered into between DOE and nuclear utilities as a result of enacting this bill. Under current law, and consistent with the standard contract for nuclear waste disposal between the department and the nuclear utilities, these parties may agree to reduce the annual nuclear waste fee (referred to as "fee credits") paid to the government by the utilities in the event of an avoidable delay in the schedule for disposing of waste. CBO has assumed that DOE and those utilities that have experienced an avoidable delay in the disposal of their waste will choose to invoke this provision of their contracts and that the mandatory nuclear waste fee will be reduced by a total of about \$400 million over the 2000-2009 period to compensate these utilities for the incremental cost of continued waste storage at their sites of 10,000 metric tons of waste.

If nuclear utilities choose to enter into settlement agreements with DOE following enactment of this bill, it is possible that DOE would agree to provide compensation greater than or less than the amount CBO has assumed under current law. It is also possible that DOE would choose to use appropriated funds to provide compensation instead of fee credits as we have assumed. In this case, the discretionary costs of this legislation would be higher than we have estimated here, and nuclear waste fee collections would be greater than the amount we have estimated. CBO cannot predict whether or not utilities would choose to enter into settlement agreements under the terms defined in this bill, nor whether DOE would use fee credits or appropriated funds to implement any settlement agreements.

Pay-as-you-go considerations: None.

Estimated impact on state, local, and tribal governments: Mandates. CBO is unsure whether the bill contains intergovernmental mandates, as defined in UMRA, but we estimated that costs incurred by state, local, and tribal governments as a result of the bill would total significantly less than the threshold established in the law (\$50 million in 1996, adjusted annually for inflation).

Although this bill would, by itself, establish no new enforceable duties on state,