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Senate

The Senate met at 1 p.m. and was called to order by the Honorable PAT ROBERTS, a Senator from the State of Kansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O gracious God, thank You for the gift of this day, with its many opportunities and challenges. Thank You also for leading our lives. Lord, strengthen us to maximize today's possibilities. Save us from living too many days at one time. Keep us from crossing bridges before we reach them. Guide our Senators today. Hold their hands so that they can walk in confidence. Stay by our sides, and we shall fulfill Your purposes for our lives. We pray this in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable PAT ROBERTS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE
PRESIDENT PRO TEMPORE,
Washington, DC, September 15, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAT ROBERTS, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. ROBERTS thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished Senator from Kentucky is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, for the information of all Senators, today, following the period of morning business, the Senate will resume debate on the energy and water appropriations bill. The two managers will be here beginning at 2:30 this afternoon, and Senator FEINSTEIN will offer the first amendment. It is hoped that if other Members have amendments to the legislation, they will be available to offer their amendments as well.

As the majority leader stated last week, there will be no rollcall votes during today's session. Any votes ordered will be held over until Tuesday's session of the Senate. Also, under a previous order, the first rollcall vote tomorrow will occur at around 10:30 a.m. That vote will be on the passage of S.J. Res. 17, which is the FCC rule disapproval resolution.

Also, I remind our colleagues that today the Senate will also debate a motion relative to going to conference with the House on the partial-birth abortion ban bill. That agreement calls for up to 8 hours of debate, and it is the understanding that 2 of those hours will be consumed today. Therefore, following the conclusion of any business on the energy and water bill today, the Senate will consider that motion for up to 2 hours.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until the hour of 2:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

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

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. 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. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak for up to 15 minutes in morning business.

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

RECENT EVENTS ON THE NATIONAL MALL

Mr. BINGAMAN. Mr. President, I take a few minutes today to speak about recent events on The National Mall. The Mall, as Judge Buckley of the U.S. Court of Appeals for the District of Columbia, has written, ''is an area of particular significance in the life of the Capital and the Nation.'' It is a 2-mile green area that stretches from the Capitol in the east to the Lincoln Memorial in the west. It is, as another judge noted, ''the site of monuments marking great figures and events in our Nation's history.'' But it is more than home to these enduring symbols of our nationhood. This judge went on to say: ''Its grassy expanse provides areas for any number of recreational activities. . . .''

The National Mall has also been used, of course, for large-scale events.

It is used for the Fourth of July festivities each year and for the Cherry Blossom Festival. Every 4 years, it is used for our inaugural celebrations. It has been the site of national observances and protests—some of the most famous in our Nation's history. ''It is here,'' as Judge Buckley went on to say, ''that the constitutional right of speech and peaceful assembly find their fullest expression.''

Mr. President, Congress has entrusted the Department of the Interior, and particularly the National Park Service within the Department of the Interior, with preserving and regulating the use of this important part of our national heritage. It has, according to the statute, charged the National Park Service with regulating the use of The Mall so as to ''conform'' such use ''to the fundamental purpose'' of ''conserving the scenery and natural and historic objects . . . and providing for the enjoyment of the same in such manner . . . as will leave them unimpaired for their enjoyment by future generations.''

The Mall, as I have said, serves many purposes. None of those purposes that have been identified by the Congress or in regulation are commercial purposes. Accordingly, the National Park Service regulations provide that demonstrations and special events on The Mall may be held only pursuant to permit issued by the Park Service. The rules prohibit the commercial use of The Mall and specifically provide that ''no sales shall be made . . . and no article may be exposed for sale without a permit. . . .''

Despite the clear prohibitions in its own regulations, the Park Service has now sanctioned a new use for this area. That use, unfortunately, can only be called commercial exploitation.

Earlier this month, to promote the start of the new football season, the National Football League held what the Department of the Interior described as a music and football festival entitled the ''NFL Kickoff Live From The National Mall Presented by Pepsi Vanilla.'' That was the official title of the event. To allow for the setup and removal of infrastructure associated with this concert, the Park Service gave the NFL a permit to use The Mall for 17 days—the period between August 25 and September 10. The main event occurred on September 4. For many of those days, much of The Mall was fenced off and the public was prevented from using it, although it obviously is one of the most popular spaces in our Nation's Capital.

I have spent a great deal of time on The Mall, as I am sure my colleagues have, and I can tell you that currently, even without this kind of extravaganza, it is difficult to walk the length of The Mall from the Capitol to the Lincoln Memorial. Large areas are closed because of construction of the World War II Memorial and also construction of new security features at the Washington Monument. Portions of The Mall are also closed periodically following events, such as the Fourth of July activities or after large public gatherings, to allow for cleanup and restoration of the grassy areas.

In this case—the case of this NFL extravaganza—a large segment of The Mall was essentially closed to the public to allow for what, in my opinion, can only be characterized as commercial use and as advertising by private corporations.

Let me start with this photograph and show that corporate sponsors of the concert that occurred on September 4 were allowed to put up a large fence covered with advertising. This advertising talks about the kickoff of 2003 NFL, live from Washington, DC; AOL for broadband; Pepsi Vanilla; Coors Light, and Verizon. This is advertising, in my view. This is clearly commercial activity.

Apart from keeping the public off The Mall, the clear message to the public was that The Mall had been turned over to these companies for commercial purposes.

The National Park Service has published guidelines to help organizations that want to hold events on The Mall to know what is required. The guidelines state:

> The theme of a special event must be consistent with the mission of the park—

In this case, we are talking about The Mall. These guidelines apply to all of our national parks in the capital region.

They go on to say:

> and appropriate to the park area in which it is to be held, including consideration for possible damage and/or impairment to park property, facilities, plantings and landscape features . . . and park values.

Our Secretary of the Interior, Gale Norton, whose agency approved the permit for this event, maintains today that this was an appropriate use of The Mall because it was undertaken in partnership with the Department's ''Take Pride in America'' slogan promoting voluntarism on public lands and because it was an event honoring members of our Armed Forces.

Clearly, nobody objects to an event celebrating public volunteers or honoring military personnel.

However, Secretary Norton's stated rationale for approving the event is simply not consistent with what actually took place on The Mall. It is not consistent, when you look at the banner surrounding The Mall, to say this has anything to do with voluntarism or recognizing the military.

This is a photograph of the event. Let me show another photograph which I think makes the case rather convincingly. This is a photograph of the event which was published in the Washington Post. This, evidently, is Secretary Norton's vision of an appropriate use of The Mall.

It is impossible to miss the advertisements for Pepsi Vanilla or for Verizon, for Coors, and for its other sponsors, and you certainly cannot miss the huge football promoting the National Football League. It is almost impossible, I suggest, to the untrained eye to find references to the supposed reasons for the event. The ''Take Pride in America'' slogan does appear at the bottom of the advertising banners, and in the other photo it appears at the top of the fence, but I am certain that nobody from any distance—I can barely read it from here—I am sure nobody can read it from any reasonable distance.

This photograph makes the point that the overwhelming image is turning over The Mall for commercial advertising. The event was used as the basis for a commercial television production. Commercials were broadcast to the crowd over large televisions that were located on The Mall itself.

The Secretary of the Interior may view this as business as usual, but, in my view, allowing this type of commercial activity with blatant product advertising is contrary to what the policy is for our national parks, including The Mall. It is also contrary to what responsible public policy should be in this area.

During her confirmation hearing, I expressed concern to Secretary Norton that as Secretary of the Interior she would hold one of the highest positions of public trust in our Nation's Government. The Secretary of the Interior is the principal guardian of our national parks and our most revered historic sites. Certainly, The National Mall is among the most important symbolic spaces in our country.

I was concerned that based on her previous public statements and writings, she had a long record of having championed the interests of corporations in opposition to the Federal Government. At her confirmation hearing, Secretary Norton assured me she would enforce the laws as written, and it is my understanding that in this case the laws and regulations of the Park Service made very clear The National Mall is not to be used as a venue for commercial purposes. It is not to be used as a venue for advertising. I do not see how anyone can look at these photos and believe the Secretary carried out her responsibilities in this instance.

Earlier this year, the Senate passed legislation to authorize construction of an education center near the Vietnam Veterans Memorial, very much along the lines of a similar bill we passed in the Senate during the last Congress. I was involved in negotiating the language for that bill and tried to ensure that the National Park Service retained its ability to approve the site and the design of the center, and at the request of the Park Service we included language stating the center should be built ''consistent with the special nature and sanctity of The Mall.''

If these photographs reflect Secretary Norton's definition of ''the special nature and sanctity of The Mall,'' I have great concern about what, in

fact, we are going to wind up protecting with regard to the Vietnam Veterans Memorial. What can we reasonably tell those who intend to operate the educational center for the Vietnam Veterans Memorial is not permitted if, in fact, all of this is permitted?

The National Park Service regulations generally prohibit commercial advertising on public lands. In addition, the specific permit that was issued related to this event stated no commercial activity was to be conducted. Nevertheless, the Department of the Interior decided the activity we see in this photograph was not commercial activity; that these banners were not advertisements. In the view of the Park Service, these were ''sponsor recognition.'' That is a distinction I was unaware of, between advertising and sponsor recognition. But clearly, the National Park Service believes that distinction needs to be maintained.

Even though the National Football League was the organization that sponsored the concert, it was permitted to solicit other companies to underwrite the event's expenses, and those other companies in turn were permitted to advertise on The Mall or, as the Interior Department put it, to obtain ''sponsor recognition.''

It is not clear where the authority comes from for this decision by the National Park Service to allow such ''sponsor recognition.'' The agency's regulations clearly prohibit the display of commercial notices or advertisements on National Park Service lands except where the park superintendent determines the notices relate to products at that park area and the superintendent determines the notices are ''desirable and necessary for the convenience and guidance of the public.'' I do not see how these banners, these fence advertisements fit in to that requirement.

It would have been one thing if this event had occurred and following it the Interior Department and the National Park Service had admitted a mistake had been made and they would take appropriate steps to prevent this from occurring in the future. But the leadership of the Interior Department and the Park Service, from Secretary Norton on down, makes no such admission. They continue to insist this was entirely appropriate.

Secretary Norton may not care whether this type of event takes place again on The Mall, but I do, and I think many of my colleagues will when they become better informed about this situation.

To better understand the Secretary's reasoning that this was not, in fact, commercial activity, that there was no commercial advertising taking place, I am sending a letter to the Secretary requesting copies of the correspondence and the e-mails and the planning memos and other documents the Secretary relied on in concluding this was not commercial activity.

The Secretary of the Interior and the National Park Service leadership maintain that commercial activity is not allowed on The Mall; what took place here was not commercial. Since there apparently is a disconnect between what they say and the reality of what, in fact, took place, I think the only solution is to change the law to make it clear, even to the Secretary, that this type of use is not appropriate on The Mall.

When the Interior appropriations bill comes to the floor, I intend to offer an amendment to make it clear that future permits to hold special events on The Mall may not include commercial advertising, whether they couch that as ''sponsor recognition'' or not. I want to emphasize The Mall clearly should continue to be available for large-scale events.

If the Secretary had approved a large concert to celebrate our troops or to promote her volunteer program, then there would not have been a public outcry such as we have seen as a result of this situation. It was her decision to allow the concert to be used for commercial purposes, to allow the commercial advertising that occurred here that, in my view, crossed the line.

If the Department of the Interior and National Park Service officials had made any effort to advocate the protection of the resource with which they are charged to manage, then this would not have been a problem. Since they have refused to do so, it seems to me we must change the statute.

Last week, Albert Eisele of the Hill newspaper wrote an excellent article entitled ''Desecration of The Mall.'' I ask unanimous consent that a copy of that article be printed in the RECORD following my remarks.

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

(See exhibit No. 1.)

Mr. BINGAMAN. I ask unanimous consent that the Washington Post editorial entitled ''Marketing the Mall,'' and an article by Tom Shales in the Washington Post entitled ''America, Brought To You by . . . '' be printed in the RECORD following my remarks.

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

(See exhibits 2 and 3.)

Mr. BINGAMAN. Mr. President, The National Mall is more than just an expanse of grass or an undeveloped field. It is a national treasure. By the National Park Service's own account, it is the single most significant public park and open space in our Nation's Capital. It is visited by millions of citizens and visitors from abroad each year.

It provides a formal work of landscape architecture of monumental proportions and provides the unifying element for the carefully placed, diverse architectural symbols, repositories and shrines of the heritage of our democracy on and along its length.

There has been broad public agreement both in Washington and around the country that allowing the type of activity that occurred at these commercial events is a new low point in the storied history of The Mall. Perhaps this will only be remembered as an unfortunate incident, but we need to make sure that this is not the model for future events on The Mall. We need to act to prohibit increased commercialization in our national parks, and a good place to start is acting to protect The Mall.

When we do get to the actual voting on the issue, I hope my colleagues will support the effort to protect The Mall from further commercial exploitation.

EXHIBIT 1

[From the Hill, September 10, 2003]

DESECRATION OF THE MALL

(By Albert Eisele)

An older colleague who wrote a daily column in the St. Paul Pioneer Press when I worked there many years ago once told me his best columns were those generated by a sense of outrage.

If so, this should be one of my best columns, as few things have offended me more than the disgraceful display of mindless patriotism, insatiable commercialism and sheer bad taste perpetrated last week by the National Football League with its $10 million rock concert extravaganza on the Mall.

I wasn't there and didn't watch it on ABC–TV—thank God—but one photograph in Friday's Washington Post convinced me that aside from the Sept. 11 attack on the Pentagon and subsequent anthrax attacks, last fall's sniper shootings or the 1981 assassination attempt on President Reagan, this was the worst thing that's happened here during my nearly 40 years in the nation's capital.

The spectacle of pop singer Britney Spears being stripped to her black bikini bottoms to just above pubic level by a pair of male dancers wearing Washington Redskins jerseys, with the Capitol shining in the background, was so jarring that it made me want to cringe.

Spear's display of erotic gyrations and lipsynched lyrics may have a place in our appalling, vulgarized popular culture but definitely not in the middle of the nation's most hallowed public space.

It was bad enough that this dreadful promotion designed to kick off the 2003 pro football season—and sell Pepsi Vanilla, AOL and Reeboks—took place just a week after the 40th anniversary of Martin Luther King's immortal ''I Have a Dream'' speech on the steps of the Lincoln Memorial. Or that it took place just before the second anniversary of the awful day when Islamic terrorists crashed a jetliner into the Pentagon and were barely prevented from flying over the Mall to crash another into the White House or the Capitol.

But it was even worse that President Bush and Interior Secretary Gale Norton were persuaded to serve as cheerleaders for a so-called game that celebrates violence—as if we don't have enough already—and that has owners who personify rapacious greed. This was nothing more than the desecration of a sacred space and an insult to the men and women of the U.S. military whom the event's promoters professed to honor.

The president perhaps can be excused from accepting bad advice but not those who persuaded him to lend the dignity of his office to an event that left the rain-soaked Mall trampled and garbage-strewn, both physically and symbolically.

Somebody, ideally the congressman whose committees oversee the Department of Interior and the National Park Service, should

demand an explanation of who was responsible for allowing this travesty to happen.

If they don't, what can we expect to see next? An ad for Viagra on the Washington Monument? A pitch for McDonald's at the Lincoln Memorial or Toyota at the Jefferson Memorial? Or maybe even a banner on the Capitol Dome offering low-interest loans from Citibank to ease the federal deficit?

I have nothing against pro football, and I'm glad the Redskins won their opener, even as I despair of Major League Baseball ever returning to Washington. Nor do I disagree that many in the crowd that the NFL generously estimated at 125,000 thought it was wonderful that Britney and her fellow entertainers were invited to do their thing on the Mall.

Nevertheless, I'm outraged and saddened. This was a low point for a special space that stands for so much in America.

EXHIBIT 2

[From the Washington Post, September 3, 2003]

MARKETING THE MALL

Three days of football activities culminating in a concert bash with celebrities ranks right up there with the Friskies Alpo Canine Frisbee Disc World Finals as the kind of event with a commercial flavor that has been allowed to set up shop on the Mall in recent years. The National Park Service, which oversees the Mall, has in the past permitted other activities to take up space with exhibits, programs and corporate sponsors (including The Washington Post, which has been a sponsor of the Smithsonian Folklife Festival). But the ''NFL Kickoff Live 2003, Presented by Pepsi Vanilla,'' the promotional activity underway on the land between the Capitol grounds and the Washington Monument, is, for sheer space and length of occupancy, in a class by itself when it comes to hawking a commercial sporting event. Is it the last of its kind? Or is this commercialization of the Mall, marketing the National Football League and Pepsi's new soft drink, the start of a new and a fundamental debasement of a national shrine?

Nearly $10 million bought the NFL and its sponsors the right to take over the large expanse of federal land for 11 days (including setup time), reports Post staff writer David Montgomery. Pepsi is in the deal for $2.5 million, other co-sponsors include a beer company and the New York Stock Exchange. Pepsi is likely to get its money's worth: At every angle of the nationally televised concert to be aired before tomorrow night's Washington Redskins-New York Jets game, cameras will be able to capture Pepsi Vanilla signs. Ten million dollars not only gets the NFL and other businesses a huge claim on public space: For the first time in Mall history, network television will have the right to beam a professional sporting event, complete with commercial advertisements, on America's core promenade.

What next?

We ask this question knowing full well that the participatory events, sports clinics and autograph sessions with famous former NFL stars are great fun and the kind of buildup certainly fitting for the launch of the 2003 season. As a marketing tool, a four-day spectacle, including a concert paying tribute to the U.S. military, is probably good for professional football and the promoters of Pepsi. It certainly will be a nice celebration for the NFL's 2,000 VIP guests invited to the Thursday night concert. The Park Service has given the NFL permission to serve wine and Coors beer to its special Mall guests—Coors being an event sponsor. Regular concertgoers will be screened and no alcohol will be allowed.

And do onto the Mall—a space that, as the National Park Service observes, is as old as the capital city itself, one commissioned by George Washington and planned by Pierre L'Enfant to be an ''ideal stage for national expressions of remembrance, observance and protest—comes now Pepsi Vanilla, the National Football league, and Coors beer. Is this the beginning, or will it be, mercifully, the beginning of the end for a trend out of control?

EXHIBIT 3

[From the Washington Post, September 5, 2003]

AMERICA, BROUGHT TO YOU BY . . .

(By Tom Shales)

American bad taste is the most powerful bad taste in the world. That seems to be what was really being celebrated on the Mall last night at an excruciating 55-minute rock concert ostensibly convened to herald the new pro football season and televised live on the struggling ABC network.

The event was deemed so auspicious that George W. Bush took yet more time off from fighting the war on terrorism to appear, via videotape, at the end of the concert and just before the game, in the manner of a TV huckster. He tried to make some connection between football and ''the spirit that guides the brave men and women'' of the military, much as the concert had done.

He also said pro football ''celebrates the values that make our country so strong.'' Like what, violence and greed?

Then, in intense close-up, the leader of the Free World asked the trademarked rhetorical question, ''Are you ready for some football?''

Some bureaucrat whose thinking cap had blown off authorized lending the once-solemn, or at least dignified, Mall to this very raucous and very commercial event. The show was a collaboration between the NFL, apparently trying to lure younger viewers to football, and, as the announcer said, ''New Pepsi Vanilla and Diet Pepsi Vanilla, the Not-So Vanilla Vanilla.''

The not-so-musical music included a performance by bouncy sex bunny Britney Spears, whose vocalizing was clearly prerecorded and badly lip-synced—but then who knew what the heck she was singing about anyway? Spears depended heavily on elaborate pyrotechnics and on manic aerobic-erotic choreography during her two numbers; dancers hurled themselves, cartwheeled, tumbled and even crawled across the stage.

At one point, she gamboled about amid, literally, great balls of fire—apparently forgetting that Michael Jackson's hair was once set ablaze while he was filming a Pepsi commercial.

There was also, as part of the alleged dancing, what's commonly referred to as ''some girl-on-girl action'' (Spears and Madonna kissed on the lips on a recent MTV special), as well as writhing onstage costume changes. When they weren't being groped or fondled by her, dancers helped Spears strip her pants off, revealing a bikini-like black bottom for the second number. They even helped straighten out the little pixie's shorty shorts so that they didn't reveal too much. Or maybe so that they did.

Spears just kept singing, singing, singing. Or rather syncing, syncing, syncing. But the feeling some of us at home were having would be better described as sinking, sinking, sinking.

Also appearing was a Waldorf-born rock band called Good Charlotte, rock veterans Aerosmith—who did so many numbers they turned it into an Aerosmith concert—and popular supershrieker Mary J. Blige, who apparently prefers a strange squatting position when she wails and screams.

The only really respectable musical performance, also clearly recorded in advance, was the majestic Aretha Franklin's overblown yet effective rendition of the national anthem. Of course on the line ''rockets' red glare,'' red fireworks were set off at the back of the stage. The show, directed and co-produced by Joel Gallen, was a never-let-well-enough-alone production.

A closed credit, ''Paid for by the NFL,'' suggested the football league bought the time outright from ABC and then sold the commercial minutes. Many of the ads were, of course, for new Pepsi Vanilla and Diet Pepsi Vanilla, the Not-So-Vanilla Vanilla (when will they come out with not-so-chocolate chocolate?), but there was also a superkinetic blitz of a commercial for Reebok Vector shoes, scored to the opening chorus from Carl Orff's ''Carmina Burana,'' one of the most frequently appropriated pieces of 20th-century classical music.

When Italian filmmaker Pier Paolo Pasolini included a bit of ''Carmina Burana'' in his borderline-obscene film ''Salo,'' he explained he did so because he considered it ''fascist music.'' We just note that in passing.

Each musical act was introduced by a former NFL star—Joe Theismann and Joe Namath opened the show together—teamed with a member of the armed forces. Theismann said of the concert, ''It's a national moment of remembrance,'' which really seems preposterous in light of what followed. A woman representing the Coast Guard said, ''I'm proud to be an American'' before introducing Aerosmith.

During a brief cutaway to FedEx Field in Landover, game announcer John Madden and Al Michaels argued briefly over which player seemed more ''juiced'' for the Redskins-Jets game that was soon—they promised—to follow. Then back to the Mall for more eardrum-shattering rock.

While the sun still shone, the beautiful U.S. Capitol provided an unlikely and, it seemed, reluctant backdrop for the acts. When night came, and the dome was lit up, it appeared to recede a bit into the distance, as if in shame.

Perhaps the Mall will be available now to every American for weddings, birthday parties and bar mitzvahs. No, probably not. You'll have to be a giant corporation to take over this precious public space and, in effect, spill a ton of garbage all over it.

Mr. BINGAMAN. I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Will the Senator withhold his suggestion of the absence of a quorum?

Mr. BINGAMAN. I am glad to withhold that request.

The ACTING PRESIDENT pro tempore. The distinguished Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, are we in morning business?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ALEXANDER. I ask unanimous consent that I be allowed to speak for up to 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the Senator from Tennessee is recognized.

Mr. ALEXANDER. I thank the Chair.

(The remarks of Mr. ALEXANDER pertaining to the submission of S. Con. Res. 68 are located in today's RECORD

under ''Submission of Concurrent and Senate Resolutions.'')

Mr. ALEXANDER. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. ROBERTS. I ask to speak for 5 minutes under the morning business provision under which we are now operating.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ROBERTS. Mr. President, I thank the distinguished Senator from Tennessee for his very eloquent speech in regard to the life and contributions of Johnny Cash. I suppose some might wonder why people in the Senate would stand up and choose basically to praise an individual who some might think was a simple country western star. Simple is right. But, perhaps, they would ignore the fact that this was a unique star in the horizon of stars that means a lot to Americans.

The Senator from Tennessee called him ''the poet for the working poor.'' I might call him the minstrel for the working poor.

I came across Johnny Cash when I was in Phoenix, AR trying to be the William Allen White of Arizona with a career in journalism. Up to that point, I had not been a country-and-western aficionado, if you will, or even a fan. Then, in a place called South Phoenix, which is certainly history now, the performers would perform in California, stop in Phoenix and go on their way to Texas. I am trying to think of the various performers who came in there, along with Johnny Cash. He was part of that show. I think it was before Waylon Jennings and Willie Nelson. I really can't think of other performers. It doesn't make much difference. But people wanted to come and see Johnny Cash. Other performers finished—and the South Phoenix ballroom was not exactly the Metropolitan Opera in terms of demeanor and what went on there. People used to see the shows and then stay and watch the fights.

But anyway, the lights went off and then the spotlight went on. And here was this tall man in black, who said, ''Hello. I am Johnny Cash.'' And the place erupted. He went through the repertoire of his famous hits at that particular time. He was magnetic in his appeal. He had a special appeal for the people who could really identify with what he was singing in terms of their daily life, their pocketbooks, and the challenges they went through.

The second time I had an opportunity to hear him was when he came to Washington at the Merriweather Post Pavilion. The place was packed. At that time, he was married to June Carter. I think that was probably the top act in show business, at least on the western and country side.

The thing I wanted to mention is we had the Bicentennial ceremonies here on The Mall in 1976. The Senator from New Mexico indicated The Mall is sacred ground—until we had our Bicentennial ceremonies. We went through quite a bit of activity in getting the Capitol spruced up. A lot of artwork was redone at that particular time.

Guess who the master of ceremonies was on The Mall celebrating our Nation's 200th anniversary. Johnny Cash. Guess who performed at a Joint Session of Congress with his rendition of Our Flag. I think I have that right. I may have it wrong. But there is a beautiful rendition—a historic rendition—of the Flag. He sang, I believe, a medley of patriotic songs before the Senate and the House.

I thought to myself: Here is someone who came from the Depression, who had a rough time in show business, and then was a great entertainer. And who else would be more appropriate to head up the Bicentennial ceremonies than Johnny Cash?

The third time I had an opportunity to meet him was at the Kennedy Center Honors where he was being honored along with great performers of our day. His health was none too good. But I stood in line with everybody else shaking his hand. I said to him, ''I wanted to see the man in black. I saw you in Phoenix way back in 1962. I was very proud of you in 1976 when you headed up the Bicentennial, and it is a real pleasure and a privilege to make your acquaintance as of today.''

He was a very down-home man, very humble, and said it was a privilege. He asked my name. We had a very nice conversation. I can't think of any other entertainer who represents American talent better than Johnny Cash.

I have, by the way, I tell the Presiding Officer, about eight albums—not CDs, albums. If we could just find a turntable, we could go back to Johnny Cash and the Tennessee Trio, and later we could ''Walk The Line'' together.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

GOVERNMENT AGENCY RUN AMOK

Mr. DORGAN. Mr. President, I brought with me to the floor a picture of a woman named Joan Slote. Joan, as you can see, is a bicyclist, standing there with a bicycle helmet and a bicycling outfit. She is a senior olympian. She is a 74-year-old grandmother of six and a champion cyclist. She rides about 100 miles a week, and has pedaled her bicycle through 21 countries.

I am showing a picture of Joan Slote on the Senate floor because she is in trouble with the Federal Government. Joan Slote never sought to deceive the U.S. Federal Government. She responded to a Toronto-based adventure catalog for a bicycle trip to Cuba. It intrigued her. It said, incorrectly, in the advertisement that U.S. law does not bar citizens from visiting Cuba as long as they fly there through Canada. So Joan Slote, this grandmother cyclist, joined a cycling trip through Cuba.

When she returned to the United States through Canada, they asked her where she had been. She said she had been in Canada and prior to that had been in Cuba. So she was not attempting to deceive anyone.

Guess what happened to this grandmother? She went from her home on the west coast to Europe on a bicycling trip. While she was gone, she learned her son had a brain tumor. She rushed back, packed some clothes in her place in Oregon, and rushed to her son's side. He died of this brain tumor. She finally got back home and she saw letters from OFAC, the Office of Foreign Assets Control, at the U.S. Department of Treasury. OFAC was upset because Joan Slote had been to Cuba. They told this 74-year-old grandmother the Feds were hot on her trail and that the Feds wanted a $7,600 fine from her. The Feds wanted $7,600 dollars from this grandmother because she violated American laws by travelling to Cuba.

We have people down here at the Department of Treasury looking after Joan Slote and people like her.

They fined her $7,600 because she visited Cuba and spent $38 there. Since that time, OFAC added penalties and interest until the total was almost $10,000. Then a few months ago in July, Joan Slote received a collection letter saying she would pay up in 10 days or they would start attaching her Social Security payments. They say, we are slapping you with a big fine; you are obviously a problem for this country.

Let me remind listeners, this is the Office of Foreign Assets Control. This is the office that is supposed to be tracking terrorism in the Department of Treasury. This is the office that ought to be busy full time tracking the movement of terrorist funds across this world. As a matter of fact that is what most of the employees in the Office of Foreign Assets Control do. But not all of them.

Some of them are taken off those duties to make sure Joan Slote does not undermine this country's interests by visiting Cuba. They are chasing a retired schoolteacher riding a bicycle in Cuba trying to slap her with a fine. They cannot find Osama bin Laden but they can sure find this retired grandmother. They are determined to levy a fine on this grandmother.

I learned about that. They wanted to take it out of her Social Security payments if she did not pay the fine. Her

monthly income, by the way, is $1,200, so she is no match for the Feds.

The Feds are a big, strong, bulky group of people going after this lady. Earning $1,200 a month income, she is no match for the Feds. She called OFAC and told them she had not been home to get her mail and she had not responded to their notice because her son had brain cancer and died. She asked if they would give her a hearing. Absolutely not, they said. Wouldn't give her a hearing and would not reduce her fine by one cent.

I met Joan at a conference and I got involved in her case. I called OFAC and said: You ought to be embarrassed.

I know there is law against U.S. citizens traveling in Cuba. It is a foolish law that ought to be repealed. The House of Representatives has now, incidentally, voted to prohibit the enforcement of that law. But the fact is this country long ago decided to try to punish Fidel Castro by limiting the ability of the American people to travel. The nuttiest idea I ever heard of. So we end up saying to Joan Slote that you have to pay a fine.

Well, I got involved and said to the OFAC folks: You ought to be ashamed of yourself and you ought to be embarrassed. They agreed to reduce her fine to $1,900. I don't think she should have paid a cent, but they reduced it to $1,900. So Joan paid $1,900 with two checks. She paid the $1,900. She lives on $1,200 a month.

Then this morning I received this email from her:

> I sent the settlement money in two payments, one in July and paying it all by the end of August. I checked with the bank and the bank said the checks have not been cashed as of a week ago. Two weeks ago I got a letter from a collection agency asking for about $10,000 and a letter from the Social Security system telling me they will start reducing my Social Security payments in November.

Shame on the Federal Government. Do we have completely and totally incompetent Federal agencies? No. 1, they are chasing old ladies riding bicycles when they ought to be chasing terrorists. She may not like me calling her an old lady, but she is a 74-year-old senior bicyclist. She is proud of what she does. She bicycles in the Olympics. And she has the Federal Government after her. They ought to be chasing terrorists, not retired schoolteachers biking in Canada. What are they thinking? Is there no common sense at all at the Office of Foreign Assets Control.

I had the Secretary of the Treasury in front of a committee a year and a half ago. He got in trouble because he answered the question honestly. I liked him. He was a guy who said what was on his mind. I said: Let me ask you a question. Don't you think if you could use your assets the way you want to use your assets in the Office of Foreign Assets Control, you would pull employees off of tracking little old schoolteachers and others from bicycling in Cuba and instead use all of your muscle and all of your energy and all of your resources to track terrorism? Don't you think that is where the priorities ought to be?

Well, he did not answer. I asked again. He didn't answer. I asked again and finally he said: Of course. Of course I prefer that be the case. But he got in mighty big trouble, according to the press, with the White House because there is a political correctness about this issue of travel to Cuba and they want the Office of Foreign Assets Control to clamp down on the folks. Go get them.

Let me tell you who they are getting: Joan Slote. She should not have had to pay a penny. Not a penny.

How about Cevin Allen, Washington State. He traveled to Cuba to bury the ashes of his late father, a Pentecostal minister of prerevolutionary Cuba who wanted his ashes buried on the grounds of the former church he had in Cuba. OFAC tried to slap his son with a $20,000 fine for taking his father's ashes to bury them on the church grounds in Cuba.

He told the hearing that I chaired on this subject that the trip to Cuba let him deal with the pain of losing his parents. But he said the good feelings from giving them the burial he knew they wanted and reuniting with friends from his childhood when his parents were missionaries in Cuba were crumbled when he came home to face hostile officials and the fine for traveling to Cuba illegally.

Then there is Tom Warner who is 77 years old. Tom Warner has not even traveled to Cuba. He is a World War II veteran. He posted on his Web site the schedule for the February 2002 annual meeting of the United States-Cuba Sisters Cities Association in Havana. What happened to him? This 77-year-old World War II veteran heard from OFAC. OFAC accused him of organizing, arranging, promoting, and otherwise facilitating the attendance of persons at a conference in Cuba without a license. Mind you, this World War II veteran never went to Cuba. He simply posted on a Web site the information he had about a Sisters Cities meeting in Cuba. Warner got a letter from OFAC giving him 20 days to tell OFAC everything he knew about the conference and the organizing folks who participated in it. He has since, of course, hired a lawyer.

I just don't understand. We can travel to Communist China. We can travel to Communist Vietnam. We can travel virtually anywhere in the world except for three countries: Cuba, Libya, and, for now, Iraq.

The fact is, other Communist countries, we are told, will move in the right direction through engagement: engage them in trade and travel and that is the way to persuade them to move in the right direction towards greater human rights, towards democracy.

With Cuba, for 40-some years, we have been telling people: Well, you cannot travel there, you cannot trade there, because somehow that would be giving aid and comfort to the Castro government.

Well, the best way to give aid and comfort to the Castro government is to continue this embargo. The best way to undermine the Castro government is through trade and travel. It is what we do in China. It is what we do in Vietnam. It is what we ought to do with respect to Cuba. But the reason I came to the floor today is to say this poor woman ought not to be chased by the Federal Government. She has done nothing wrong. She made a mistake by responding to an advertisement in a magazine that said what she was going to do on this bicycle trip was not illegal. She did it in good faith and now comes home to have the Federal Government chase her.

What is galling to me is the agency in the Federal Government—the Treasury Department and this little organization called OFAC, which we require to track terrorists—is using their resources to chase Joan Slote. Shame on them.

We are going to try to change the law in the Senate. I am going to offer an amendment to the Treasury appropriations bill that is identical, word for word, with every punctuation mark, that was in the House bill. I think it passed the House by 40 votes. My expectation is, if we have a chance to vote on it, it will pass the Senate as well.

It simply says this travel ban makes no sense. We ought not enforce the travel ban. No one ought to be chasing a retired schoolteacher or a bicyclist or someone who takes their father's ashes back to bury in Cuba.

I don't know. Maybe the folks at Treasury can be just embarrassed into doing the right thing. But it is inexplicable to me that we talk about homeland security, we talk about fighting terrorism, and then we have an agency of the Federal Government that is using its resources to do this.

Yes, I know what the law is. But I also know what the priority is: to use scarce enforcement dollars to track terrorists. Common sense would tell you not to divert those dollars to try to take part of the Social Security payments away from this retired woman because she went on a bicycle trip in Cuba.

That is the kind of heavy-handed Federal Government I do not want to be a part of. I believe we ought to do something legislatively to address that situation, and I intend to do that when we have the right appropriations bill on the floor of the Senate.

NUCLEAR WEAPONS

Mr. DORGAN. Mr. President, while I am on the floor, I wish to mention that a couple of my colleagues—I believe, Senator FEINSTEIN and Senator KENNEDY—will be on the floor later today with an amendment dealing with the issue of nuclear weapons. I want to join

them in pointing out my special concern about what is happening with respect to nuclear weapons.

We have roughly 30,000 nuclear weapons in the world—30,000 nuclear weapons, the use of any one of which would cause a catastrophe, as all of us know. So we have had what we call a doctrine of mutually assured destruction for a long, long while, with the other nuclear superpower believing no one would be able to use a nuclear weapon in an attack because they would be obliterated by the other side.

That doctrine of mutually assured destruction has lasted for well over a half century. There are many in the world that aspire to achieve nuclear weapons for their own use—terrorists and other countries.

The world depends on us and on our leadership to stop the spread of nuclear weapons. There is no—I repeat, there is no—duty that is more important, in my judgment, than for this country to use its leadership capability to stop the spread of nuclear weapons. For surely, if nuclear weapons proliferate in this world, they will, one day, be used, and when used in anger will persuade others to use them; and this Earth will not be the kind of Earth that we recognize in the future.

The Energy and Water appropriations bill contains certain money to develop new bunker-buster nuclear weapons and to come up with so-called advanced concepts for new more ''useable'' nuclear weapons, and it has money to make it easier to end the ban on testing so we would begin testing once again.

This is, in my judgment, reckless discussion, reckless talk. It certainly falls under the rubric of free speech and free debate, but I happen to think this country ought to say to the rest of the world: We want to reduce the number of nuclear weapons, No. 1. And we don't need to develop new nuclear weapons. We have far more than anyone needs. And second, the last thing we ought to do is to suggest to anyone there is a green light for anyone to use, at any time, under any circumstances, nuclear weapons.

Here on this chart is what the House of Representatives said in their report recently about the administration's plans for nuclear weapons:

It appears to the Committee the Department is proposing to rebuild, restart, and redo and otherwise exercise every capability that was used over the past forty years of the Cold War and at the same time prepare for a future with an expanded mission for nuclear weapons.

As indicated on this other chart, here is the stockpile of nuclear weapons—roughly 30,000. We have about 10,000; the Russians have about 18,000—you can see a few others around—the use of any one of which or the stealing of any one of which or the loss of any one of which to a terrorist group or a rogue nation would be devastating if they were to detonate.

The people who are talking about developing new nuclear weapons are saying: What we ought to do is take a look at earth-penetrating, bunker-buster nuclear weapons. What a wonderful idea that is, they say.

Well, the best scientists tell us you cannot penetrate the earth much more than 45 or 60 feet; you just can't. But they are talking about nuclear weapons up to 1 megaton, 60 to 70 times bigger than the Hiroshima bomb. That is what they talk about here: earth-penetrating, bunker-buster nuclear weapons. That means this country would build a nuclear weapon that we could actually use, not to deter someone else from using it, but a nuclear weapon that would be a useful weapon for designer purposes. If you have a bunker that you can't bust, lob over a nuclear weapon.

Here is a picture of what a 100-kiloton nuclear explosion 635 feet underground does at the surface. These are not tiny, little designer nuclear weapons. These are huge explosions.

The explosion shown on this picture was 635 feet underground. Likely, a bunker-buster weapon would be detonated at 50 to 60 feet underground.

The point is this: We have a responsibility in this country, it seems to me, on these policies to exhibit great restraint. We have countries in the world that do have nuclear weapons, and we worry a great deal about them using them. India and Pakistan each have nuclear weapons. They don't like each other very much. There have been moments when we have been very concerned about the command and control of nuclear weapons in some other countries.

Our job, at this point, is not to be talking about building new nuclear weapons: low-yield nuclear weapons, bunker-buster, earth-penetrator nuclear weapons, to begin testing nuclear weapons. Our job, it seems to me, is to talk about restraint.

We have all the nuclear weapons we will ever need, well over 10,000, both theater and strategic nuclear weapons. We do not need to be building more. We do not need to talk about using nuclear weapons. Those who talk about building specific-use nuclear weapons and saying there is a use for actual employment of nuclear weapons in conflict, that is not, in my judgment, in the long-term interests of this world or this country. I hope we will exhibit much more restraint than that.

I know some will say: Well, we are simply beginning research on some of these issues. I say we do not need to research earth-penetrating, bunker-buster nuclear weapons. That is not in our country's interest, with due respect.

What we ought to do is to exhibit every ounce of energy that we can and that we have to try to stop the spread of nuclear weapons, so that, God forbid, other countries do not acquire nuclear weapons, and then begin to work to reduce the number of nuclear weapons around the rest of the world.

I know the amendment that will be offered by my colleague Senator FEINSTEIN, this afternoon, will be controversial and will be debated. I respect people who do not share my own opinion on this issue, but I feel very strongly that the only conceivable future for nuclear weapons—for my children and grandchildren and yours—is to try to prevent nuclear weapons from ever again being used. That is the only thoughtful and conceivable future that will not address the future of this world in a very negative way.

We must use our leadership capabilities. We are a great country and a mighty country. We must use our capabilities to persuade others that the use of nuclear weapons is not something that is thinkable or conceivable. We must exert every energy to stop the spread of nuclear weapons to so many others who want to obtain them in a way that would be destructive to our long-term interests.

I yield the floor.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2004

The PRESIDING OFFICER. Under the previous order, the hour of 2:30 p.m. having arrived, the Senate will resume consideration of H.R. 2754, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2754) making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, when we called this bill up, we called up the House version. I ask unanimous consent that all after the enacting clause be stricken, the text of Calendar No. 213, S. 1424, the Senate committee-reported bill, be inserted in lieu thereof; the bill, as amended, be considered as original text for the purpose of further amendments; provided that no points of order be waived by reason of this agreement.

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

Mr. DOMENICI. Mr. President, as I understand it, the energy and water appropriations bill, as reported out unanimously by the subcommittee and Committee on Appropriations, is pending. One amendment—there may be others—we are awaiting is a Feinstein, et al., amendment to be offered and debated. I don't believe it serves any purpose for the Senator from New Mexico to discuss the issue until the amendment is offered. As a consequence, I am going to yield the floor and put in a quorum call, with the full understanding that Senator FEINSTEIN intends to offer shortly her amendment. And from what I understand, an hour later, at about 3:30, the distinguished Senator from Massachusetts, Mr. KENNEDY, is going to speak in support of the Feinstein amendment. In between those, I will speak, and there may very

well—either this afternoon before we recess and go into morning business, or early in the morning—be other Senators on either side who might want to speak to this issue. I am not totally aware of that.

It is not the intention of the Senator from New Mexico that we go on indefinitely. This is a well-known amendment. We voted on something like it already once. But this is different in some respects. It is appropriations. So in that context, it is actual money instead of authorizing.

Having said that, everyone should now know the bill that is pending is the Senate-reported energy and water bill. All of you who had water projects that you asked about, you can have your staff look to see if you were successful. We have attempted to advise most of you. I can say that to the extent we have had to be arbitrary because of a shortage of money, it has principally been when we have somebody asking for a new authorization. We haven't been able to do that in this bill. With respect to the Corps of Engineers, the Bureau of Reclamation, we haven't started any new programs. So if you asked us for that, you may say: Gee, they didn't treat me right. It may be that you have to come and ask, and that is the reason. It is not a new authorization.

We have tried our very best to do what we could with a shortage of money in the Corps, which I have already explained to the Senate. I explain it every year. We could pull the record player out and repeat it because every year Presidents do the same thing. They leave out projects, and they don't put in enough money. And then we come along and we have the most desired projects of all because if you are chairman Senators stuff your pockets with requests. They come in saying: Please help with this. It is a little project in my State. But it seems as though we are the only ones who understand how important these little projects are to Senators. It doesn't seem as though the administration—this one, other ones—thinks it is very important.

They are not all in here. But a few more than the President was able to put in are here in this bill. So please look. And if you have any complaints, bring them to us. We will do our best. We will even explain to you, if we turned you down, that it is a new project. We will explain what that means and why we have no alternative. When we can't pay for the ones we have, we can't be adding any new ones.

I note the presence of the Senator from California. Whether she desires to offer the amendment is up to her. I yield the floor at this time.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 1655

Mrs. FEINSTEIN. Mr. President, I thank the chairman of the committee. There should be no doubt in anyone's mind that this administration is reopening the nuclear door. They are doing this to develop essentially a new generation of nuclear weapons. They call them low yield. It is contained in words such as ''advanced concepts.'' Essentially, they are battlefield tactical nuclear weapons.

This latest Defense authorization bill reversed the Spratt-Furse amendment which had existed for 10 years and had prohibited the development of low-yield nuclear weapons. So for 10 years there was a prohibition on this reopening of the nuclear door.

With this year's Defense authorization bill, that went down the tubes. Now we see in this Energy appropriations bill money to move along in the development and the research of these weapons.

What is interesting to me is when you ask these questions in committee, as I did of Secretary Rumsfeld—and I will get to that—what we hear is: Oh, it is just a study.

In fact, last year, $14 million was appropriated for the study. It is more than just the study. It is the study and development.

I rise today to send an amendment to the desk on behalf of myself, the Senator from Massachusetts, Mr. KENNEDY; the Senator from Rhode Island, Mr. REED; the Senator from New Jersey, Mr. LAUTENBERG; the Senator from Oregon, Mr. WYDEN; and the Senator from Wisconsin, Mr. FEINGOLD.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. KENNEDY, Mr. REED, Mr. LAUTENBERG, Mr. WYDEN, and Mr. FEINGOLD, proposes an amendment numbered 1655.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prohibit the use of funds for Department of Energy activities relating to the Robust Nuclear Earth Penetrator, Advanced Weapons Concepts, modification of the readiness posture of the Nevada Test Site, and the Modern Pit Facility, and to make the amount of funds made available by the prohibition for debt reduction)

After section 503, insert the following:

SEC. 504. (a) REDUCTION IN AMOUNT AVAILABLE FOR NATIONAL NUCLEAR SECURITY ADMINISTRATION.—The amount appropriated by title III of this Act under the heading ''ATOMIC ENERGY DEFENSE ACTIVITIES'' under the heading ''NATIONAL NUCLEAR SECURITY ADMINISTRATION'' under the heading ''WEAPONS ACTIVITIES'' is hereby reduced by $21,000,000, with the amount of the reduction to be allocated so that—

(1) no funds shall be available for the Robust Nuclear Earth Penetrator; and

(2) no funds shall be available for Advanced Weapons Concepts.

(b) PROHIBITION ON USE OF FUNDS FOR CERTAIN MODIFICATION OF READINESS POSTURE OF NEVADA TEST SITE.—None of the funds appropriated or otherwise made available by this Act for the Department of Energy may be obligated or expended for the purpose of modifying the readiness posture of the Nevada Test Site, Nevada, for the resumption by the United States of underground nuclear weapons tests from the current readiness of posture of 24 months to 36 months to a new readiness posture of 18 months or any other readiness posture of less than 24 months.

(c) PROHIBITION ON USE OF FUNDS FOR SITE SELECTION OF MODERN PIT FACILITY.—None of the funds appropriated or otherwise made available by this Act for the Department of Energy may be obligated or expended for the purpose of site selection of the Modern Pit Facility.

(d) REDUCTION OF PUBLIC DEBT.—Of the amount appropriated by this Act, $21,000,000 shall not be obligated or expended, but shall be utilized instead solely for purposes of the reduction of the public debt.

Mrs. FEINSTEIN. Mr. President, I am very concerned that through a policy of unilateralism and preemption, combined with the creation of new nuclear weapons, we may very well be encouraging the very nuclear proliferation we seek to prevent. It seems to me that pursuing the development of new tactical battlefield nuclear weapons not only lowers the threshold for possible use but also blurs the distinction between nuclear and nonnuclear weapons.

The amendment I have just sent to the desk essentially in many ways mirrors what the House of Representatives has done. Much to the credit of Chairman HOBSON, the House of Representatives has deleted this funding. I believe very strongly the Senate should follow.

The amendment I proposed would strike $15 million for the study of the development of the robust nuclear earth penetrator and $6 million in funding for advanced nuclear weapons concepts, including the study for development of low-yield weapons—these are battlefield tactical nuclear weapons—and it would prohibit spending—this is where it is a little different in the Senate version than in the House version—in the 2004 year to increase the Nevada Test Site's time to test readiness posture from the current 24 to 36 months to 18 months. The House actually cut the 24 $8 million. We fence it for this year.

Secondly, it would implement site selection for the modern pit facility. The House cut $12 million. We would delay it for 1 year.

The House also redirected the savings from this bill for water projects. We essentially use the money for deficit reduction. By seeking to develop a new generation of 5-kiloton, or below, tactical nuclear weapons, which produce smaller explosions, the administration is suggesting we can make nuclear weapons less deadly. It is suggesting we can make them more acceptable to use. Neither is true.

By seeking to develop a robust nuclear earth penetrator, the administration seems to be moving toward a military posture in which nuclear weapons are considered just like other weapons—like a tank, a fighter aircraft, or a cruise missile. By seeking to speed up

the time to test requirement for the Nevada Test Site, the administration is taking us down a road that may well lead to the resumption of underground nuclear testing, overturning a 10-year moratorium. By seeking to move forward with the modern pit facility, the administration appears to be seeking to develop a facility that will, in 1 year, allow the United States to produce a number of plutonium pits that exceeds the entire current arsenal of China.

Given that the United States has a robust pit stockpile and plans for a facility that will be able to produce an adequate number of replacement pits in the coming years, questions must be asked as to why a facility like the modern pit facility is necessary, and why now? What sort of message is the United States sending to the rest of the world, at a time when we are trying to discourage others from developing their own nuclear arsenal, by our taking this action? We say to North Korea, you cannot do this. We say to Iran, you cannot do this. Yet we set a precedent whereby countries such as Pakistan and India—each with their own indigenous nuclear capability, each diehard enemies—may well take the example and say: If they can do it, we can do it. We should start our own advanced concepts program.

I deeply believe the combined impact of studies or development of new nuclear weapons enhancing the posture of our test sites and developing a new plutonium pit facility could well have the result of leading these other nuclear powers and nuclear aspirants to resume or start testing and to seek to enlarge their own nuclear forces—action that would fundamentally alter future nonproliferation efforts and undermine our own security. Instead of increasing it, it will undermine it.

The House of Representatives had the foresight to realize that going down this path was not in the best interest of the United States national security. I truly hope this Senate will respond and do the same. I cannot say enough good things about Chairman HOBSON. I have had the privilege of working with him on MilCon, and I think he has shown dramatic courage, spunk, individualism, good thinking, and solid common sense.

Nearly 60 years ago, our world was introduced to nuclear weapons. I was 12 years old when the Enola Gay left our shores. I saw a 15-kiloton bomb destroy Hiroshima. It killed up to 140,000 people—just that bomb killed 140,000 people. A 21-kiloton bomb then destroyed Nagasaki, killing 80,000 people. Two bombs, 220,000 people dead, and the largest pattern of destruction the world has ever seen—just look at it on this photo.

For the decades that followed, we saw a standoff between the United States and the Soviet Union with armadas of nuclear weapons, many of which remain today. They are targeted at each other's cities even right this very minute. We have seen other nations become nuclear powers—the United Kingdom, France, China, India, Pakistan. And others—like I said, Iran and North Korea clearly have nuclear aspirations. But after decades of steady progress, our efforts against nuclear proliferation have also produced a number of dividends. Nuclear-capable states, like South Africa, Brazil, Argentina, South Korea, Taiwan, Japan, the Ukraine, Belarus, and Kazakhstan have either forgone developing nuclear weapons or, like the States of the former Soviet Union, given up the weapons they possessed. China has recently signaled it might be willing, finally, to sign onto the comprehensive test ban treaty. When U.S. policy can urge others to act responsibly, the world is a far safer place and the United States is safer as well.

As we continue to prosecute the war on terror, it should be a central tenet of the U.S. policy to do everything at our disposal to make nuclear weapons less desirable, less available, and less likely to be used. This does just the opposite.

This administration appears to be looking for new ways to use our nuclear advantage, to restructure our force so nuclear weapons are more ''usable.'' That sends a very troubling message to others who might also aspire to obtain or use nuclear weapons.

Let me just quote a Pentagon spokesperson in saying this:

> This administration is fashioning a more diverse set of options for deterring the threat of weapons of mass destruction. That is why the administration is pursuing advanced conventional forces and improved intelligence capabilities. A combination of offensive and defensive and nuclear and nonnuclear capabilities is essential to meet the deterrence requirements of the 21st century.

I profoundly disagree. If the most potent conventional military on Earth cannot meet the challenges without new nuclear weapons, it is a tragedy indeed. The administration's own nuclear posture review, released in January of 2002, did not focus solely on the role of nuclear weapons for deterrence. It stressed the importance of actually being prepared to use nuclear weapons. In fact, the review noted we must now plan to possibly use them against a wider range of countries.

To that end, I would like to put into the record a New York Times article by Michael R. Gordon, dated March 9. I ask unanimous consent that it be printed in the RECORD following my comments.

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

(See exhibit 1.)

Mrs. FEINSTEIN. Mr. President, in addition, the nuclear posture review said we need to develop new types of weapons so we can use them in a wider variety of circumstances and against a wider range of targets, such as hard and deeply buried targets, or to defeat chemical and biological weapons. Even the New York Times suggests we would even consider a first strike against a nonnuclear country if that country possessed biological or chemical weapons.

It seems clear that this administration is no longer focused solely on the role of nuclear weapons for deterrence. Rather, the new triad proposed by the administration has grouped nuclear and conventional weapons together on a continuum, believing each has an equal role on the battlefield.

During the cold war, the nuclear triad consisted of air, land, and sea nuclear forces—bombers, ALBMs, ICBMs and SLBMs. The new triad consists of offensive strike forces, missile defense—which has yet, incidentally, been shown to work—and a responsive infrastructure to support the forces. Strategic nuclear forces are combined dangerously, in my view, with conventional strike capabilities in the offensive leg of the new triad.

This new triad represents a radical departure from the idea that our strategic nuclear forces are primarily intended for deterrence, not for offense as the new triad proposes.

In a few months, after issuing the Nuclear Posture Review, President Bush signed National Security Presidential Directive 17 indicating the United States might use nuclear weapons to respond to a chemical or biological attack. I find the Nuclear Posture Review and NSPD–17 deeply disturbing.

Some have maintained we don't need to concern ourselves too much with these documents because they are merely intellectual exercises. In fact, at a hearing of the Defense Appropriations Subcommittee in May, I asked Secretary Rumsfeld about where the administration was going on these issues. He responded, in essence, that there was nothing to be concerned about because current research to develop nuclear weapons is just a study. But the fact is, the administration has begun to take concrete steps toward developing new classes of nuclear weapons. In fact, the administration's statement of policy for the fiscal year 2004 Defense authorization bill may well have been more honest than intended. This is the statement of administration policy:

> The administration appreciates the Senate Armed Services Committee's continued support of our national defense and support for critical research and development for low-yield nuclear weapons.

As Fred Celec, the Deputy Assistant Secretary for Defense for Nuclear Matters, stated: If a hydrogen bomb can be successfully designed to survive a crash through hard rock or concrete and still explode, ''it will ultimately get fielded.''

That is his statement: If a hydrogen bomb can be successfully designed to survive a crash through hard rock or concrete and still explode, ''it will ultimately get fielded.''

That is where we are going, Mr. President. I believe it is in this context that we must view the funding requests in this bill.

This is not an esoteric funding request. I don't believe it is just a study. I believe it is the second step in the study and in the development of these so-called advanced nuclear concepts of moving up test readiness, of building a huge modern pit facility. The legislation before us today contains funding to start that process of developing this next generation of nuclear weapons, clear and simple.

I strongly support a robust military, and our safety interests and our security interests should be protected, but I believe we are going to make our Nation and our allies less secure, not more, if the United States opens the door to the development, testing, and deployment of new tactical and low-yield nuclear weapons.

I think there are several things wrong with the logic which suggests that using these weapons is acceptable. First, using nuclear weapons, even small ones, will cross a line that has been in place for 60 years. I don't want to be a Member of the Senate who crosses that line and has to explain to my five grandchildren why I voted to sanction a new generation of nuclear weapons, whether it is a robust earth penetrator or whether it is a tactical battlefield weapon, because you cannot protect from the radiation. What grandmother or mother wants to send their son or daughter on to a battlefield with tactical nuclear weapons? Sixty years of history is in the process of being reversed.

It was the Secretary of State, GEN Colin Powell, who wrote in his autobiography about possibly using tactical nuclear weapons in Europe to thwart a Soviet invasion. Let me read what he said. He wrote:

> No matter how small these nuclear payloads were, we would be crossing a threshold. Using nukes would mark one of the most significant political and military decisions since Hiroshima.

That is what we are doing, I say to my colleagues—one of the most significant decisions since Hiroshima—and his statement in his book is just as true today.

Second, I wish to speak for a moment about the fact that there is no such thing as a clean or usable nuclear bomb. According to Stanford University physicist, Dr. Sidney Drell, the effects of a small bomb would be dramatic. A 1-kiloton weapon detonated 20 to 50 feet underground—1 kiloton detonated 20 to 50 feet underground—would dig a crater the size of Ground Zero and eject a million cubic feet of radioactive debris into the air. This chart shows 1 kiloton at 30 feet and it will eject a million cubic feet of radioactive debris into the air.

A low-yield weapon would have very little utility in trying to destroy a deeply buried underground bunker. Given the insurmountable physics problems associated with burrowing a warhead deep into the earth, destroying a target hidden beneath a thousand feet of rock will require a nuclear weapon of almost 100 kilotons. That is 10 times the size of the bomb dropped on Hiroshima.

As this chart shows, if a bunker buster were able to burrow into the earth to reach its maximum feasible depth—that is about 35 feet—it still would not be deep enough to contain a bomb with an explosive yield of only .2 kilotons, 75 times smaller than the bomb that exploded over Hiroshima, let alone a 100-kiloton bomb.

Let me make the point. To destroy a typical bunker or another underground target, such as a chemical or biological weapons facility, you would need to burrow down at least 800 feet, which is not physically possible, or detonate a 100-kiloton weapon whose fallout and destruction belie the idea that an antiseptic nuclear weapon can be developed. Anything short of that would not contain the fallout.

A fireball would break through the surface, scattering enormous amounts of radioactive debris—1.5 million tons for a 100-kiloton bomb—into the atmosphere. As this map of the Korean peninsula shows, just the path fallout, with travel in typical weather, would place both South Korea and Japan in severe danger while placing millions of innocent people at risk if a nuclear bunker buster were to be used in North Korea. We can see it used at this point. We can see the path of fallout. It is devastating.

Ultimately, the depth of penetration of the robust nuclear earth penetrator is limited by the strength of the missile casing. The deepest our current earth penetrators can burrow is 20 feet of dry earth. Casing made of even the stronger material cannot withstand the physical forces of burrowing through 100 feet of granite, much less 800 feet.

I believe it is deeply flawed to argue, as some robust nuclear earth penetrator proponents do, that because it would penetrate the earth before detonating, it would be a clean weapon. It will not be.

In fact, far more than the added explosive power a nuclear weapon provides, the most important factor in destroying a deeply buried target is knowing exactly where it is. Someone is not going to drop a bomb such as a robust nuclear earth penetrator unless they know exactly where the target is. If they know exactly where the target is, there are other things that can be done. It can be destroyed with conventional weapons. Access to it can be prevented by destroying entrances, cutting off electricity, cutting off air ducts. Cutting off a bunker in this way renders it useless just as effectively as destroying it with a nuclear blast.

The fact is that our intelligence is weak. So I very much doubt we are going to be throwing around bunker busters of 100 kilotons that are nuclear with this fallout spread when we really do not know, among the tens of thousands of holes the North Koreans have in the ground, exactly what is what.

Thirdly, the development of new low-yield nuclear weapons could lead—and this is where we are going—to the resumption of underground nuclear testing in order to test the new weapons. This would overturn the 10-year moratorium on nuclear testing. So we are changing 60 years of history. We are overturning a 10-year moratorium. This could lead other countries to resume or start testing, actions that would fundamentally alter future nonproliferation and counterproliferation efforts.

The March 2003 Arms Control Today points out an interesting thing:

> In 1995, many of the world's nonnuclear states made it clear their continued adherence to the NPT was contingent on the cessation of all nuclear-yield testing. . . . A decision to resume testing to build low-yield nuclear weapons could deal the regime a fatal blow while providing the United States a capability of questionable military value.

This is where we are going with this bill. We are moving up test readiness from 24 to 30 months to 18 months. So inherent in this bill is the beginning of expedited testing, overturning 60 years, going against the nonproliferation treaty, which will then encourage other nations to do the same, and beginning testing once again.

According to the 2003 Report to Congress on Nuclear Test Readiness, 18 months is the minimum time necessary to prepare a test once a problem is identified. Yet even during the cold war when tests were ongoing on a regular basis, the Nuclear National Security Agency found that it required 18 to 24 months to design and field a test with full diagnostics.

As purely a technical matter, 18 months is also an extremely short timeframe for test readiness. So why are we doing it? Why are we doing it now with no pressing need? Why is the administration pushing so hard for the absolute minimum time necessary to conduct a test?

This tells me exactly where this administration is going. Even putting aside the concern I have about the message that the United States moving ahead with test readiness sends to the rest of the world, this short time period may well not be technologically feasible.

In an op-ed in the Washington Post on July 21, Secretary of Energy Spencer Abraham said this:

> We are not planning to resume testing; nor are we improving test readiness in order to develop new nuclear weapons. In fact, we are not planning to develop any new nuclear weapons at all.

Then what are we doing this for? Fourteen million dollars last year, $50 million this year, a $4 billion modern pit facility program over 10 years. What are we doing it for? I think what the Secretary did by these comments is really an injustice in terms of casting a web over these moves that is not credible.

I can only deduce that despite all the ''this is just a study'' rhetoric, there is an intention to test, and this administration is reopening the nuclear door

to develop a new generation of tactical battlefield nuclear weapons, and I do not want to be a part of it.

In fact, in a September 3 interview, Fred Celec stated:

> If you say, I've got to go to design a new nuclear weapon . . . you probably will have to have a nuclear test.

Likewise, I have serious concerns about the intentions behind the funds included in this bill for work on the modern pit facility. As I have said, the modern pit facility is the administration's proposed $4 billion plan where new plutonium pits for nuclear weapons will be fabricated. This facility, when completed, would be able to produce 250 to 900 plutonium pits per year.

To put this in perspective, if the proposed modern pit facility operated at half of its capacity, it could equal or exceed China's entire new nuclear arsenal in 1 year. This production would be in excess of our current inventory of 15,000 plutonium pits.

What does this say to other nations? What does this say to China? What does it say to Iraq? What does it say to Iran, Pakistan, India, or any other nation? What does it say to North Korea?

At a time when we should be lessening our reliance on nuclear weapons and lessening the amount of fissile material available which might fall into the hands of terrorists, encouraging other countries in the world to do likewise by following our example, why do we need this new production capability?

The Department of Energy has already begun a separate $2.3 billion pit fabrication and plutonium chemistry complex at Los Alamos, which will begin producing 20 pits per year in 2007 and can be equipped and enlarged to produce as many as 150 pits per year. So what do we need this for? No one has answered that question.

With the current age of our stockpile pits averaging 19 years, and the Department of Energy estimating a pit minimum lifetime to be 45 to 60 years, with no ''life-limiting factors'' being identified, why put our Nation $4 billion further into debt by creating additional capacity for plutonium pits we don't need? We can't find anything that indicates why we need these additional plutonium pits. As I said, we already have a $2.3 billion program to produce 20 pits that can go up to 150 pits. Are we going into some kind of enormous program that we don't know about?

The House report language in their version of the energy and water bill put it this way:

> It appears to the Committee that the Department is proposing to rebuild, restart, and redo and otherwise exercise every capability that was used over the past 40 years of the cold war, and at the same time prepare for a future with an expanded mission for nuclear weapons. Nothing in the past performance of NNSA convinces this Committee that the successful implementation of the Stockpile Stewardship Program is a foregone conclusion, which makes the pursuit of a broad range of new initiatives premature.

This was just written. This was considered by the House of Representatives, and the House of Representatives had the guts to take it out of the bill. So this amendment would put in place a 1-year stay. It is a little different from the House bill. It would put in place a 1-year stay on site selection for the modern pit facility. If the administration can come forward with a convincing rationale and plans in a year, we can revisit this issue. But until then, we should not be supporting this new initiative.

Today, America's current conventional and nuclear forces vastly overpower those of any other nation. So for me, it is difficult if not impossible to reconcile building a multibillion-dollar nuclear bomb factory, which is what this is, as we preach the importance of limiting proliferation and preventing other nations from developing weapons of mass destruction. And, if I may say so, it is hypocritical. It is hypocritical; we say one thing to others and we do an entirely different thing ourselves. If that is not hypocrisy, I don't know what is.

Under the Nuclear Non-Proliferation Treaty, nuclear weapon states are committed to halting so-called vertical proliferation. That means they are prohibited from increasing their nuclear stockpiles. They are prohibited. The purpose is to encourage other nations to halt horizontal proliferation, whereby more and more nations become nuclear capable. That is what the NPT is trying to do. They are trying to stop it, and we are doing exactly the opposite. If our country goes down the road of developing and bringing the modern pit facility on line, we will effectively undermine the nonproliferation treaty.

I know the Bush administration doesn't like it. I know they don't attend meetings. I know we are now on a big unilateral binge, where we know better than anybody else. But this is for our children and our grandchildren. Perhaps more than any other this represents the country we try to be and the country we are going to be.

I think with this legislation, and by going down this path, we undermine the nonproliferation treaty. Maybe that is what they want to happen. And by our example we create an incentive and we present a challenge to others with nuclear aspirations to develop them.

I don't know whether that is the intention. We know ballistic missile defense does the same thing. I think we are seeing, in Iraq, where unilateralism is not working. We have before us an $87 billion supplemental which will bring the cost of the war to about $166 billion so far. Yet we are starting a whole new nuclear program.

I guess why I don't like it, most of all, is it is all done under the guise of study, of development. The facts are never really put on the table. It just kind of happens. Then some get kind of ''suckered'' into it, if I can use that word, because of the economics of doing it in this State or that State or competing for it.

We need to begin to think what we are competing for. I don't want us to compete for something that is going to encourage China to begin nuclear weapons production or begin testing. I don't want to encourage something that is going to say to Pakistan and India: We developed tactical battlefield nuclear weapons. Look at our example. That is what we are doing and we don't see it.

Finally, to those who argue that the United States needs new weapons for new missions, I should point out that the United States already has a usable nuclear bunker buster, the B61–11, which has a dial-to-yield feature, allowing its yield to range from less than a kiloton to several hundred kilotons. When configured to have a 10-kiloton yield and detonated 4 feet underground, the B61–11 can produce a shock wave sufficient to crush a bunker buried beneath 350 feet of layered rock.

If, indeed—I don't think there is—but if there is a legitimate military mission for these kinds of weapons, the experts tell us we already have one. We don't need new nuclear weapons. On the other hand, the U.S. military, the strongest and most capable military force the world has ever seen, has plenty of effective conventional options designed to penetrate deeply into the earth and destroy underground bunkers and storage facilities. These range in size from 500 pounds to 5,000 pounds, and most are equipped with either a laser or a GPS guidance system. The 5,000-pound bunker buster, like the guided bomb unit 28/B, is capable of penetrating up to 20 feet of reinforced concrete, or 100 feet of earth.

The GBU–28 was used with much success in Operation Enduring Freedom in Afghanistan.

Other conventional bunker busters were used to take out Saddam Hussein's underground lairs in Operation Iraqi Freedom. In fact, the U.S. military possesses a conventional bunker buster—the GBU–37—which is thought to be capable of taking out a silo-based ICBM.

I only wish that instead of beginning the research and development of a new generation of weapons, this administration would lead efforts to prevent nuclear development and prevent the spread and delegitimize the use and utility of nuclear weapons. Oh, how I wish they would. Instead, with these appropriations a new nuclear arms race will begin. Let there be no doubt. I know it as sure as I am standing here now. I know it from the judgment of past history. I know how difficult it has been. I know just how difficult it was to reach agreements with the Soviet Union to begin to ratchet down the nuclear arsenal of both of our countries. We will be dealing with governments far more difficult to deal with than the Soviet Union, like those typified by North Korea.

If we appropriate these dollars, we can expect that other nations will follow, that a new nuclear race will begin to develop, and the chance that one day, somehow, some way they will be used against us. Those chances are clear. Let there be no doubt.

As the Economist concluded in its May 17 issue:

In their determination to leave no weapons avenue unexplored [the administration] is proposing to lead America along a dangerous path.

This is why our amendment seeks to strike the funding in this bill for the development of the robust nuclear earth penetrator and the other so-called advanced concepts—I hate calling nuclear weapons ''advanced concepts''—including low-yield weapons, and to limit the funding for enhanced test readiness and the modern pit facility.

Right now our country is spending well over $400 billion on defense. Next year we will spend more on our military than all of the other 191 nations on the planet combined. If we can't protect ourselves without thinking about nuclear weapons, who can? Who can? We spend more than 191 nations combined—all of the other nations on Earth. Yet the proposal is that we reopen the nuclear door and begin a new generation of nuclear weapons.

I think once again we will see rogue states basically conclude that they will be safe from the United States only if they develop their own nuclear weapons quickly. I think that is exactly what is happening in North Korea, which has responded to the Bush administration's aggressive posture by claiming that only a ''tremendous military deterrent'' will protect it from the United States. Now Iran is following suit. Will we encourage India and Pakistan to develop tactical nuclear weapons as well?

Indeed, by seeking to develop new nuclear weapons ourselves, we send a message that nuclear weapons have a future battlefield role and utility. This is the wrong message. It takes us in the wrong direction. In my view, it will cause Americans to be placed in greater jeopardy in the future.

We are telling others not to develop nuclear weapons and not to sell fissile materials, but we continue to study and design new nuclear weapons ourselves. Again, ''hypocrisy.''

I urge my colleagues to support this amendment. The House has totally eliminated the money. We don't do exactly that. We eliminate some and we fence others. We delay the pit facility for 1 year. We don't use the money for water projects, and we don't use it for deficit reduction.

I urge my colleagues to support this amendment. I urge them to realize that we are at a historic turning point. It may well be that people do not remember the Enola Gay, they don't remember Hiroshima, they don't remember Nagasaki, and they don't remember that 220,000 people were killed instantly in both of those strikes. They don't remember Chernobyl and what radioactive fallout does to people.

I see this as a very historic vote. The way is carved for us by the House of Representatives. They have eliminated funding. They have done what is right. I hope we follow suit.

I yield the floor.

EXHIBIT 1

[From the New York Times, March 10, 2002]

U.S. NUCLEAR PLAN SEES NEW TARGETS AND NEW WEAPONS

(By Michael R. Gordon)

Outlining a broad overhaul of American nuclear policy, a secret Pentagon report calls for developing new nuclear weapons that would be better suited for striking targets in Iraq, Iran, North Korea, Syria and Libya.

The Nuclear Posture Review, as the Pentagon report is known, is a comprehensive blueprint for developing and deploying nuclear weapons. While some of the report is unclassified, key portions are secret.

In campaigning for office President Bush stressed that he wanted to slash the number of nuclear weapons and develop a military that would be suited for the post-cold war world.

The new Pentagon report, in fact, finds that non-nuclear conventional weapons are becoming an increasingly important element of the Pentagon arsenal. But the report also indicates that the Pentagon views nuclear weapons as an important element of military planning.

It stresses a need to develop earth-penetrating nuclear weapons to destroy heavily fortified underground bunkers, including those that may be used to store chemical and biological weapons. It calls for improving the intelligence and targeting systems needed for nuclear strikes and argues that the United States may need to resume nuclear testing.

The New York Times obtained a copy of the 56-page report. Elements of the report were reported today by the Los Angeles Times.

One of the most sensitive portions of the report is a secret discussion of contingencies in which the United States might need to use its ''nuclear strike capabilities'' against a foe.

During the cold war, the United States used nuclear weapons to deter a Soviet attack on Western Europe.

But now, the Pentagon report says, the nation faces new contingencies in which nuclear weapons might be employed, including ''an Iraqi attack on Israel or its neighbors, or a North Korean attack on South Korea or a military confrontation over the status of Taiwan.'' Another theme in the report is the possible use of nuclear weapons to destroy enemy stocks of biological weapons, chemical arms and other arms of mass destruction.

Pentagon and White House officials turned down repeated requests for interviews on the report. The Pentagon issued a statement this evening noting that the purpose of the review was to analyze nuclear weapons requirements, not to specify targets.

''It does not provide operational guidance on nuclear targeting or planning,'' the Pentagon statement said. ''The Department of Defense continues to plan for a broad range of contingencies and unforeseen threats to the United States and its allies. We do so in order to deter such attacks in the first place.''

''This administration is fashioning a more diverse set of options for deterring the threat of weapons of mass destruction,'' the Pentagon statement continued. ''That is why the administration is pursuing advanced conventional forces and improved intelligence capabilities. A combination of offensive and defensive, and nuclear and non-nuclear capabilities is essential to meet the deterrence requirements of the 21st century.''

Critics responded to the report by complaining that the Bush administration was not only pushing for the development of new types of nuclear weapons, but broadening the circumstances in which they might be used.

''Despite their pronouncements of wanting to slash nuclear arms, the Bush administration is reinvigorating the nuclear weapons forces and the vast research and industrial complex that support it,'' said Robert S. Norris, a senior research associated at the Natural Resources Defense Council and an expert on nuclear weapons programs. ''In addition the Bush administration seems to see a new role for nuclear weapons against the 'axis of evil' and other problem states.''

Classified versions of the report were provided to Congress in January but the disclosure now could become a public relations problem for vice President Dick Cheney, who is scheduled to leave on Sunday for a 10-day trip to Britain and Middle Eastern countries. The disclosure of the administration's ambitious nuclear plans is likely to spark criticism from European groups that have long supported more traditional approaches to arms control. Middle Eastern leaders may be alarmed to learn that the Pentagon sees Iraq, Iran, Syria and Libya as potential nuclear battlegrounds.

One of the most sensitive portions of the report is its discussion of countries that do not have nuclear arms. Recalling the Cuban missile crisis, the report noted that the United States might be caught by surprise if an adversary suddenly displayed a new ability involving weapons of mass destruction or it a nuclear arsenal changes hands as a result of a coup in a foreign land.

''In setting requirements for nuclear strike capabilities, distinctions can be made among the contingencies for which the United States must be prepared,'' the Pentagon report states. ''Contingencies can be categorized as immediate, potential or unexpected.''

''North Korea, Iraq, Iran, Syria and Libya are among the countries that could be involved in immediate, potential or unexpected contingencies,'' it added. ''All have long-standing hostility toward the United States and its security partners; North Korea and Iraq in particular have been chronic military concerns.''

It said, ''All sponsor or harbor terrorists, and all have active'' programs to create weapons of mass destruction and missiles.

Among Iraq, Iran, Syria or Libya none has nuclear weapons, though Iraq and Iran are making a serious effort to acquire them, according to American intelligence.

American intelligence officials believe that North Korea may have enough fissile material for one or two nuclear weapons, but there is considerable debate as to whether it has actually produced one.

Significantly, all of those countries have signed the Nuclear Nonproliferation Treaty. Washington has promised that it will not use nuclear weapons against non-nuclear weapon states that have signed the Nuclear Nonproliferation Treaty unless those countries attack the United States or its allies ''in alliance with a nuclear weapon state.''

The policy was intended to discourage outsider nations from seeking to develop nuclear weapons. But conservatives argue that Washington should be able to threaten the use of nuclear weapons as a way to deter one state from attacking the United States with chemical or biological weapons.

Earlier this month, Richard Boucher, the State Department spokesman, repeated the policy but then added that ''if a weapon of mass destruction is used against the United States or its allies, we will not rule out any specific type of response.'' His qualified statement along with the Pentagon report raises the question of whether the Bush administration still plans to abide by the longstanding policy.

One former senior American officials said that the development of new weapons to attack non-nuclear states would not in itself contradict American policy since it would be no more than a contingency. But using them would contradict the policy, he said, unless the nations violated their commitments to the Nuclear Nonproliferation Treaty by developing nuclear weapons.

''I would not say that developing a bunker-busting nuclear weapon for use against these countries would by itself violate that pledge,'' the former American official said. ''But using nuclear against them would unless they violated their assurance by acquiring nuclear weapons.''

The Pentagon report discussed other contingencies as well. The report stated that China is also a potential adversary and is modernizing its nuclear and conventional forces. While Russia has the most formidable nuclear force, the report took the view that relations with Moscow have vastly improved.

''As a result, a contingency involving Russia, while plausible, is not expected,'' the report states. Still, the report said that the United States cannot be sure that relations with Russia will always be smooth and thus must be prepared to ''revise its nuclear force levels and posture.''

In addition to surveying the potential situations in which nuclear weapons might be employed, the report discussed the sort of force that might be needed. The Bush administration has said that it plans to reduce strategic nuclear weapons to between 1,700 and 2,200 warheads, a big reduction from the 6,000 or so nuclear weapons that the United States has now.

Critics of the Bush administration say the cuts are roughly the same as those foreseen by the Clinton administration, which agreed that future strategic arms treaty should reduce nuclear weapons to between 2,000 and 2,500 warheads. While the reductions projected by the Bush administration seem deeper, the Pentagon has changed the rules for counting nuclear weapons and no longer counts bombers or nuclear missile submarines that are in the process of being overhauled.

Adding new detail to previous briefings, the Pentagon says that its future force structure will have the following components. By 2012, the United States will have 14 Trident submarines with two in overhaul at one time. They will be part of a triad that will include hundreds of Minuteman III land-based missiles and about 100 B–52 H and B–2 bombers.

''This will provide an operationally deployed force of 1,700 to 2,200 strategic nuclear warheads and a wide range of options for a responsive force to meet potential contingencies,'' the report says.

But the Pentagon report said that nuclear planning is not merely a question of numbers. The Pentagon also wants to improve existing nuclear weapons and possibly develop new ones.

The report cites the need to improve ''earth-penetrating weapons'' that could be used to destroy underground installations and hardened bunkers. According to a secret portion of the Pentagon study, more than 70 nations now use underground installations. It notes that the only earth-penetrating weapon that exists is that B61 Mod 11 bomb and that it has only a limited ''ground-penetration capability.''

The report argues that better earth-penetrating nuclear weapons with lower nuclear yields would be useful since they could achieve equal damage with less nuclear fallout. New earth-penetrating warheads with larger yield would be needed to attack targets that are buried deep underground. The report said it is very hard to identify such underground targets but that American Special Operations Forces could be used for the mission.

Another capability which interests the Pentagon are radiological or chemical weapons that would be employed to destroy stockpiles of chemical or biological agents. Such ''Agent Defeat Weapons'' are being studied. The report also argues that Washington needs to compress the time it takes to identify new targets and attack them with nuclear weapons, a concept it calls ''adaptive planning.''

In general, the Pentagon report stresses the need for nuclear weapons that would be more easy to use against enemy weapons of mass destruction because they would be of variable or low yield, be highly accurate and could be quickly targeted.

Pentagon officials say this gives the United States another tool to knock out enemy chemical, biological or nuclear weapons. But critics say that the Bush administration is, in effect, lowering the nuclear threshold by calling for the development of nuclear weapons that would be easier to use.

The need to maintain the capability to rapidly expand the American nuclear arsenal in a crisis, such as ''reversal of Russia's present course,'' is also a theme of the report. The Pentagon calls this hedge ''the responsive force.'' The notion that the United States is reserving the right to rapidly increase its nuclear forces has been an important concern for Moscow, which has pressed Washington to agree to binding limits and even destroy some of its warheads.

The Responsive Force, the Pentagon report says, ''retains the option for the leadership to increase the number of operationally deployed forces in proportion to the severity of an evolving crisis,'' the Pentagon report said. As part of this concept, bombs could be brought out of the non-deployed stockpile in days or weeks. Other efforts to augment the force could take as long as a year.

To maintain the nuclear infrastructure a number of steps are planned. The Pentagon says that an ''active'' stock of warheads should be maintained which would incorporate the latest modifications and have the key parts.

The report says that the United States needs a new capability to produce plutonium ''pits,'' a hollow sphere made out of plutonium around which explosives are fastened. When the explosives go off they squeeze the plutonium together into a critical mass, which allows a nuclear explosion. The Pentagon said the production of Tritium for nuclear warheads will resume during the fiscal 2003 year.

Another sensitive political point involves the report's discussion of the United States moratorium on nuclear testing. The Bush administration has refused to ratify the Comprehensive Test Ban treaty, but says it has no plans yet to resume nuclear testing. But the report suggests that it might be necessary to resume testing to make new nuclear weapons and ensure the reliability of existing ones.

''While the United States is making every effort to maintain the nuclear stockpile without additional nuclear testing, this may not be possible in the indefinite future,'' it said.

Mr. DOMENICI. Mr. President, can we get the yeas and nays?

Mrs. FEINSTEIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ALLARD). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I don't know how much time I will take but obviously some amount of time. There are a number of other Senators on our side who wish to speak but I want to speak to this amendment.

First, fellow Americans and friends here, there are a lot of issues that the wonderful Senator from California talked about that deserve some real clarification. There is an inference that we are not interested in nonproliferation and that we are going in the wrong direction. Everybody should know that the United States of America not too many years ago had 40,000 nuclear weapons. We are moving rapidly toward 5,000—40,000 moving rapidly toward 5,000. In fact, both the United States and the former Soviet Union are having difficulty getting rid of what comes out of these nuclear weapons because they are moving so fast. That which is coming out of them is creating proliferation itself because we are moving so rapidly. We do not know what to do with the plutonium that comes out of them. The Russians don't know where to put it. But in terms of getting rid of nuclear weapons, the United States is on a path from 40,000—and I can't give you the classified number but I can tell you it is 5,000 or less.

That is point No. 1.

Point No. 2: The pit—the plural ''pits'' is not a very nice sounding word—is an absolutely necessary incremental part of a nuclear weapon. Without a pit, there is no nuclear weapon—none.

The United States is not engaged in producing new weapons but, rather, is seeing to it that we make sure what we have will work. That is called science-based stockpile stewardship, which means about 6 or 8 years ago we voted to have no more nuclear underground testing. There is nothing in this amendment that says we are going to break that. If it was, we would be up here arguing that we are here to break the agreement that the United States has. The Senate voted, then the House followed, and the President signed. It was Mark Hatfield who offered the amendment. It passed here as a consequence.

We are not involved in underground testing. I repeat: We are not involved.

This amendment would strike a provision—let us take them one at a time—that says over there in Nevada there is a great operation wherein we used to do underground testing. It is huge. It is complex in nature. We said in the Senate when we put our blood on the line, no more testing. That is a vote far from unanimous. We said, we will always keep that Nevada desert test site ready for tests.

Did we say that because we planned a new generation of nuclear weapons? Of

course not. We said that because there is a huge risk to America in the science-based stockpile stewardship as a method of assuring the validity of our nuclear weapons. There are scientists in America who at their own expense would come and tell us it will not work. In a few years, you will not know whether your weapons will work or not. That is why we said, keep Nevada ready.

All this amendment says—and it is high time; we should have done it 4 or 5 years ago—spend a little bit of money, less than $20 million, and begin to make the Nevada Test Site ready so instead of taking 3 years to get it ready for a test, we get it ready in 18 months. That is all it says.

Incidentally, Senator FEINSTEIN, we are both worried about our grandchildren. We probably cannot decide who loves our grandchildren more. At this time in my life, I have twice as many plus three, so if you are worried about your five, I am worried about my 13. But I am clearly not worried that this amendment, the language you are striking, this funding, has any chance of harming my grandchildren. That is an absolute myth.

Does making the Nevada Test Site capable of conducting an underground test ready in 18 months endanger the children of America? Fellow Senators, there is a valid argument it helps the future of our children and America's future to have it ready on 18 months' notice instead of 3 years. That part does not belong in this amendment and should not be stricken. It should be in this bill. We should make Nevada modern so if we need it, we use it, not 3 years after we decide we need a test because we have some idea there is something amiss in some of our weapons which are 35, 40, and 45 years old. Our nuclear weapons are that old. And we are saying, they will work. We used to test them. But now we have these great scientists and the laboratories—two of them in my State—and they are doing it by assimilation. And they are saying, we think they will work.

Then the Senator talks about the planning or a plant to manufacture pits for the nuclear weapons. Fellow Senators, we need to manufacture pits for the weapons we have, not the weapons someone is dreaming we will build. There is nothing in this law that says we will build one additional nuclear weapon. Does the Senator know that every country which has nuclear weapons has spare pits, extra pits, to make sure they will never run short—except one country. This country. We have no spare pits. I don't want to infer it is the end of the world. It is just a fact. For those who think we could make a new nuclear weapon and break all our agreements, they have to know right now we do not have a spare pit to put in a nuclear weapon. And the world knows it.

Senator DOMENICI is not giving any secrets to anyone. It is a truism. For 8 years we have been fooling around with funding at Los Alamos to see if we can make a pit. I regret to say it has been one terribly tough job. I cannot state today—and I know as much as anyone—whether they have produced one that meets all the test requirements. Frankly, it is the only place in America that if tomorrow we said, Get a pit, we need to replace one, one of our nukes needs a new pit, it is the only place to look to. What in the world is wrong with an administration that says the time has come to build a manufacturing center for pits?

The good Senator from California ties it into the fact that she thinks it is for a new generation of nuclear weapons. Where is the authority to build a nuclear weapon? Read this law we are funding and tell me where there is authority to build a new nuclear weapon. This Senate would have to stand up and vote to build a new nuclear weapon. Believe you me, it would be a bigger day of debate than this particular afternoon in the Senate. It would be a red-letter day when the United States sends to the Senate floor a proposal to build more nuclear weapons. And it is not this day. That is not what we are doing. There is not one single word that says we are going to build a new nuclear weapon.

So two proposals the Senator is talking about in this language, the fear for the future and what we are going to do to the world: In building pits for the future we are going to do nothing to the world. They are already wondering why we have not built them. That is what others are wondering. They are asking, What is the matter with America?

We want to begin a plan. I am not sure when they bring the plans that I am going to agree to as big a plant as they want. Maybe we will build a little plant. But this says, begin the planning and designing. It provides not one penny for construction, nor does it decide where this place to build pits will be. Do they need it now? It could wait. But we have been waiting pretty long—for 9 years, maybe 10. The planners ask what is going on, why can't we build one? We keep asking scientists to build it at Los Alamos, but that is not a production center. They do not have the facilities. They have built the facilities and I have seen them. It is more like a science lab than a manufacturing plant. One could say, let them keep doing it that way. I don't like it and I don't think anyone planning for the future thinks it is a very good idea to plan for our future in terms of replacements at Los Alamos.

That leaves the part of this amendment wherein we agreed with the Senate. We already voted in this Senate on these issues. We voted affirmatively in the Senate on these issues in the armed services authorizing bill. We already voted on every one of these issues. The nuclear posture review suggested the credibility of our nuclear deterrence is dependent upon flexibility and adaptive production complexes, ones that would be able to fix safety or performance problems on aging stockpiles as they arise. The Senate bill does that.

The Nuclear Posture Review suggests we should keep our nuclear scientists engaged and thinking about the nuclear stockpile of the future and what it should look like. Might I repeat, the Nuclear Posture Review suggests we should keep our nuclear scientists—the greatest in the world, excited about their work, living at one of three great laboratories—engaged and thinking about what the nuclear stockpile of the future should look like.

It does not commit us to build any new weapons. And there is no money in this bill to build new weapons. Let me repeat, there is no money in this bill to build new weapons. It suggests that our scientists should remain flexible, that we should not have to have them worried all the time whether thinking about certain aspects of a nuclear weapon of the future is a violation of the law or not.

They should be permitted to think about—based upon what we have learned, what we know about both our friends and our enemies and war so far, and what people are creating in the world—they should be able to think and design and posture, but not build a single new weapon, whether it be one the Senator from California talks about in terms of tactical weapons—I do not even know where that comes into this thinking. There is no authority for tactical weapons in this bill, in this money, as the Senator in the chair knows. There was nothing in the authorizing committee that said that.

There is much more to say, but I believe I have done my best, in a few moments, to dispose of the idea that America is on a path that will cause the world to start rebuilding new nuclear bombs in anyone's stockpile to react to our improving the Nevada weapons site. The idea that any country is going to react by saying, ''We are going to go do something now and build more bombs because they are getting Nevada ready,'' is an absurdity. It has no logic to it.

We should never have let it go to 3 years. That is what it takes to get ready to test one there—not test a new one, to test one we have, to test one if science-based stockpile stewardship fails.

I repeat, the other part of it is we do not want to start planning a design for a manufacturing center for pits in an inventory which would then make America have an inventory of spare parts like other countries do instead of being the only one without them.

Now, if you finish those two, and then you argue the one that wants to give these engineers and scientists authority to think about what weapons might look like in the future, you have the whole substance—the cake, the strawberries. Everything that goes with it in this amendment is encapsulated in those three ideas.

Now, I have argued with many Senators. I have been in the Chamber on

many issues. I have respect for some, great respect for others. The Senator from California is among those for whom I have great respect. But in this instance, the conclusions that have been drawn with reference to what is in this bill, and what was proposed by the review people of the United States who review our nuclear posture, are just not so, plain and simple.

I think the Senate should not follow the House. The House, for some reason, decided to spend this money on water projects. That is fine.

I say to the Senator, we would like $40 million more for water projects. But this Senator is not going to prevail and preside over a committee, because we are short of water money, that looks at these projects in the wrong way and then, in the end, says: Well, we will have $21 or $24 million more for you House Members' water projects. Not this Senator. We will put it right here. This is what this money ought to be for.

We are going to vote on this bill. We are going to vote sooner rather than later. Hopefully, Senators will see it like they saw it before. A substantial majority voted yea on the authorizing bill to do this. We came along in an appropriations bill and said: The Senate told us to do this.

We voted for it. So we have done what the Senate asked us to do.

I hope the Senate will say: Having done what we asked you to do, we will leave the money that you put in to do what we asked you to do. We will leave it right there. We won't put it on the debt or put it in water projects. We will put it right where you asked us to put it.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, has the Pastore rule run its course?

The PRESIDING OFFICER. It has not.

Mr. BYRD. How long will it require to do so?

The PRESIDING OFFICER. It will run its course at about 5:30.

Mr. BYRD. Five thirty. Very well.

Mr. DOMENICI. I ask the Senator, what was the question? I am sorry, I did not hear it.

Mr. BYRD. I made a parliamentary inquiry of the Chair. It has nothing to do with what you are saying, your argument or hers.

Mr. DOMENICI. OK.

Mr. BYRD. I want to speak on another subject. That is what I want to do.

Mr. DOMENICI. OK.

Mr. BYRD. Mr. President, I have the floor, do I not?

The PRESIDING OFFICER. Yes.

Mr. BYRD. May I inquire of the distinguished Senator from California if she wishes to respond in any way to the Senator from New Mexico?

Mrs. FEINSTEIN. I thank the Senator from West Virginia. I would. But I know Senator KENNEDY has come to speak on this amendment. At an appropriate time—I have made some notes—I would like to respond to him. But I do not want to delay everybody else.

Mr. BYRD. Mr. President, I am going to speak on another subject, and I do not want to interfere with the discussions on this amendment.

Does the Senator from Massachusetts wish to speak on this same subject?

Mr. KENNEDY. Yes, I would like to do so. This is an amendment offered by Senator FEINSTEIN and myself dealing with the development and testing of nuclear weapons.

Mr. BYRD. All right. Does the Senator from Arizona wish to speak on this subject also?

All right.

Mr. President, inasmuch as I have the floor, I would like to propound a unanimous consent request.

The PRESIDING OFFICER. The Senator may proceed with his request.

Mr. BYRD. Mr. President, I ask unanimous consent that when the four Senators on the floor at the moment, other than I, finish their discussions on this amendment, I be recognized. I make that request. Now, what I am saying is, when Senator DOMENICI, when Senator KYL of Arizona, when the Senator from California, Mrs. FEINSTEIN, and the Senator from Massachusetts, Mr. KENNEDY, have finished their colloquies, their discussions, or their statements, that I then be recognized to speak on another subject.

The PRESIDING OFFICER. Is there objection?

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, reserving the right to object, let me just talk with the Senator for a moment.

That means I have a chance for rebuttal?

Also, I say to the Senator, I wanted to tell you—I am not sure if you knew—the yeas and nays have been ordered on this amendment, and I assume you are going to debate an issue unrelated to this. How long might we expect you to speak?

Mr. BYRD. I would suspect that my speech would require an hour.

Mr. DOMENICI. An hour?

Mr. BYRD. Yes, sir.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I have no objection.

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

Mr. BYRD. I thank the Chair and all Senators.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank my friend and colleague from West Virginia for being typically courteous to the Members offering this amendment and also being courteous to the consideration of this issue which is of central importance not only to this appropriations bill but also in terms of the whole question of security for our country. We don't find too often where our colleagues and friends wait their time here on the Senate floor and are so willingly generous to give up some time.

I don't intend to take an undue period of time, but it is typical of the Senator from West Virginia, his courtesy and his respect for the institution, to permit us to make a presentation on an extremely important matter. I thank him very much.

Mr. BYRD. I thank the Senator.

Mr. KENNEDY. I am not surprised, but I am always impressed with the spirit with which the Senator respects this institution and an individual Member's ability to raise important matters to make the case which Senator FEINSTEIN and I are making this afternoon.

Mr. BYRD. I thank the distinguished Senator.

Mr. KENNEDY. Mr. President, we live in a dangerous world, and the greatest danger of all is still the danger of nuclear war or the use of a nuclear weapon by a terrorist group. We know that terrorists are still plotting each and every day to find new ways to kill Americans.

The United States has a responsibility to do what it can to make this a safer world—not as a lone ranger, not as the world's policeman, but for our national security, and for the principles of freedom and democracy that make our country what it is.

We can't afford to let our own policy help ignite a new nuclear arms race. At the very time when we are urging other nations to halt their own nuclear weapons programs, the administration is rushing forward to develop our own new nuclear weapons.

This bill contains $6 million for the development of the so-called ''mininukes'', and $15 million for the so-called nuclear bunker-buster. They want to speed up the testing of nuclear weapons, and select the site for a new pit facility—a factor for new nuclear warheads.

These provisions demonstrate the dangerous new direction of our nuclear weapons policy. They continue the go-it-alone, damn-the-torpedoes approach to the delicate balance of international arms control in today's world.

By passing this amendment, we can demonstrate that we are not embarking on this reckless new nuclear policy. It makes no sense for us to tell other nations to ''Do as we say, not as we do.'' We must do a better job of leading the way in reducing reliance on nuclear weapons and honoring our commitments to international arms control. The House bill takes this approach, because it prohibits the use of funds for the development of low-yield nuclear weapons and nuclear bunker busters.

There's a reason why arms control has been such a key element of our foreign policy and defense policy over many decades. Last month, an infuriated gathering took place in Hiroshima to honor those who died there in 1945. The world knows the massive devastation that a nuclear weapon can unleash. Since 1945 nuclear weapons have never been used again in war.

Yet, this year on the anniversary of those tragedies, the Bush Administration's Strategic Command held a secret meeting in Nebraska at Offut Air Force Base to discuss the plan for a new generation of nuclear weapons. They barred congressional staff from the meeting. Their nuclear policy is being discussed in the dark, without telling the American people or our allies what the policy is.

The administration disbanded an advisory committee to the National Nuclear Security Administration with membership that ranged from James Schlesinger to Sidney Drell. Obviously, the administration is not interested in what some of the best minds in our country and the world have to say about nuclear policy in today's world. It's wrong to begin a new nuclear arms race by designing, building, and testing new weapons.

The administration wants to lift the 1993 statutory ban imposed on developing ''mini-nukes.'' But these weapons are far from the type of small, surgical-strike weapons that the name suggests. They will not keep us safer or more secure. Mini-nukes are a dream come true for rogue regimes and terrorists, and a nightmare for every other nation on Earth. Just one of these weapons, carried by a terrorist in a suitcase, can devastate an entire city. A five-kiloton weapon would be half the size of the Hiroshima bomb.

Some claim that these weapons are needed against deeply buried, hardened bunkers. But current technology will allow such a warhead to burrow only fifty feet into the ground or less. Detonating even a one-kiloton weapon at that depth would create a crater larger than the World Trade Center, larger than a football field. It will spew a million cubic feet or radioactive dust into the atmosphere. Imagine what a five-kiloton blast would do.

Not only is the Bush administration developing their new nuclear weapons, it's also rushing to test them. As Deputy Assistant Secretary of Defense, Fred Celec said in 2003, if you, ''design a new nuclear weapon . . . you will probably have to have a nuclear test.''

In fact, the administration coupled its request to design their nuclear weapons with a request to speed up the time it would take to test them.

No one questions the safety of our nuclear stockpile. This accelerated test readiness is not needed to preserve our existing arsenal. The only reason for rushing to achieve the shortest possible testing time is to test new kinds of nuclear weapons.

Consistent with this goal, the administration has also requested funds to design a large-scale production facility for plutonium pits, which are factories for new nuclear warheads. The administration wants a facility able to produce 500 of these pits a year, a level that far exceeds what is needed to maintain the current stockpile.

The administration claims that it is reducing its current nuclear stockpile from 7,500 tactical warheads to less than 2,200. But while they plan for these reductions, the Department of Energy continues to ask for funding sufficient to support the stockpile levels set by the START I Arms Control Treaty in 1991 a level set before the fall of the Soviet Union. If we build 500 plutonium pits a year, it will far exceed the number needed for the current stockpile, even if we make the reductions planned by the administration. The numbers don't add up. We are escalating the nuclear arms race, not reducing it.

These actions demonstrate the administration's contempt for the Nuclear Non-Proliferation Treaty, the foundation of all current global nuclear arms control. The Non-Proliferation Treaty, signed in 1968, has long stood for the fundamental principle that the world will be safer if nuclear proliferation does not extend beyond the five nations that possessed nuclear weapons at that time—the United States, Great Britain, the Soviet Union, China, and France. It reflected the worldwide consensus that the greater the number of nations with nuclear weapons, the greater the risk of nuclear war.

The Non-Proliferation Treaty has clearly prevented a worldwide nuclear arms race. Since the treaty was signed, only five additional nations acquired nuclear weapons, and out of them South Africa later got rid of them. Israel, India, and Pakistan never signed the treaty. North Korea signed it in 1985, but withdrew from it last year.

The Bush administration's policy jeopardizes the entire structure of nuclear arms control so carefully negotiated by world leaders over the past half century, starting with the Eisenhower administration.

The history of those years is still vivid in our minds. I was 13 years old on that fateful day in August 1945, when a B–29 bomber named ''Enola Gay'' dropped the first nuclear weapon, ''Little Boy,'' over Hiroshima. More than four square miles of the city were instantly and completely destroyed. More than 90,000 people died instantly. Another 50,000 died by the end of that year. Three days later, another B–29 dropped ''Fat Man'' over Nagasaki, killing 39,000 people and injuring 25,000 more.

In 1957, when the Soviet Union launched Sputnik, it became clear that two oceans could not protect us from a nuclear attack at home.

The Cuban Missile Crisis of 1962 showed the entire world how close it could come to catastrophe, and gave supreme urgency to nuclear arms control.

In 1968, the Non-Proliferation Treaty was signed in Moscow, London, and Washington, DC, and went into full effect in 1970. For the next 20 years, the United States and the Soviet Union negotiated a series of landmark treaties to keep the world from blowing itself up.

Some say these efforts on arms control have not prevented the spread of nuclear weapons. But look at the past 15 years; South Africa, Belarus, Kazakhstan, and the Ukraine—the world's third largest nuclear power—renounced the use of nuclear weapons and joined the Non-Proliferation Treaty as non-nuclear states.

Britain and France ratified the Comprehensive Test Ban Treaty. Even though the U.S. Senate did not ratify this landmark treaty, every signatory and ratifier has obeyed the spirit of the treaty and not tested nuclear weapons. The United States and Russia have removed thousands of nuclear weapons from alert status, reduced the number of weapons, and coordinated in protecting nuclear materials from theft.

Without this amendment, we turn our backs on five decades of progress in reducing the threat we and the world face from nuclear weapons. Some in the administration argue that in today's world the yield of the nuclear weapons in our current arsenals is so immense that our enemies know that we will never use them. They argue that these massive nuclear weapons have no deterrent value against many of today's adversaries and that we need smaller, more ''usable'' nuclear weapons to make deterrence more credible.

In fact, if we start treating nuclear weapons as just another weapon in our arsenal, we will increase the likelihood of their use—not only against our adversaries, but also against ourselves. We would be dangerously blurring the line between nuclear and conventional weapons, and tear down the firewall between these weapons that has served us so well in preventing nuclear war in the entire half-century since World War II.

As Secretary of State Powell said last year, ''Nuclear weapons in this day and age may serve some deterrent effect, and so be it, but to think of using them as just another weapon in what might start out as a conventional conflict in this day and age seems to me to be something that no side should be contemplating.''

It is difficult to believe that these new types of nuclear weapons serve any rational military purpose. As we saw in the first Persian Gulf war and again in the war against Iraq, precision-guided conventional and stand-off weapons serve us incredibly well. How could low-yield nuclear weapons be any more effective than the precision-guided conventional weapons? And their radioactive fall-out would be far more dangerous to our ground troops and to civilian populations.

Our goal is to prevent nuclear wars, not start them. I urge my colleagues to approve the Feinstein-Kennedy amendment, and say ''no'' to any such fateful step on the road to nuclear war.

I wanted to thank my good friend and colleague from California for her presentation earlier this afternoon and also for her eloquence when we addressed this issue earlier in the session.

She has reminded us in this body about how this administration has been evolving its whole nuclear policy with very subtle changes, moving us in a very dramatic and different direction than has been generally embraced over the period of the last 50 years.

What she has commented on, and what troubles me and, I think, increasingly Members of the Senate at these hearings that have been held, by and large under security conditions and not in the broad daylight for public debate and discussions—I think, hopefully, as a result of these discussions and the understanding we have developed here, and has been particularly well developed—I think in the House of Representatives by many of those on both sides of the aisle, I might add, Republican and Democrat alike, who have examined this in considerable detail, they have reviewed this and made a very strong recommendation we not move in this direction.

I don't think anyone can say our House colleagues have been negligent in assuring that we were going to develop the kinds of defense systems and also the defense capability to ensure the protection for our national security.

As shown on this chart, we review very briefly the half century of arms control. Going back over the period of time, in 1963 there was the Partial Test Ban Treaty, and there was the Nonproliferation Treaty in 1970. We also see the SALT and ABM Treaties, and also SALT II. These are all efforts by both Republicans and Democrats to move us away from the real dangers of nuclear confrontation and nuclear war. As we remember, a number of years ago we talked about the ''nuclear winter'' as well. We have seen enormous progress that has been made and great leadership by both Republicans and Democrats. Many of our colleagues in the recent past, such as Senators Richard Lugar and Sam Nunn, with the development of the Nunn-Lugar provisions, tried to get those countries that have been willing to sign on and move us away from the dangers of nuclear proliferation, to get help and assistance from the United States to help them achieve that goal. Now we have a very different direction.

Finally, we have these statements made by the administration. Fred Celek said:

If a nuclear bomb could be developed to penetrate rock and concrete and still explode, it will ultimately get fielded.

I have a bias in favor of the lowest usable yield because I have advised the use of that which will cause minimum destruction.

We are basically talking about an effort that recognizes a very important part of our history—Republicans and Democrats—to move us away from nuclear proliferation, and the United States has been a leader. Other countries have been willing. That has been the result of 50 years of work of Republicans and Democrats.

Now, in a world of increased tension, in many respects as a result of terrorism, we are finding ourselves in a situation where the administration wants to alter that policy in terms of development and testing. Mininukes—and there is really no such thing as a small nuke; a nuke is a nuke. It is no different by nature, disposition, and its capability. Those who have served in the military are familiar with a great deal of information regarding nuclear weapons. Our present Secretary of State wrote a book and included the comments I stated. As a former military officer, he understands this. At a time, frankly, when we are unsurpassed in terms of our military capability, why in the world do we want to develop small conventional systems which will trigger other countries to do that. That could compromise what we have today in terms of our military and our Armed Forces.

There is one modern military force in the world, and it happens to be the United States. We have to keep it that way. Why put at risk that advantage with the proliferation by other countries of small useful nukes—I think that is unwise—as well as the dangers it would pose in terms of the growth of terrorism.

I yield the floor.

The PRESIDING OFFICER (Mrs. MURKOWSKI). The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

Madam President, I very much thank the distinguished Senator from Massachusetts for his remarks. I appreciate very much his leadership and support on this issue. I want to make some comments in response to the chairman's comments.

The first is, on July 16, the House published their report. I would like to read excerpts from the House Energy and Water Development Appropriations Act into the RECORD because I think it sets some things straight:

Before any of the existing program goals have been successfully demonstrated, the Administration is now proposing to spend millions on enhanced test readiness while maintaining the moratorium on nuclear testing, aggressively pursue a multi-billion dollar Modern Pit Facility before the first production pit has even been successfully certified for use in the stockpile, develop a robust nuclear earth penetrator weapon and begin additional advanced concepts research on new nuclear weapons. It appears to the Committee the Department is proposing to rebuild, restart and redo and otherwise exercise every capability that was used over the past forty years of the Cold War and at the same time prepare for a future with an expanded mission for nuclear weapons. Nothing in the past performance of the NNSA convinces this Committee that the successful implementation of Stockpile Stewardship Program is a foregone conclusion, which makes the pursuit of a broad range of new initiatives premature. Until the NNSA has demonstrated to the Congress that it can successfully meet its primary mission of maintaining the safety, security, and viability of the existing stockpile by executing the Stockpile Life Extension Program and Science-based Stewardship activities on time and within budget, this Committee will not support redirecting the management resources and attention to a series of new initiatives.

What they are saying is, shouldn't we certify before starting this program? Shouldn't we certify to its safety? There are just a few reasons to do that. I am going to bring up the Rocky Flats plant northwest of Denver.

Fourteen years ago, this plant, which had produced pultonium pits, sank permanently into a multibillion-dollar cesspool of contamination, criminality, and managerial incompetence. I am quoting from an article in the bulletin of Atomic Scientists:

Not to worry says, the Department of Energy, Rocky Flats II will have all the necessary equipment for suppressing plutonium fires that regrettably cannot be totally eliminated, but whose frequency and severity can be reduced, and even planned for, in the structural and process designs.

This keeps getting mixed up. We already have $2.3 billion appropriated for a pit facility at Los Alamos, and that facility will begin producing 20 pits per year in 2007 and can be equipped to produce as many as 80 pits per year and can be further enlarged to produce 150 pits per year. At what are we throwing this money? How big does this thing have to get? That is what is going on in this. It may be that Los Alamos is having trouble with it. I don't know. But I do know this: Throwing money at it is not the solution.

It might be useful to put the entire report language in the RECORD. I ask unanimous consent to print the report language in the RECORD.

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

FUNDING, HOUSE LANGUAGE ON NEW NUCLEAR WEAPONS AND NUCLEAR TESTING, SEPTEMBER 12, 2003

The Senate is currently considering the Energy & Water Appropriations bill. On Tuesday, Senators Feinstein and Kennedy will offer an amendment to reduce and restrict funding for specific nuclear weapons budget items. Details on what has already transpired are below.

[Dollars in millions]

	Administration request	House action	Senate approps action
Robust Nuclear Earth Penetrator	$15	[1] $5	$15
Advanced Weapons Concepts	6	.....	6
Enhanced Test Site Readiness	24.8	.....	24.8
Modern Pit Facility	22.8	10.8	22.8

[1] The Committee directed that the DOE use the $5 million to work with the DOD ''to maximize the dual-use applicability for both conventional and nuclear weapons.''

EXCERPTS FROM THE HOUSE ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2004—HOUSE REPORT 108–212

The Committee provides $5,000,000 for RNEP and eliminates funding for additional advanced concepts research in favor of higher priority current mission requirements. The Committee is concerned the NNSA is being tasked to start new activities with significant outyear budget impacts before the Administration has articulated the specific requirements to support the President's announced stockpile modifications. Under current plans, the NNSA is attempting to modernize the industrial infrastructure of the weapons complex and restore production plant capability in order to refurbish the entire START I stockpile, reengineer the Federal management structure of the complex

and downsize the workforce by 20 percent by the end of fiscal year 2004, while struggling to successfully demonstrate its core mission of maintaining the existing stockpile through the Stockpile Stewardship Program. Before any of the existing program goals have been successfully demonstrated, the Administration is now proposing to spend millions on enhanced test readiness while maintaining the moratorium on nuclear testing, aggressively pursue a multi-billion dollar Modern Pit Facility before the first production pit has been successfully certified for use in the stockpile, develop a robust nuclear earth penetrator weapon and begin additional advanced concepts research on new nuclear weapons. *It appears to the Committee the Department is proposing to rebuild, restart, and redo and otherwise exercise every capability that was used over the past forty years of the Cold War and at the same time prepare for a future with an expanded mission for nuclear weapons. Nothing in the past performance of the NNSA convinces this Committee that the successful implementation of Stockpile Stewardship program is a foregone conclusion, which makes the pursuit of a broad range of new initiatives premature.* Until the NNSA has demonstrated to the Congress that it can successfully meet its primary mission of maintaining the safety, security, and viability of the existing stockpile by executing the Stockpile Life Extension Program and Science-based Stewardship activities on time and within budget, this Committee will not support redirecting the management resources and attention to a series of new initiatives. (Emphasis added.)

Mrs. FEINSTEIN. I thank the Chair. Madam President, it may be useful to think for a moment—the chairman started me thinking. He asked the question: Why did we need 40,000 nuclear weapons? The answer is we didn't. Now 40 years later, we are left with enormous problems: 40,000 nuclear weapons which this country entered into the study, the research, the design, and the development of. We could blow up this Earth time and time and time again, obliterate it from existence. Does anyone think that makes sense—40,000? No, because what happens is the economic urge, the parochial nature of States—all of this takes over and subliminally, under the radar, huge weapons systems become developed which need to be maintained, secured, activated, and deactivated.

It is a crazy system, and we all pat ourselves on the back and think we are good Americans. Does anybody believe the United States of America needed 40,000 nuclear weapons? But we built them. That is what is happening here again. That is exactly what is happening here again.

We are appropriating money for a $4 billion bomb factory in addition to the $2.3 billion bomb factory we already appropriated. If they can't do it for $2.3 billion—and I am talking about Los Alamos run by the University of California—if they can't do it, let's take a good look at the reasons.

Other nations know what we are doing. The Finnish Foreign Minister, just a week ago, commenting on our failure to ratify the Comprehensive Test Ban Treaty, the move sent completely the wrong message to the international community.

That is exactly what I have been saying. That is exactly what we are doing. We are sending a message we are doing it and, believe me, others will follow suit.

Then he went on and said:

We should be concerned about the development of weapons of mass destruction even in the case of low-yield weapons, the foreign minister said in an interview to be published in the Austrian daily Die Press on Friday. Muhammad el-Baradei, the head of the International Atomic Energy Agency, accused the United States last week of effectively breaking a ban on the proliferation of weapons of mass destruction through its research on so-called mini-nukes.

The chairman says there is no research going on regarding mininukes. Then why did we repeal the Spratt-Furse language that for 10 years prevented the development of mininukes? Why did we do it if we were not going to build it? This is the deception. This is the covert nature of these programs. I do not doubt that we are building them.

To say this is not happening really bothers me. If my colleagues do not believe it is happening, reread the Nuclear Posture Review. Every Member has access to the classified version of the Nuclear Posture Review which came out in January of 2000. They can read the unclassified version. For these purposes, I am going to quote from the New York Times of March 10. This is about the Nuclear Posture Review.

It stresses a need to develop earth-penetrating nuclear weapons to destroy heavily fortified underground bunkers, including those that may be used to store chemical and biological weapons.

Now I am quoting from parts of the article.

There is a quote again from the Pentagon: This administration is fashioning a more diverse set of options for deterring the threat of weapons of mass destruction. That is why we are pursuing advanced conventional forces and improved intelligence capabilities. A combination of offensive and defensive and nuclear and nonnuclear capabilities is essential to meet the deterrence requirements of the 21st century.

In my mind, what that means is the smaller nuclear weapons will be built below 5 kiloton. The difference is kind of blurred between conventional and nuclear weapons and it makes it easier to use the nuclear weapon on the battlefield. That is what I believe is going on.

Another place states: Adding new detail to previous briefings, the Pentagon says that its future force structure will have the following components. By 2012: 14 Trident submarines with two in overhead at one time. They will be part of a triad that will include hundreds of Minuteman III land-based missiles, 100 B–52, H and B–2 bombers. That is an operationally deployed force of about 1,700 to 2,200 strategic nuclear warheads.

The Pentagon said that nuclear planning is not merely a question of numbers. The Pentagon also wants to improve existing nuclear weapons and possibly develop new ones. The report cites the need to approve earth-penetrating weapons. In general, the Pentagon report stresses the need for nuclear weapons that would be more easy to use against enemy weapons because they would be of variable or low yield, be highly accurate, could be quickly targeted.

It is going on. No matter how one wants to cloak advanced weapons concept designs, it means new nuclear weapons, and that is what we are doing. We are breaking a 60-year tradition. We are going to move up testing. Testing does not need to be moved up. Why do they want to move up testing to the basic minimum time possible when the experts say it is not possible to do it in 18 months?

Now, you can believe that we can be fairly assured by the fact that we spend $400 billion a year on our defense, more than every other nation on Earth combined; that maybe ought to give us an element of security; but I think to open this door, to walk through a nuclear door, to propose that we are going to begin to develop low-yield nuclear weapons and nuclear bunker busters sets an example for the world. They read the Nuclear Posture Review. They read the Washington Post. They read the French press. They read the speeches. They know what is happening. So we are setting an example for other nations. We say all the time that we do not want to proliferate, and we are encouraging proliferation by our own actions. Forty thousand nuclear weapons, I guess 45 years ago or 40 years later—I bet there is no one in the United States who can say we need 40,000 nuclear weapons, but we develop them. They are there. A lot of them have been disarmed.

We are going to begin now this next generation. It is wrong. It is morally wrong. It is wrong for our children. It is wrong for our soldiers who have to go on the battlefield.

Take another look at Hiroshima. Both Senator KENNEDY and I spelled out the number of deaths. If we add them all up within a year, I think between Hiroshima and Nagasaki it totals 220,000 dead. That is a combination of a 15-kiloton bomb—what was it, a 21-kiloton bomb at Nagasaki—and we are talking about a 100-kiloton nuclear bunker buster.

Look at this devastation. This is one bomb. I will never forget as a 12-year-old what we grew up with. Children today have different fears, but what we grew up with was the fear of an atomic bomb. That is why the daisy spot that was used in the Goldwater campaign had such an impact because there was a whole generation of young children who were impacted by it. I was one of them. Senator KENNEDY is the same generation. He was one of them.

When we were young, we said: We are never going to let this happen again. But in the Senate we are letting it happen again. If this Senate does not do

what the House of Representatives does, I think there is a moral degradation spread over this whole body because we will then become the ones who launched the new generation of nuclear weapons.

Mr. KENNEDY. Will the Senator be good enough to yield for one or two questions?

Mrs. FEINSTEIN. Yes.

Mr. KENNEDY. I saw the photograph that the Senator has of Hiroshima. I have a chart that gives us a for instance. If we use a 5-kiloton earth-penetrating nuclear explosion in Damascus—this is just a for instance, obviously—and they had the traditional winds that flow from the east to the west, it gives the general flowline of where the radioactivity and the dust would flow, but we can see roughly it would go from Syria, across northern Israel through southern Lebanon, just north of Haifa. The best estimates would be 230,000 fatalities and 280,000 casualties. This is a 5 kiloton bomb.

I have heard the Senator from California talk about the fact that this is a mini-nuke, but she has just again restated very clearly that there is really no such thing as a mini-nuke. We are talking about weapons that have such a massive, distinctive, unique, and special quality that they have such an extraordinary danger to all of those who are directly affected, and those who would be indirectly affected well into the future.

So we are looking at these casualties the Senator mentioned, Hiroshima and Nagasaki. We can also look at what the casualties would be with the 5-kiloton earth penetrator that went down to 30 feet in depth. We are talking about major devastation that this country, as Senator FEINSTEIN has said so eloquently, has never accepted—through Republican and Democratic control; this has not been a partisan issue over a long period of time.

Let me just ask the Senator a final question that is the question I think all Americans are wondering about: whether we have security of our current nuclear capacity. This is raised in discussion and debate. Why should we ever take a chance, in terms of what we do have, in terms of a current capability?

I have seen and read and heard the directors of the laboratories that have responsibility for this repeatedly indicate their sense of assurance. They are skilled, committed individuals who have dedicated basically their lives to ensure the deterrent capability of our capacity, in terms of nuclear weapons. They give the assurance to us that we can give to the American people that we have the capability and it is current.

I am just interested, as someone who has spent a great deal of time on this, because this is an issue that has been talked about a great deal even during the course of this debate, whether the Senator believes she can give assurances unequivocally to the American people from what we do have—from her knowledge of the lab directors—that we are able to give them the assurance that our nuclear stockpile is current and capable and ready to meet the test if called upon.

Mrs. FEINSTEIN. Through the Chair, respectfully, to the Senator from Massachusetts, I think no one can give an unequivocal statement that our nuclear supplies, plants, et cetera, are unequivocally safe. I think a lot of steps have been taken.

As to whether they are adequate to meet any challenge, I have never heard anyone say they were not.

Mr. KENNEDY. I appreciate the distinction the Senator has made. She gets to the nub of the issue: The question, in other words, is whether we have an adequate stockpile—more than an adequate stockpile, as the Senator has pointed out.

I thank the Senator. This is an issue of enormous importance and consequence. I share the view of the Senator that we have many different, important issues that are before Congress this year: Obviously, the overarching issues, the conflict in Iraq and the war on terror, and how we are going to deal with those, as well as other priorities to which we are committed. But the issue in terms of the security, even as we are thinking about the nature of terrorism, I think she would agree with me, is also related to the whole issue of the battle against terrorism, as well, in terms of what the potential may be in the future with the development of these, what they call mini-nukes, and what that means in terms of the proliferation issue.

I thank the Senator for her comments.

Mrs. FEINSTEIN. I thank the Senator from Massachusetts. The Senator was not in the Chamber. But the chart I used was of a predicted radioactive fallout from a B61–11, the 300-kiloton explosion in west Pyongyang, North Korea, using historical weather data for the month of May. It is a similar chart to what the Senator has shown, but it gives the 48-hour dose of radiation contamination. The possible effects of radioactive fallout should a nuclear weapon be used include, possible radiation burns; change in blood chemistry, hemorrhaging, as well as deaths in weeks or months—it is a terrible chart to have to look at. Of course, this is an extraordinarily large device, so we are not talking about a bunker buster. That is 300 kilotons. But that is the chart that we happen to have.

I think the thing that bothers me most about this program is that nobody really knows what is going to be produced with all this money. It always happens kind of under the shelf. Then the economics of it become so important that there needs to be a continuation of it. I really suspect that is why we ended up with 40,000 nuclear bombs—because once you get into it, it just keeps going and keeps rolling; there are constant demands. I think that is indicated by the fact that we have already appropriated $2.3 billion for this plutonium pit facility at Los Alamos and reportedly this pit facility, if it is able to be built correctly, can take care of all of the needs for the foreseeable future.

But this is another $4 billion program—that is over 10 years—of which an amount is authorized in this bill that we are trying to strike because there is no need for it. I think we have tried to lay out the arguments here. This is not an easy issue. I really believe we will probably never have more of an issue of conscience in this session than we do in this vote. I think the House of Representatives have given their consciences a test and measured up by eliminating the funds. They said clearly we are not ready to spend these funds in the report language that I read and put in the RECORD. And the balance really rests with the Senate.

I suspect we may be defeated. It will be a conferenceable item, and all of those who want this new generation of nuclear weapons will end up prevailing. But I can tell you I don't want my fingerprint on it. I don't want to have to say what I have done to my children.

Every bit of information I have ever received indicates that with the most superior conventional weapons forces in the world, and an amount of money spent that is more than that spent by all of the nations put together, a huge nuclear arsenal, and the ability to dial up or down the kilotonnage of our nuclear bombs—my hope is we will continue our commitment to the Nuclear Nonproliferation Treaty; that we will not be hypocritical; that we will live by our words, our statements; if we want other nations not to proliferate; that we will see that we do not develop the mechanisms by which proliferation is incentivized or carried out.

So I think this is a very big vote. I really hope the Members of this esteemed body will vote yes to strike the money from this bill.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, Senator KENNEDY is still in the Chamber, and he asked a question of the distinguished Senator from California about the safety of our nuclear weapons.

Senator KENNEDY, once a year, each of three civilian men—it happens in this case they are men. I don't think there has been a woman in charge of either of the three nuclear laboratories since their inception. But, once a year, three civilians certify to the President of the United States that, to the best of their knowledge, the nuclear stockpile is intact, safe, and reliable.

That has been going on for well over 60 years. But only 8 years ago, or 9, we changed the way those men concluded the weapons were safe and reliable and ready. Properly or improperly, we said no more underground testing. Prior to that, every time a certification was

made to the President, it was predicated upon the single best way to determine the validity of a weapon, and that was to test it.

Now we have said let us do it another way. Let us send a signal to the world we don't want to test underground. This amendment is relevant, which I will tell you about in a moment.

We said to the scientists, How much money do you need to get the best equipment, including new equipment, to determine the validity of the weapons without testing? That is called science-based stockpile stewardship. There are many who do not think it will work, that we will have to return someday not for a new stockpile, but to answer that question we might have to return to testing.

I know the Senator from Massachusetts has studied these issues, and he is a very involved Senator. But I spent a huge portion of my life learning this. We are going through the throes of the most incredible kind of research just to determine there is nothing wrong with the innards of a 40-year-old bomb, or 30-year-old bomb as we reduce from 40,000 to 5,000, or less, which is where we are now and heading down.

Yes. The answer is if you follow that sequence, those men not too long ago told the President they are OK. But in this amendment, one portion the Senator from California strikes is a provision that could be freestanding and important. It has nothing whatsoever to do with a new weapons system. It just says bring the test site in Nevada current so it doesn't take 3 years if you make a decision to use it. One portion does that. Instead of letting that system in Nevada degenerate so that if you need it, it will take 3 years to build it up, part of this amendment says move it along so it is only 18 months.

If you want to conclude that is in there because we want to build a whole new system of weapons, you can do that. But the truth is it is in there because the time has come to get it more relevant to the problems we may be confronted with in terms of one of these directors saying we had better test the weapon. Then we have to wait 3 years. Part of this amendment says no, you will only have to wait 1½ years. That part should pass under all circumstances. Why the United States House of Representatives said no, I can't understand. The Senate said yes already, overwhelmingly.

This amendment would take it out and say leave it at 3 years; let the reliability kind of lie in wait in case we need it to test a weapon; let it be 3 years instead of 1½ years.

The second part of this amendment: There is no use today on the floor of the Senate in terms of this amendment to talk about the fact that years ago we had 40,000 nuclear weapons and the Soviet Union had 60,000. Those are true numbers. That happened. I am not sure the last number is right, but it is plenty more than 40,000. We are on the way down substantially while three or four new countries are added that I don't think had anything to do with this amendment. Pakistan had nothing to do with this amendment as they developed their nuclear weapon. I don't believe this amendment has anything to do with the North Koreans. This amendment says get that site ready in case we have to test the weapons we own.

We can get up here and talk all we want about America is already building new nuclear weapons, but it isn't true. If any Senator stands up here and says we are making new nuclear weapons and they are just little nuclear weapons, I submit they ought to ask anybody they want under oath anywhere in the Government, and the answer will be we aren't, we haven't, and we will not build a nuclear weapon until Congress says we can.

Building a nuclear weapon is not in this language. Look at it. Look at every single word. See if it says you are going to build one nuclear weapon with the money in this appropriations bill. It in no way permits the building of a nuclear weapon. It does what I said about the Nevada Test Site. It says to our scientists at these laboratories, In the meantime you can study, you can research weapons of the future. And it names the kinds of things we might be looking at in the future.

I submit that for a great nation to say anything to its scientists but you can do that is absolutely crazy. Do you mean we are going to tell these great scientists we don't know what is going to be here in 15 years, but you better not be studying what kind of weapons we are going to need in 15 years because we are scared of that, we think that means we are going to build new weapons? I don't believe that. I believe they ought to be permitted to study. They ought to be permitted to think. We ought to be wondering about underground chemical plants that might be building things to destroy the world. I see nothing wrong with that. I do not see that as threatening to anyone, for it builds nothing. If anything, it builds brainpower on the part of the great scientists, and that is it.

The last one about a plant to manufacture pits: This request says that for the next 40 years—40 years—we may need pit replacements from time to time for our nuclear weapons. That is a given. It says let us design the complex to do that.

This amendment doesn't say cut it in half, we don't want you to make it so big. We say send us the plans and we will look at them. This says don't do it. Why not do it? Every other country with nuclear weapons has spare pits, I regret to say. But for us, it doesn't mean much. Nobody has to be scared. That doesn't mean next week or next month, but it is something our experts are saying shouldn't exist too long. And we are busy trying to build a couple in a makeshift manner, to which my friend from California alludes. It is not a factory. It will not take care of 30 or 40 years of the future. It is a makeshift assembly in the city of Los Alamos as part of the research laboratory. It has been a devil of a job for them to manufacture consistent with the need for a plutonium pit for a nuclear weapon.

Today we are discussing things which we hardly ever discuss. But I believe at 10 minutes of 5 on the 15th day of September on a Monday, if we were authorizing the building of new nuclear weapons, there would be a block of Senators on this floor. There would be steam heat from those who oppose it.

The truth is that isn't what the amendment does. It is not an amendment that will build any new nuclear bombs.

I repeat: As important as it is, and as magnificent as the Senator from California is in her presentation on September 15, it is not an amendment that has anything to do with building or not building nuclear weapons, for we are not authorizing that. It won't happen because of what we are doing. And she won't stop it from happening with her amendment because it isn't happening to begin with.

Essentially, the Senator indicated it is a moral issue. That is an easy term to throw around—a moral issue. I could probably say it is a moral issue, also. I understand it in stark, objective terms. It does not frighten me a bit.

As a matter of fact, I am more frightened to think of having the scientists who have manned our nuclear laboratories told they cannot think and plan for the future regardless of what their great brains say might be around the corner, over the hill, or in some decade to come, for these United States. That frightens me more and creates more of a moral issue than the issue that is not even an issue, to wit, we are building more nuclear weapons, a new arsenal, and the like.

It cannot be a moral issue for me because a negative can hardly be. If you are not doing it, it does not seem to me to be an issue, moral or otherwise. That is how I see it.

The Senator suspects we will win. I am not sure. If the Senate has any consistency, we should. We already won once. In fact, since then we have learned a lot more. But we have reduced it to dollars and to programs that had been authorized. It is easier to see what we are and are not doing in this amendment, in this appropriations bill, than it was when we voted in favor of the authorization bill. I am not sure how it will come out. I am not sure what will happen in the House. I guarantee if the Senate votes to go to conference with the language we have written in this bill that came out of Appropriations, we will consider it a very important issue for America's future. It will not be easy to give it away to a House that canceled it and spent the money on water projects instead of these issues. That was the outcome.

Mr. KENNEDY. If I could inquire quickly of the Senator, as I remember,

we had the support of the Joint Chiefs of Staff at that time in 1998 when we considered the comprehensive test ban treaty. We did not ratify it, but it was supported. I don't know, as a member of the Armed Services Committee, of any request by the Joint Chiefs of Staff that they have made, any representation to the Armed Services Committee that they believe our nuclear capability and capacity is in any way threatened today.

We do have the testing capability. It takes anywhere from 24 to 36 months to move ahead on the tests. I don't know that we know of any requests made by the Joint Chiefs or any chiefs or the Secretary of Defense specifically suggesting our capability regarding our nuclear weapons is anything but robust and capable now. It is very important we know as we debate this issue. I would be interested in the Senator's answer to that.

Second, I understand what has been done with the separate amendment which prohibited the development and testing of mini-nukes, as well as a number of provisions in the Spratt amendment in the authorization committee. When we get a conference report, as a member of that conference, the conferees understand that issue will be resolved. The Spratt amendment will no longer be in effect.

So on the one hand the authorization committee will eliminate the Spratt amendment, which would have actually prohibited the development of anything below the 5 kiloton. Now we are on the second phase of this appropriations process in terms of the Department of Energy, and the Senator is saying the money in here cannot be used for this development. But it is clear, as the Senator from California has pointed out, from the Nuclear Posture Review, the debate on the authorization, and the elimination of the Spratt amendment, the continued effort to put the money in mini-nukes, this is the dangerous direction the administration is moving.

I hear what the Senator has said and the assurances the Senator has given to Members, but I wonder why we cannot have more clarity regarding the legislation.

Finally, I will add with regard to the scientists and what they were able and not able to pursue. As the Senator knows, we had the most extraordinary upgrading of weaponry, particularly in the Iraq situation, particularly on the precise guidance and precision bombs. We will not take the time in this debate to review it, but there has been absolutely extraordinary progress made in the area of conventional forces. The scientists have been working effectively. That has enhanced our capability.

I am interested whether the Senator knows of any Joint Chiefs who believe the nuclear weapon stockpile would require additional testing?

Mr. DOMENICI. Madam President, let me answer this way: I don't believe there is a single member of the Joint Chiefs of Staff, a single expert in the United States of America on its nuclear weapons arsenal, that if asked would they prefer that the Nevada Test Site be ready for tests in 18 months or 3 years, would not answer: 18 months; 3 years is too long.

If you ask me, I will tell you. I believe there is no one who is certain that over time what we are doing is going to work and that we are not going to have to go to testing at some time. Almost everyone says that. Since they say it, I am confident they would rather have the Nevada Test Site ready in a shorter timeframe rather than longer.

I thank the Senator for the question. I yield the floor.

Mr. KENNEDY. If the only question, then, is an issue of timing and upgrading the testing to reduce it from 2 years to 18 months or 2½ years, I don't think we would have an amendment here. We know that alone does not show the thrust of what we believe will be permitted with this policy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I appreciate the opportunity to speak on this amendment in support of the Senator from New Mexico and in opposition to the proponents of the amendment.

It seems to me, this amendment seeks to put our head in the sand and ignore circumstances around us in the vain hope that somehow everyone else in the world has as good intentions as the United States and if we just wish hard enough that they will not cause trouble.

The amendment says we ought to at least be thinking about what we would do in the event that we decide our deterrent was no longer credible enough to deter the threats against us.

Everyone supports the idea of a deterrent. That includes a nuclear deterrent. That is, frankly, one of the things that kept the Soviets and the United States from engaging in a hot war during the cold war.

What we are saying is, sometimes when things change, you have to think about what that means in terms of your defense posture. This is one of those times. What the amendment would do is stop us from thinking about it. If you concede we need a nuclear deterrent, you should not propose an amendment that says we cannot think about it.

One thing that has changed, we no longer face an opponent which, like the United States, had these huge multimega tonnage weapons that were basically conceived, developed, and deployed in order to scare the other side into believing if they ever attacked, we would incinerate most of the people in the other country. These were not bunker-busting bombs. These were city-killing bombs, bombs that would be detonated over the opponents' city, killing literally millions of people. That was such a scary thought in the cold war it deterred aggression.

The question is, Would that same deterrent work? I ask in the case of Iraq, if Iraq used chemical or biological weapons against the United States, does anyone believe that a credible United States threat would have been dropping one of our large massive nuclear weapons over Baghdad, killing millions of innocent Iraqis? It is not a credible deterrent.

So in a world where you have terrorist organizations and terrorist-sponsored states, and you no longer have the two great superpowers—the Soviet Union and the United States—facing off against each other, the question is, What kind of a nuclear deterrent should we have?

What this amendment would do is stop us from even thinking about that. It seems to me we ought to be thinking about that. And if smaller, more precise weapons could do the job just as well, wouldn't people of good will, who are concerned about unnecessary death, be interested in at least thinking about weapons that would pose a deterrent to an attack but would not kill as many people, would not kill so indiscriminately?

One of the great lessons from this Iraqi experience is that we now have the capability of delivering weapons very precisely. Wouldn't it be better to do that, even in a nuclear context, than the one we are in now?

The Senator from Massachusetts just alluded to the great progress made in precision conventional weaponry. Even that, however, was not sufficient to destroy at least one, and I believe some, of the bunkers in Iraq. And without getting into a lot of detail, let me just say we are well aware that there are countries in the world that have developed extraordinarily robust underground facilities that we are going to have to take out if we are ever to win a military conflict with them. If we do not have the capability of doing that, they have the upper hand.

Wouldn't it make sense to be able to deliver very precisely the kind of weapon that we are asking just to be able to think about here in order to destroy that kind of facility? The conventional weaponry will not do it, as precise as it is. As the Senator from New Mexico pointed out, we are not asking for money to do it. We are just asking to allow our scientists to think about what would be necessary and what would be possible—perhaps maybe not even necessary but perhaps make recommendations to us so we could then act on those recommendations.

To this matter of the time, I am glad the Senator from Massachusetts perhaps conceded the point that if we need to reduce the time necessary to prepare our Nevada Test Site, we should have the ability to do that. All of the experts—the Senator from New Mexico is correct—agree that we should not have to wait 3 years to even test a weapon. As a matter of fact, one of the problems is that we do not necessarily

know whether our nuclear weapons—the existing ones—will work well after all of these years. And our opponents do not necessarily know.

Also, the Stockpile Stewardship Program, which is merely a bunch of computers designed to tell us, as best they can, whether they think these weapons will work, is not a perfect system at all. It is not going to be done for years. It is not at all sure it will provide us what we need to know.

But if we have an inkling that one of our weapons cannot be certified, and we decide to have a test in order to determine whether it can be certified, right now we are in for a very long period of time in which our potential enemies know full well that we do not have full confidence in our stockpile; that we are preparing to conduct tests, and obviously the only reason we are preparing to conduct tests is that we do not have full confidence, and we are going to have to test something in order to see what kind of changes would have to be made. And that process would take 3 years. That process makes no sense at all.

Another argument that makes no sense at all is that it is important for the United States to lead and that it is going to be impossible for us to argue—how little confidence this shows in the United States. Can we have confidence that we are right? The argument is that we cannot lead if we even think about developing new nuclear weapons; we cannot tell others in the world to stop developing nuclear weapons as long as we are developing nuclear weapons.

Now, that is perverse thinking. When the Nuclear Non-Proliferation Treaty was entered into, it recognized that certain countries in the world, including the United States, had nuclear weapons. This was not a bad thing. In fact, the NPT even called for us to share our nuclear peaceful technology with other countries if they would foreswear development of their weaponry.

We have had a self-imposed moratorium now for many years even on the testing of any nuclear weapon. Has it stopped countries from developing nuclear weapons? Has it stopped North Korea? Apparently not. Is it stopping Iran? No. Did it stop China? No. Did it stop India? No. Pakistan? No.

It looks to me as though the self-imposed moratorium is not very effective. And leading the world by saying, ''We are not going to test any weapons, would you please not test weapons,'' has resulted in a whole host of countries, most of which are not our allies, developing or seeking to develop nuclear weapons. That is not a good thing. It shows a failed strategy, not a successful strategy.

If these countries are led to believe that the United States will keep up with them, or at least we will not prevent ourselves from thinking about keeping up with them, maybe they will be a little less likely to develop these weapons.

If North Korea, for example, just speaking hypothetically, believes we are serious about preventing them from acquiring a lot of nuclear weapons and proliferating them around the world, clearly, that must mean we are willing to use our own nuclear weapons. They have to depend upon the United States being confident of our nuclear deterrent and being willing to use it under certain circumstances. If they cannot be confident of that, then what incentive do they have, except their good will, to not develop their nuclear weapons?

So far, the idea that we have to not develop or even think about our nuclear weapons in order to induce other countries not to do the same has proven an utter failure. And there are other countries in the world, whose names I could mention, that we believe are also trying to acquire this nuclear capability. So our self-imposed moratorium of even thinking about these weapons is not doing a very good job of convincing other countries to do the same. Better that we recognize reality, get our head out of the sand, and acknowledge that if we are going to rely upon a nuclear deterrent, we had better be able to think about it and even, at some point in the future, be able to do something about it.

Let me just make a couple of quick other points, Madam President.

We have made the commitment, subject to future development, of course, to reduce the very large arsenal of our nuclear weapons, and not just to reduce the number but to reduce the quantity of the very high megatonnage weapons. One of the reasons—well, there are a couple of reasons that are relevant here, but one of the reasons is that we do not think we would need that kind of weapon in the future because we no longer are facing a superpower potential enemy such as the Soviet Union. They are also expensive to maintain, I might add. And, thirdly, we know that over time these weapons deteriorate, and at some point we are going to want to remove them from our arsenal in any event. So we have made that commitment.

Now, which is better? Which is better? That we follow through with that commitment to remove this large number of extraordinarily powerful nuclear weapons that may or may not be all that safe, and think about substituting, in some cases, much smaller, much more precise, much safer weapons maybe or just keeping those large weapons around, hoping they will be safe, hoping they will not deteriorate, hoping they will work but, if we ever had to use one, understanding that it would result in massive casualties?

It seems to me that the people who really value life would want us to think in 21st-century terms, not middle-of-the-20th-century terms, in that regard.

Another point: There is a very important relationship between research and development, and I do not think we should fall into the trap of attempting to separate research from development.

The Senator from New Mexico made the point that nobody is talking here about producing weapons. And we are not. But I hope we do not get to the point that we are so committed to eliminating U.S. nuclear weapons that we would make a decision that said we will never develop or, at this point, we are going to put a legislative ban on the development of any such weapons.

That would send a very bad signal to countries of the world against which we want to have some kind of nuclear deterrent. It is a little bit like asking what our exit strategy from Iraq is. We would like to leave Iraq. But the point is, you don't start signalling before the time is ready that we want to get out of there as soon as we can or the terrorists will simply wait us out. You want to demonstrate that you are committed to stay as long as it takes.

We want to demonstrate to our potential enemies that we are prepared to do what it will take to defend the United States. Why would you want to signal to them that you are going to put an absolute moratorium on research and an absolute prohibition on development? That makes absolutely no sense.

It also ensures that the great scientific minds that in the past have been willing to work on these projects are no longer going to be willing to come to the National Laboratories of the great prominence we have all been so proud of in the past because there is no future in it. They tell us now that they are not getting the kind of students coming out of the universities they were used to. Their manpower, in terms of the capability in nuclear testing, has dwindled to virtually nothing. If they ever had to go back to a test, let alone develop, a nuclear weapon, they would have to bring people out of retirement who understood how it worked back in the 1960s and 1970s, but they would have a lot of difficulty even working with the new kinds of materials, with the new computer technology and other advancements that we would probably want to incorporate into any new designs.

If we are going to entice the best minds to think about this, to keep up with people in other countries that have no compunction about doing this, we have to send them a signal that we are not forever going to shut off any work in this area. What young scientist would want to commit his life's work to this when there is obviously no future in it?

We have to think about these things and not be a Luddite about it, saying there is no problem; we are not going to think about it; we will just shove it under the rug; we are not for progress; we are for only retaining what we developed back in the 1960s and hoping it will work.

That is very backward thinking. It is very dangerous thinking.

There are a lot of issues involved in this particular amendment. What it

boils down to, though, is this: Our first obligation is to ensure the security of the United States.

One of the pillars of our security is our nuclear deterrent. It must be safe and it must be workable. It must be relevant to the new threats we face. If we are precluded by this amendment from even thinking about those things, we have done a great disservice to our constituents. At a time when we are not at peace but at war with terrorists around the globe and at a time when we are not the only nuclear power, but there are all kinds of countries that we are, frankly, quite concerned about developing nuclear weapons, countries such as North Korea and Iran and others that I could mention, that is exactly the wrong time to be sending the signal this amendment would send; that we are going to stick our head in the sand; we are not going to support scientists thinking about these issues and even potentially recommending to us the development of some kind of new 21st century weapons that could better protect our troops, better protect the American homeland, and better defeat our enemies who would do us harm.

I can't think of any reason why Americans would want to support that kind of a policy. Remember, we have not been successful in deterring other nations by this unilateral embargo on our own testing and development. They have gone right ahead with their programs, some of the worst countries in the world. The ''axis of evil,'' North Korea and Iran, has gone right ahead with their programs. So what makes us think that by the United States continuing this see-no-evil unilateral moratorium that the great moral situation of the United States will prevent these countries from moving right along with their projects? History does not support that view.

Better that we have peace through strength. And strength is the strength of the United States in terms of its commitment, in terms of its scientific capability, and in terms of its willpower to think about what we are going to need to defend America in the future.

I hope my colleagues will defeat this amendment as they have before.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, by prior unanimous consent agreement, it is now the opportunity for Senator BYRD to address the body for 1 hour. I know Senator LINCOLN had one brief statement she wanted to make. If there is no objection, I ask unanimous consent that Senator LINCOLN be permitted to make her remarks at this time, and perhaps the clerk could notify Senator BYRD that his time has arrived.

The PRESIDING OFFICER. Without objection, the Senator from Arkansas is recognized.

Mrs. LINCOLN. Madam President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mrs. LINCOLN are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

FCC VOTE ON MEDIA OWNERSHIP RULES

Mr. BYRD. Madam President, in recent weeks, there has been a great deal of discussion about a June 2 vote by the Federal Communications Commission to lift the lid on media ownership rules. Under the new regulations, a broadcast network can own and operate local television stations that reach as much as 45 percent of the Nation.

What does that mean? According to the Consumer Federation of America, television and newspaper mergers will be allowed in about 200 markets where approximately 98 percent of the American people live. TV duopolies, where one owner owns two television stations in the same market, and perhaps even triopolies, where one owner controls three stations in one market, will be allowed in more than 160 markets, covering better than 95 percent of the population.

This is a dangerous vote by the FCC. I fear that it will strangle voices that disagree with corporate interests at virtually every level of news and commentary.

Local news media represent a community's window on the school board, the city council, the county commission. The local media, more than any other resource, educates people about the issues that directly affect their lives. But these new rules, as approved by the FCC, threaten that role by allowing one person or one corporate interest to control such a significant level of discourse and debate. News and information may be forced to fit into a corporate plan or personal agenda.

I have been in Congress for more than 50 years. If there is one lesson that I have learned, it is that the media and politicians share at least one common bond: both rely on public trust for credibility. To earn that trust, the public must know that it can rely on the honesty and integrity of the people in critical decisionmaking positions. Credibility is jeopardized when questions about the veracity of reports are raised or when a news organization is seen more as a biased promoter of opinion rather than as a fair arbiter of fact.

In October 1958, a pioneer of the broadcast industry took the podium at the Mayfair Hotel in Chicago to address his colleagues at the annual convention of the Radio-Television News Directors Association. On that night, when reporters, news directors, sponsors, and network executives gathered together to honor excellence in their industry, Edward R. Murrow called it his duty to speak about what was happening in the radio and television industry.

Mr. Murrow, one of the most honored and respected journalists in our Nation's history, criticized his colleagues for failing in their obligation to the people of this country.

''Our history will be what we make it,'' Murrow said. ''If there are any historians about fifty or a hundred years from now, and there should be preserved the kinescopes for one week of all three networks, they will find there evidence of decadence, escapism, and insulation from the realities of the world in which we live.''

He continued: ''One of the basic troubles with radio and television news is that both instruments have grown up as an incompatible combination of show business, advertising, and news. . . . The top management of the networks, with a few notable exceptions, has been trained in advertising, research, or show business. By the nature of the corporate structure, they also make the final and crucial decisions having to do with news and public affairs. Frequently, they have neither the time nor the competence to do this.''

Here we are, almost 45 years later. What would Mr. Murrow think of today's media? Would he consider the FCC vote a threat to a strong, independent media? The news and broadcast industry has had time to mature, to evolve into what Mr. Murrow hoped would be a responsible venture that exalts the importance of ideas, and not simply panders to the lowest virtues in the human race. Alas, I believe Mr. Murrow would be disappointed in what he would see today.

Instead of exalting ideas, mass media today seem more often than not to worship at the altar of sex, blood, and scandal. Instead of pursuing a higher cause and taking the time to educate the public about the issues and events affecting our everyday lives, we read and hear about things that serve to titillate or divide us.

There are a few voices in the media that attempt to educate, to inform, rather than to incite. But too often these men and women are sent packing because their corporate bosses fear low ratings and a commercial backlash.

This spring, for example, the General Electric-owned cable network MSNBC, fired Phil Donahue from his evening talk show. Mr. Donahue was one of the few voices in the news-talk genre that did not worship at the altar of the salacious story. He did not titillate. He spoke frankly, sharing his beliefs and welcoming those who saw otherwise. And when confronted with a person offering differing opinion, Phil Donahue did not insult or bully that person. Instead, he debated calmly and fairly, and treated his guests with courtesy and respect.

Mr. Donahue was opposed to war in Iraq. He made his views known. He debated, he argued, and he persuaded. But at least one insider at the MSNBC network said that Phil Donahue was fired because the corporate heads at

the network worried about having a critic of President Bush in its programming schedule.

They worried: What would sponsors think? How would they react? Instead of defending constitutional freedom of the press, MSNBC, it appears, caved in to the business bottom line. Instead of a critical voice, the network has filled the time with yet another carbon copy of the typical current day talk show hosts: slanted, biased, and arrogant.

Is that what the future holds for news outlets? MSNBC seems to be following the examples set by News Corporation, the corporate umbrella of Fox News channel. Rupert Murdoch, the chairman and CEO of News Corporation, has used his influence and his money to buy significant influence over the country's politics and priorities. Coincidence? Not likely. In fact, one former News Corporation executive stated in a profile on Mr. Murdoch earlier this year that:

> He hungered for the kind of influence in the United States that he had in England and Australia. Part of our political strategy here was the New York Post and the creation of Fox News and The Weekly Standard.

Political strategy? What happened to journalistic strategy? Are we doomed to more politics than journalism as a result of the June 2 FCC vote? In fact, the complete list of holdings of News Corporation gives one pause.

News Corporation is quickly growing into a media empire. Its main holdings are the Fox broadcast networks and the cable networks Fox News Channel, Fox Sports, FX, and others, 20th Century Fox studios, 35 local American television stations, the New York Post, plus the Times and the Sun of London, the conservative magazine the Weekly Standard, the publishing house HarperCollins, the Sky satellite system in England, and the Star satellite system in Asia, and various publications in Mr. Murdoch's native Australia.

In addition, News Corporation is seeking Federal approval to buy a one-third share in DirecTV, the leading satellite broadcast system in North America. Should that purchase be approved, News Corporation would then control a worldwide satellite system beyond any other company's reach.

Yet the Federal Communications Commission, the people's watchdog on broadcast fairness and responsibility, would rubberstamp such mergers and monopolies rather than examine them with a skeptical eye. The FCC is supposed to be a watchdog, not a lap dog.

The media enjoy a rare position in our society. Reporters and editors are supposed to responsibly detail events and activities, explain ideas and innovations to a public who might not, on first hearing, completely understand the issue. But complex ideas, such as peace in the Middle East or even the doctrine of preemptive strikes on which the war in Iraq was based, are pared down into short broadcast packages lasting 2 minutes, perhaps.

The focus is on sound bites rather than on sound information. Instead of an intelligent discussion, we hear a constant barrage of commentary that is supposed to pass for news judgment. We listen to television show hosts call Members of Congress the ''lie choir'' because they question administration policy. Without foundation, in fact, allegations of dishonesty by Senators are tossed around and, although baseless, they have the air of fact because they are repeated time and time again by pseudo news hosts. This so-called unbiased media is nothing more than partisan opinion covered in a thin veneer of news and information.

I do not question the media's right to report on stories and to have talk shows which express opinion. That right is clearly laid out in the first amendment of the Bill of Rights:

> Congress shall make no law . . . abridging the freedom of speech, or of the press.

This amendment, ratified in December 1791, gives broad power to the press. Our constitutional Framers understood that the Republic would not function properly if the press were not allowed to operate freely and without intervention from Government.

However, the media industry also must recognize the responsibility that it has to the public which relies so heavily on the information provided in daily reports. The free press must be a fair press.

Through the first amendment, our Framers guaranteed a free press. We, the people, demand a fair press, one that meets its responsibilities and our expectations. A free press cannot exist without the trust of the public it serves. To win and maintain that trust, the press must be unbiased in its work.

Unfortunately, expectations may be too high. News organizations often rely solely on the word of those speaking from podiums of power. They take information as gospel truth without, many times, checking the facts or verifying the information.

At a time when standards should be strong, the news industry seems very happy to follow the day's latest scandal. It does not hesitate to bring to bear the full light of public scorn when there is the slightest suggestion of a misstep by a person in the public light. However, when that same light is turned squarely on the media, there is little enthusiasm for the intensity.

Edward R. Murrow experienced this firsthand. While those in attendance at the dinner in Chicago in 1958 applauded Mr. Murrow after he finished his speech, the response away from the podium, away from Mr. Murrow, was quite different. He was castigated by network executives who accused him of biting the hand that fed him.

No less than William Paley, the president of CBS and a good friend of Murrow's, was said to be furious after Murrow criticized the broadcast industry. He saw it as a breach of loyalty. But Edward Murrow believed he carried a greater burden of loyalty to his audience. He saw his Chicago remarks as his faithful duty to the people who listened to him every night, who relied on him to give them the information they needed to know.

I think Edward Murrow would be ashamed of much of the news programming on television today. Like so much of the American public, he would not believe that the media, on the whole, are fulfilling the responsibility to educate and inform.

According to a USA Today/CNN/Gallup poll from this past May, only 36 percent of the American people believe that news organizations get the facts straight.

What can improve the public confidence in the media?

Perhaps the media in Minnesota have a good start. In 1970, University of Minnesota Professor Ed Gerald helped to set up the Minnesota News Council, believing then that:

> To the common man, it seems that journalists, at will, can make heroes or scoundrels out of any of us.

Professor Gerald recognized the sheer power and influence of the media. He also knew that, as much as a free press is crucial to the Republic, a fair press is needed to ensure the public trust.

The Minnesota News Council provides an avenue for the public to hold media outlets accountable for the reports they air or print. Outside of a courtroom and free of charge to either party, the News Council, made up of reasonable, qualified people from within the media and outside of it, comes together to decide whether a report or story is fairly produced or whether it is distorted, untrue, or dishonest. The State of Washington has a similar news council. Many nations, including the United Kingdom, Australia, and Canada, have news councils.

At least one noted journalist has long supported the concept of a news council, if not on a national level then on State or regional levels. For many years, Mike Wallace, CBS News Correspondent and co-editor of 60 Minutes, has believed that the concept of a news council could be an important tool in building the public trust in the media. Mr. Wallace, in a 1996 lecture at the Freedom Forum's Media Studies Center, said, he is ''convinced that more state news councils, regional news councils, and/or a renewed national news council could strike a blow for a better public understanding in a time of skepticism about us, of who we are and what it is we do.'' Since those remarks, Mr. Wallace has continued to urge his colleagues to support the news council idea, but the resistance, especially from national media organizations, is profound.

What is wrong with this approach? A news council is not a court of law; rather it is a forum where the public and the news media can engage each other in examining standards of fairness. It is not a radical idea, but a commonsense approach. As the Minnesota News Council describes the concept, in their various forms, news councils are designed to promote fairness in the

news media by giving members of the public who feel damaged by a news story an opportunity to hold the news organization accountable. What is wrong with allowing the public, which has such a poor view of the media, to take part in such an endeavor? This type of public dialogue can lead to a better understanding of the media industry and its role in society by that society, as well as a stronger foundation for more accurate, more responsible dissemination of news.

Solid journalism is also a way to improve the public's view of the media. It restores that sense of credibility that is threatened when we read about reporters who have published stories without any factual background. It would help to reaffirm independent voices, even if those voices run counter to the opinions of the corporate management.

On television and in print, large media conglomerates already control the vast majority of what Americans see, read, and hear. A grand total of five—five—media companies today control 75 percent of prime time programming. Outlets such as cable and the Internet, which could have served to check corporate media conglomeration power, have instead followed the old adage, ''if you can't beat 'em, join 'em.'' Thus, today these same 5 companies control 90 percent of the top 50 channels on cable. Similarly on the Internet, existing newspapers and TV networks dominate the most popular sites for news and information. Technology may have increased the number of media outlets, but it has not stopped big media from further extending its reach.

Former Washington Post assistant managing editor Ben Bagdikian has sketched out the growing concentration of media ownership. In 1983, when his book, ''The Media Monopoly,'' was first published, Mr. Bagdikian reported that ''50 corporations dominated most of every mass medium.'' But, with each new edition of the book, that number shrinks and shrinks and shrinks: 29 media corporations in 1987, 23 in 1990, 14 in 1992, and 10 in 1997. The sixth edition, published in 2000, documented that just six—six—corporations supply most of America's media content. Bagdikian wrote:

> It is the overwhelming collective power of these firms, with their corporate interlocks and unified cultural and political values, that raises troubling questions about the individual's role in the American democracy.

The June 2 vote by the Federal Communications Commission threatens to expand the influence of these few corporations even further, stretching their hands around a larger number of local television and radio stations, scarfing up newspapers and Internet news outlets.

This is an opinion shared by consumer advocates, media watchdog groups, and various organizations representing the spectrum of political and societal views in the United States, from the National Rifle Association to the National Organization for Women, from the Catholic Conference of Bishops to the Leadership Conference on Civil Rights. The Parents Television Council, Common Cause, the National Association of Black-Owned Broadcasters, the National Association of Hispanic Journalists, the Writers Guild, and the Association of Christian Schools, all of these groups questioned the wisdom of even greater media consolidation.

Tens of thousands of Americans have expressed their opposition to the FCC rule. In fact, three-quarters of a million people contacted the FCC about this new consolidation, and, according to FCC Commissioner Jonathan Adelstein, 99.9 percent of them opposed further media consolidation.

In testimony before the Senate Committee on Commerce, Science, and Transportation, Commissioner Adelstein was blunt.

> [T]he FCC approved the most sweeping and destructive rollback of consumer protection rules in the history of American broadcasting. I'm afraid democracy was not well served by Monday's decision. Allowing fewer media outlets to control what Americans see, hear and read can only give Americans less information to use in making up their own minds about the key issues they face.
>
> The decision will diminish the diversity of voices heard over the public airwaves, which can only diminish the civil discourse and the quality of our society's intellectual, cultural and political life. It will diminish the coverage of local voices and local issues as media giants gobble up local outlets and nationalize the stories they broadcast.

In the end, our new rules will simply make it easier for existing media giants to acquire more outlets and fortify their already massive market power. As media conglomerates go on buying sprees, they will accumulate enormous debt that will force them to chase the bottom dollar ahead of all else. This is likely to result in more sensationalism, more crassness, more violence, and even less serious coverage of the news and local events.

Recently, there have been obstacles thrown in the way of the FCC's Mack truck of a rule. The Senate Appropriations Committee has blocked the implementation of the new policy. The unanimous committee approval of the fiscal year 2004 Commerce, Justice, State, and Judiciary Appropriations bill was a strong endorsement of media diversity. The committee's action follows the House of Representatives vote on July 23, 400–21, to pass the fiscal year 2004 Commerce-Justice-State Appropriations bill. As part of that legislation, the House also would prohibit the Federal Communications Commission from implementing this policy allowing for media consolidation.

But the Congress is not the only branch of Government involved in this issue. The United States Court of Appeals for the Third Circuit issued a surprise order on September 3, blocking the Federal Communications Commission from imposing its new rules just one day before those rules were slated to take effect.

> Given the magnitude of this matter and the public's interest in reaching the proper resolution, a stay is warranted pending thorough and efficient judicial review,

The court concluded in the case.

Indeed, it is my hope that, with such growing opposition, the administration and the Federal Communications Commission will abandon such an ill-advised policy.

I have often said that as long as there is a forum in which questions can be asked by men and women who do not stand in awe of a chief executive and one can speak as long as one's feet will allow one to stand, the liberties of the American people will be secure. That forum is this Senate. But the same can be said of the news media—the newspapers, radio stations, television stations, and other outlets that provide information that is important to the lives of all Americans. That freedom, that unbiased coverage, is a key, a foundation stone of this Republic. For, without it, the American people can be led to disaster without so much as a whisper. Their freedoms can be trampled; their rights can be subverted.

In his speech in Chicago in 1958, Mr. Murrow offered a challenge to his colleagues.

> Just once in a while, let us exalt the importance of ideas. Let us dream to the extent of saying that, on a given Sunday night, the time . . . occupied by Ed Sullivan is given over to a . . . survey of the state of American education [or] the time normally used by Steve Allen is devoted to a thoroughgoing study of American policy in the Middle East.

While Ed Sullivan and Steve Allen are not with us anymore, the need for responsibility that Mr. Murrow called for among his colleagues in the news industry clearly still remains with us today.

Madam President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PARTIAL-BIRTH ABORTION BAN ACT OF 2003

Mr. MCCONNELL. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 3) to prohibit the procedure commonly known as partial-birth abortion.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

> *Resolved*, That the House insist upon its amendment to the bill (S. 3) entitled ''An Act to prohibit the procedure commonly known as partial-birth abortion'', and ask a

conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House.

From the Committee on the Judiciary for consideration of the Senate bill and the House amendment, and modifications committed to conference: Mr. Sensenbrenner, Mr. Hyde, and Mr. Nadler.

Mr. MCCONNELL. Mr. President, it is my understanding that 2 hours of debate on this proposal are to commence. I ask unanimous consent that those 2 hours begin to run upon the arrival and speaking of the Senator from California, Mrs. BOXER, who I understand is on the way to the floor at this time.

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

Mr. MCCONNELL. In the meantime, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. Mr. President, I ask what the pending business is.

The PRESIDING OFFICER. The pending business is the message from the House on S. 3.

Mrs. BOXER. Mr. President, as I understand it, I will have up to 60 minutes to discuss this tonight; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mrs. BOXER. I ask my friend from South Carolina what issue he is here to discuss tonight and what his time parameters are.

Mr. HOLLINGS. I would like to discuss an issue to be voted on in the morning, a resolution of disapproval of the FCC, increasing 35 to 45 percent ownership, and, more than that, the cross-ownership at the local level.

Also, I would like to start paying for the war. I take it the Senator wants to pay for the war.

We have the poor GI down in Baghdad. We hope each day he does not get killed, and the reason is we want him to hurry back so we can give him the bill. We ain't going to pay for it, but we need a tax cut so we can get reelected next year. That is what is going on in this town.

Every time I go home, I am again embarrassed. I want to talk to that point.

Mrs. BOXER. If I could ask my friend, is the Senator able to wait 30 minutes?

Mr. HOLLINGS. Yes, ma'am.

THE RIGHT TO CHOOSE

Mrs. BOXER. Senator HOLLINGS raises several issues that are so important to the Nation. This issue of media ownership getting out of control and the need to reverse what the FCC did and also the issue of the war, how badly it is going, how much it is costing, the danger our troops are in, the fact it is not internationalized and there is virtually no burden sharing going on—these are all issues that I hear about at home when I go to the grocery store or take a walk. People are anxious and concerned. These are the issues of the day.

Therefore, it is rather stunning to me that given all this and the fact that the deficit has gone off the charts—we have seen the picture of what has happened to the deficit since Bill Clinton left office; it is a straight line up. I never saw anything like it in my life. We are getting to the point where we are bankrupting this country and laying all that bankruptcy on the backs of our kids, as Senator HOLLINGS has said.

With all of these issues pending, why am I here tonight speaking about an issue that was resolved in 1973, the right of a woman to choose—the fact that this Senate went on record supporting that right quite recently as part of S. 3, that very simple language that simply said Roe v. Wade has saved lives, stating it is the sense of the Senate that the decision of the Supreme Court in Roe v. Wade was appropriate and secures an important right and such decisions should not be overturned.

That was language in S. 3 which also for the first time banned a medically recognized procedure. Senator HARKIN and I and a majority of the Senate added this language.

What happens with all of the problems we are facing and with our brave men and women in such jeopardy abroad, our taxpayers just getting squeezed, our education bill underfunded, the country going broke, the environment getting worse because every other day, and usually on Fridays, we see more rollbacks of environmental laws, the media getting bigger. We have to overturn that.

With all of those issues, one would think the House of Representatives and the Republican leadership would have said: We want to get this bill to the President's desk. We want to ban this procedure. So let's just take this language. The decision of the Supreme Court in Roe was appropriate and secures an important right, and such decisions should not be overturned.

Friends, that was not to be the case. Instead of sending this bill off to the President for his signature, which my colleagues have been wanting to do for a very long time, they say we need to strip out this very simple Roe language. In fact, that is what the House did.

So before this bill can go to conference—and it is a technical matter, but in order for a bill to become law, when the bills are different, you have to have a conference to resolve the differences. When the bills are the same, the bill can go straight over to the President's desk.

No, the House leaders, Republican leaders, I believe quite radically on this point of a woman's right to choose that was resolved in 1973, they strip this out. Now in order to go to conference, we will have a vote to disagree with what the House did. I hope we will disagree with what they did and take another stand for Roe. That is why we are here tonight.

The reason the House will not go along with this, and many in our own Senate will not, the real agenda in all of these bills that attack a woman's right to choose—and there have been many, and I will go through them, including bills that hurt family planning—the real agenda is to overturn Roe. I believe that is what we are talking about. It may show up in a different form, such as banning one medical procedure, which is a horrible precedent, as we are going to do.

It may show up by saying to a woman in the military: You will have to fly back to the United States on an ''as available'' basis and spend your own money—nothing to do with your own military pay—to get an abortion. We have said to Federal employees: You cannot use the health insurance that you pay a good part of to get a legal abortion, legal, not illegal, a legal abortion. Abortion is legal.

My friends, some of them here do not like that. So there has been this huge attempt to narrow this right. So every time we get a chance, when we see these bills come forward that would narrow this right, that would potentially harm women, we offer the Harkin-Boxer amendment in favor of Roe. Even though we did not get as many votes as we would like, we got a majority, and that is what we are continuing to discuss.

Now, what does Roe guarantee to women?

In the decision of the Supreme Court, the Court found that a woman's reproductive decisions are a privacy right guaranteed by the Constitution. But I have to say that even though this right was granted to women, it was not an unbalanced decision. It was a very moderate decision. That is why, in my opinion, the majority of Americans support it.

In the early stages of a pregnancy, the Government cannot intervene with a woman's right to choose. That is it, plain and simple. Guess what. We are not going to be big brother or sister, as the case may be. We are going to allow a woman, her doctor, and her God to make that decision.

But in the later stages of pregnancy, Roe found that the Government can intervene, that it can regulate, that it can restrict abortion. We all support that. All of us support that. But there is one caveat—always, always, always. Any law that a State may pass to restrict abortion rights has to have an exception to protect the life of the woman or to protect her health.

This is important because, I have to tell you, before Roe, before 1973—and I remember those years—life for women was very different. Before Roe, up to

1.2 million women each year resorted to dangerous illegal abortions. According to one estimate, at least 5,000 women a year died as a result of botched illegal abortions. Thousands of others nearly died, became infertile, or suffered other health complications.

I have a few stories—I want to tell a couple of them—of life before Roe.

Polly Bergen—we know her—an actress, went public with her story. She became pregnant when she was in her late teens and it was a disaster for her. As a result of an unsafe abortion, she had several miscarriages. At the age of 33, her doctor said, because of that botched abortion, she had to have a hysterectomy. She desperately wanted children. She had a hysterectomy.

Lynn Kahn was 24. She was divorced with two young children when, in 1964, she was raped by a stranger on her way home from work. Because she was so ashamed, she did not report the rape. But she soon found out she was pregnant. She scraped together $300 for an illegal abortion. She nearly died. She was hospitalized with a serious infection caused by a botched abortion.

During her multiday hospital stay, she was absolutely terrified that the police would come and arrest her because the treating physician had told her he was going to inform them about the abortion. The police did not arrive, but the whole experience was so traumatic that Lynn was unable to talk about it for over 20 years.

Mary Roper, a 19-year-old sophomore in college, was in an abusive relationship. She got pregnant, and the man she was dating encouraged her to get an abortion. She had been raised a Catholic and felt she could not be single mother in her community. She endured three attempts to end her pregnancy—one person used a coat hanger, and one a hose. During the time she was seeking an abortion, she was questioned by the police about her intention. She finally found a doctor in Chicago, 3 hours away, to perform an abortion. She continued to have problems and a couple of months later needed her parents' written permission to receive a medically necessary abortion. She continues to have nightmares today.

Elizabeth Furse, a former Representative from Oregon, was 25 in 1961, married and pregnant with her third child. During the first trimester of her pregnancy, she developed the measles. She was subsequently tested, and the tests confirmed what she and her husband, and obstetrician, had feared: if she carried her pregnancy to term, the baby would likely be blind, deaf, and severely brain damaged. They were anxious to have more children but did not want their child to suffer and be in pain, and so they sought an abortion. Her physician was sympathetic but would not perform an illegal abortion. At that time both the doctor and Elizabeth could be prosecuted and jailed for terminating the pregnancy. She did not want an illegal abortion and could only have one legally if her life was threatened. Since she had one kidney, her doctor thought that they might be able to persuade a panel of doctors that he life would be in danger if she carried the baby to term. They agreed, but required her to have a total hysterectomy at the same time.

Rollyn Carlson of Austin, TX, was 20 years old in the summer of 1971 and pregnant. She decided to have an abortion and found an office in Mexico on the other side of the Texas border. After the abortion, she bled heavily and ran a high fever for 3 days. She was one of the lucky ones. She married and had two children. She now has a teenage daughter and is concerned about her. What if she got pregnant? What if she needed an abortion? Rollyn worries that if abortion is illegal, her daughter would have to have an illegal abortion and could die.

Sherry of Peoria, IL, was married with two children when in the mid-1950s, she was brutally raped and left for dead. She did not die, but as a result of the rape, she became pregnant. She went to her doctor—he would not perform an abortion. She went to another—he would not perform an abortion either. She then resorted to ''home remedies'' such as pounding on her abdomen with a meat mallet and throwing herself down the stairs. It did not work, so she went to the local abortionist. He was drinking during the procedure and offered to give her back some money if she would perform oral sex on him. She subsequently started to hemorrhage and was hospitalized. Decades later, she still has nightmares about the procedure.

Romanita of Pittsburgh, PA, married and had three children, one—her daughter, Norma—with spina bifida. Her husband was a heroin addict and had left the home. One day he showed up and raped her. He then disappeared, and she found out she was pregnant. She did not want to take the chance of having another baby with deformities. She sought out an illegal abortion and experienced bleeding for 2 weeks.

So the point is that when the Court made this historic decision called Roe v. Wade, women were dying, maybe 5,000 a year. And you ask me, why would people, lawmakers, want to see us go back to those days? I will tell you right now, I don't understand it. It isn't right. It isn't right for the women of this country. It isn't right for the families of this country. Roe v. Wade was a balanced decision.

Then you have a situation where we wish we had more family planning funds because then we would be in a situation where we would not have these unwanted pregnancies. The same people who want to outlaw abortion are not interested in family planning funds. And interestingly, the same people who want to go back to the days when abortion was illegal, who will fight for the right of the fetus over the right of a woman, where are they, sometimes, on preschool programs, afterschool programs, caring for our children, helping our children? A lot of times they do not vote for it. As a friend of mine once said, he sometimes thinks that some of our colleagues who take this position, and then don't help the kids, are all for the kids between conception and birth; and then where are they?

So the reason we are here tonight is because the House is so radical on the point that they will not accept our language, that simply says: The decision of the Supreme Court in Roe was appropriate and secures an important right, and such decision should not be overturned.

Imagine, they say they want S. 3 so badly, they want to outlaw this medical procedure, which is the first time an accepted medical procedure is outlawed by politicians, but yet they cannot accept this language, which has no force of law. That is the incredible thing. It is a sense of the Senate. It does not even have the force of law, but it shows you that the goal here is not simply outlawing this one procedure; it is overturning Roe. I cannot say that enough because that is absolutely true, even when 80 percent of the people said that whether to have an abortion is a decision to be made between a woman and her doctor.

This debate is very serious. It is very serious because the underlying bill, S. 3, which bans this procedure, makes no exception for the health of the woman, and we tried every which way to do that. We said: Roe is the law of the land. Under Roe, the life and the health of a woman must always be protected. So in order to be constitutional, we are willing to walk hand in hand with you, and we will ban this procedure, even though some of us believe we should not get into playing doctor—that is not our role. There is no OB/GYN in this body. People don't come to us when they are sick. They come to us when they are sick and tired of politics, but they don't come to us when they are physically ill.

We were willing—those of us who are very pro-choice—to say: We will accept this if you will have an exception for the life and the health of a woman. Oh, no. They would not do it. That is why our language on Roe, that we attached to this bill, is so important. Because, folks, this bill, when it becomes law—and it will become law—is going straight to the Court.

We want the Court to understand we stood firmly for Roe. When they take a look at the outlawing of this procedure, and when they see there is no exception for the health of a woman, they will realize maybe some people voted for it who would have preferred a health exception. By showing them we have the votes to sustain a sense of the Senate in favor of Roe, we will be sending a strong signal on behalf of the women of this Nation to the courts.

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

Mrs. BOXER. Yes.

Mr. DURBIN. I thank the Senator for coming to the floor and talking about this controversial issue because the Senate will have to face it. I am trying to recall, was there not a State statute in Kansas or——

Mrs. BOXER. Nebraska.

Mr. DURBIN. Nebraska relative to this so-called partial-birth abortion procedure? Is it not true that the same Supreme Court that is going to consider our bill ruled that you had to include, in the protection for the woman involved, if her health was at risk, she could go forward with the procedure? Is my memory correct that this Court, within the last year or two, made that decision?

Mrs. BOXER. It was in 2000. It was a case of a Nebraska law. And, yes, the Court found it unconstitutional.

What the authors of S. 3 will tell you is they have met the test. But what constitutional lawyers tell us is that the test isn't met at all. There is no exception for health. My colleague actually carried the health exception.

Now, this is what the Supreme Court said—and I am glad my colleague asked this question—in Stenberg v. Carhart. They basically said: If you are outlawing a medical procedure, you have to have a health exception.

The governing standard requires an exception ''where it is necessary, in appropriate medical judgment for the preservation of the life or health of the mother.''

Our cases have repeatedly invalidated statutes that in the process of regulating the methods of abortion impose significant health risks.

My friend is right on target. This is the Supreme Court.

Mr. DURBIN. I ask my friend from California, who has followed this issue more closely than any other Member, for those who are trying to follow this debate, when the Supreme Court says if you are going to write a law banning an abortion procedure, you have to acknowledge that if the mother is about to die, that procedure will be allowed. Then the Court went on to say in this case, if there is a significant health risk involved as far as the woman is concerned, you have to allow the procedure. Would the Senator from California give us indications of what that means when we talk about health risk and significant health risk? What are we saying? A complication late in pregnancy that is so significant as to give to that mother the right to terminate the pregnancy, could the Senator give us some illustrations of what kind of health risk we are talking about?

Mrs. BOXER. Working with physicians across the country, I want to tell you what they have told us in writing. I ask unanimous consent to print those letters in the RECORD.

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

AMERICAN MEDICAL WOMEN'S ASSOCIATION, INC.,
Alexandria, VA, March 25, 2003.

Hon. JERROLD NADLER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN NADLER: The American Medical Women's Association (AMWA) strongly opposes HR 760, the ''Partial-Birth Abortion Ban Act of 2003.'' While the Association has high respect for each member and their right to hold whatever moral, religious and philosophical beliefs his or her conscience dictates, as an organization of 10,000 women physicians and medical students dedicated to promoting women's health and advancing women in medicine, we believe HR 760 is unconscionable.

AMWA has long been an advocate for women's access to reproductive health care. As such, we recognize this legislation as an attempt to ban a procedure that in some circumstances is the safest and most appropriate alternative available to save the life and health of the woman. Furthermore, this bill violates the privilege of a patient in consultation with her physician to make the most appropriate decisions regarding her specific health circumstances.

AMWA opposes legislation such as HR 760 as inappropriate intervention in the decision-making relationship between physician and patient. The definition of the bill is too imprecise and it includes non-medical terminology for a procedure that may ultimately undermine the legality of other techniques in obstetrics and gynecology used in both abortion and non-abortion situations. At times, the use of these techniques is essential to the lives and health of women. The potential of this ban to criminalize certain obstetrics and gynecology techniques ultimately interferes with the quality of heath and lives of women. Furthermore, the current ban fails to meet the provisions set forth by the Supreme Court in Stenberg v. Carhart, a ruling that overturned a Nebraska statute banning abortion because it contained no life and health exception for the mother.

AMWA's position on this bill corresponds to the position statement of the organization on abortion and reproductive health services to women and their families.

AMWA believes that the prevention of unintended pregnancies through access to contraception and education is the best option available for reducing the abortion rate in the United States. Legislative bans for procedures that use recognized obstetrics and gynecological techniques fails to protect the health and safety of women and their children, nor will it improve the lives of women and their families. If you have any questions please contact Meghan Kissell, at 703–838–0500.

Sincerely,

LYNN EPSTEIN, MD,
President.

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, DC, March 31, 2003.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the American Public Health Association (APHA) the largest and oldest organization of public health professionals in the nation, representing more than 50,000 members from over 50 public health occupations, I write to urge your opposition to H.R. 760, the Partial-Birth Abortion Ban Act of 2003.

APHA has long-standing policy regarding the sanctity of the provider-patient relationship and has long advocated for a women's right to choose from a full range of reproductive health options. We believe that a physician in consultation with the patient should make the decision regarding what method should be used to terminate a pregnancy.

We are opposed to H.R. 760 because we believe this and other legislative and judicial restrictions to safe, medically accepted abortion procedures severely jeopardize women's health and well-being. APHA also opposes the bill because it fails to include adequate health exception language in instances where certain procedures may be determined by a physician to be the best or most appropriate to preserve the health of the woman. We urge members of the House of Representatives to oppose this legislation.

Thank you for your attention to our concerns regarding the negative effect this legislation would have to a woman's right to a safe, legal abortion.

Sincerely,

GEORGE C. BENJAMIN, MD, FACP,
Executive Director.

MARCH 5, 2003.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: I understand that you will be considering Senate S. 3, the ban on abortion procedures, soon and would like to offer some medical information that may assist you in your efforts. Important stakes for women's health are involved: if Congress enacts such a sweeping ban, the result could effectively ban safe and common, pre-viability abortion procedures.

By way of background, I am an adjunct professor in the Department of Obstetrics, Gynecology and Reproductive Sciences at the University of California, San Francisco, where I co-directed the Center for Reproductive Health Research and Policy. Formerly, I directed the Reproductive Health program for the Henry J. Kaiser Family Foundation and served as Deputy Assistant Secretary for Population Affairs for the United States Department of Health and Human Services. I represented the United States at the International Conference on Population and Development (ICPD) in Cairo, Egypt, and currently serve on a number of Boards for organizations that promote emergency contraception and new contraceptive technologies, and support reducing teen pregnancy. My medical and policy areas of expertise are in the family planning and reproductive health, prevention of sexually transmitted infections including HIV/AIDs, and enhancing international and family planning.

The proposed ban on abortion procedures criminalizes abortions in which the provider ''deliberately and intentionally vaginally delivers a living fetus . . . for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus . . .'' The criminal ban being considered is flawed in a number of respects: it fails to protect women's health by omitting an exception for women's health; it menaces medical practice with the threat of criminal prosecution; it encompasses a range of abortion procedures; and it leaves women in need of second trimester abortions with far less safe medical options: hysterotomy (similar to a cesarean section) and hysterectomy.

The proposed ban would potentially encompass several abortion methods, including dilation and extraction (d&x, sometimes referred to as ''intact d&e), dilation and evacuation (d&e), the most common second-trimester procedure. In addition, such a ban could also apply to induction methods. Even if a physician is using induction as the primary method for abortion, he or she may not be able to assure that the procedure could be effected without running afoul of the proposed ban. A likely outcome if this legislation is enacted and enforced is that physicians will fear criminal prosecution for any

second trimester abortion—and women will have no choice but to carry pregnancies to term despite the risks to their health. It would be a sad day for medicine if Congress decides that hysterotomy, hysterectomy, or unsafe continuation of pregnancy are women's only available options. Williams Obstetrics, one of the leading medical texts in Obstetrics and Gynecology, has this to say about the hysterotomy ''option'' that the bill leaves open: ''Nottage and Liston (1975), based on a review of 700 hysterotomies, rightfully concluded that the operation is outdated as a routine method for terminating pregnancy.'' Cunningham and McDonald, et al, Williams Obstetrics, 19th ed., (1993), p. 683.

Obviously, allowing women to have a hysterectomy means that Congress is authorizing women to have an abortion at the price of their future fertility, and with the added risks and costs of major surgery. In sum, the options left open are less safe for women who need an abortion after the first trimester of pregnancy.

I'd like to focus my attention on that subset of the women affected by this bill who face grievous underlying medical conditions. To be sure, these are not the majority of women who will be affected by this legislation, but the grave health conditions that could be worsened by this bill illustrate how sweeping the legislation is.

Take for instance women who face hypertensive disorders such as eclampsia—convulsions precipitated by pregnancy-induced or aggravated hypertension (high blood pressure). This, along with infection and hemorrhage, is one of the most common causes of maternal death. With eclampsia, the kidneys and liver may be affected, and in some cases, if the woman is not provided an abortion, her liver could rupture, she could suffer a stroke, brain damage, or coma. Hypertensive disorders are conditions that can develop over time or spiral out of control in short order, and doctors must be given the latitude to terminate a pregnancy if necessary in the safest possible manner.

If the safest medical procedures are not available to terminate a pregnancy, severe adverse health consequences are possible for some women who have underlying medical conditions necessitating a termination of their pregnancies, including: death (risk of death higher with less safe abortion methods); infertility; paralysis; coma; stroke; hemorrhage; brain damage; infection; liver damage; and kidney damage.

Legislation forcing doctors to forego medically indicated abortions or to use less safe but politically-palatable procedures is simply unacceptable for women's health.

Thank you very much, Senator, for your efforts to educate your colleagues about the implications of the proposed ban on abortion procedures.

Sincerely,

FELICIA H. STEWART, M.D.

PHYSICIANS FOR
REPRODUCTIVE CHOICE AND HEALTH,
New York, NY, March 10, 2003.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: We are writing to urge you to stand in defense of women's reproductive health and vote against S. 3, legislation regarding so-called ''partial birth'' abortion.

We are practicing obstetrician-gynecologists, and academics in obstetrics, gynecology and women's health. We believe it is imperative that those who perform terminations and manage the pre- and post-operative care of women receiving abortions are given a voice in a debate that has largely ignored the two groups whose lives would be most affected by this legislation: physicians and patients.

It is misguided and unprincipled for lawmakers to legislate medicine. We all want safe and effective medical procedures for women; on that there is no dispute. However, the business of medicine is not always palatable to those who do not practice it on a regular basis. The description of a number of procedures—from liposuction to cardiac surgery—may seem distasteful to some, and even repugnant to others. When physicians analyze and debate surgical techniques among themselves, it is always for the best interest of the patient. Abortion is proven to be one of the safest procedures in medicine, significantly safer than childbirth, and in fact has saved numerous women's lives.

While we can argue as to why this legislation is dangerous, deceptive and unconstitutional—and it is—the fact of the matter is that the text of the bill is so vague and misleading that there is a great need to correct the misconceptions around abortion safety and technique. It is wrong to assume that a specific procedure is never needed; what is required is the safest option for the patient, and that varies from case to case.

THE FACTS

(1) So-called ''partial birth'' abortion does not exist.

There is no mention of the term ''partial birth'' abortion in any medical literature. Physicians are never taught a technique called ''partial birth'' abortion and therefore are unable to medically define the procedure.

What is described in this legislation, however, could ban all abortions. ''What this bill describes, albeit in non-medical terms, can be interpreted as any abortion,'' sated one of our physician members. ''Medicine is an art as much as it is a science; although there is a standard of care, each procedure—and indeed each woman—is different. The wording here could apply to any patient.'' The bill's language is too vague to be useful; in fact, it is so vague as to be harmful. It is intentionally unclear and deceptive.

(2) Physicians need to have all medical options available in order to provide the best medical care possible. Tying the hands of physicians endangers the health of patients. It is unethical and dangerous for legislators to dictate specific surgical procedures. Until a surgeon examines the patient, she does not necessarily know which technique or procedure would be in the patient's best interest. Banning procedures puts women's health at risk.

(3) Politicians should not legislate medicine. To do so would violate the sanctity and legality of the physician-patient relationship. The right to have an abortion is constitutionally-protected. To falsify scientific evidence in an attempt to deny women that right is unconscionable and dangerous.

The American College of Obstetricians and Gynecology, representing 45,000 ob-gyns, agrees: ''The intervention of legislative bodies into medical decision making is inappropriate, ill advised, and dangerous.''

The American Medical Women's Association, representing 10,000 female physicians, is opposed to an abortion ban because it ''represents a serious impingement on the rights of physicians to determine appropriate medical management for individual patients.''

THE SCIENCE

We know that there is no such technique as ''partial birth'' abortion, and we believe this legislation is a thinly-veiled attempt to outlaw all abortions. Those supporting this legislation seem to want to confuse both legislators and the public about which abortion procedures are actually used. Since the greatest confusion seems to center around techniques that are used in the second and third trimesters, we will address those: dilation and evacuation (D&E), dilation and extraction (D&X), instillation, hysterectomy and hysterotomy (commonly known as a c-section).

Dilation and evacuation (D&E) is the standard approach for second-trimester abortions. The only difference between a D&E and a more common, first-trimester vacuum aspiration is the cervix must be further dilated. Morbidity and mortality studies indicate that this surgical method is preferable to labor induction methods (instillation), hysterotomy and hysterectomy.

From the years 1972–76, labor induction procedures carried a maternal mortality rate of 16.5 (note: all numbers listed are out of 100,000); the corresponding rate for D&E was 10.4. From 1977–82, labor induction fell to 6.8, but D&E dropped to 3.3. From 1983–87, induction methods had a 3.5 mortality rate, while D&E fell to 2.9. Although the difference between the methods shrank by the mid-1980s, the use of D&E had already quickly outpaced induction, thus altering the size of the sample.

Morbidity trends indicate that dilation and evacuation is much safer than labor induction procedures, and for women with certain medical conditions, e.g., coronary artery disease or asthma, labor induction can pose serious risks. Rates of major complications from labor induction were more than twice as high as those from D&E. There are instances of women who, after having failed inductions, acquired infections necessitating emergency D&Es, which ultimately saved her fertility and, in some instances, her life. Hysterotomy and hysterectomy, moreover, carry a mortality rate seven times that of induction techniques and ten times that of D&E.

There is a psychological component which makes D&E preferable to labor induction; undergoing difficult, expensive and painful labor for up to two days is extremely emotionally and psychologically draining, much more so than a surgical procedure that can be done in a few hours under general or local anesthesia. Furthermore, labor induction does not always work: Between 15 and 30 percent of cases require surgery to complete the procedure. There is no question that D&E is the safest method of second-trimester abortion.

There is also a technique known as dilation and extraction (D&X). D&X is merely a variant of D&E. There is a dearth of data on D&X as it is an uncommon procedure. However, it is sometimes a physician's preferred method of termination for a number of reasons: it offers a woman the chance to see the intact outcome of a desired pregnancy, thus speeding up the grieving process; if provides a greater chance of acquiring valuable information regarding hereditary illness or fetal anomaly; and there is a decreased risk of injury to the woman, as the procedure is quicker than induction and involves less use of sharp instruments in the uterus, providing a lesser chance of uterine perforations or tears and cervical lacerations.

It is important to note that these procedures are used at varying gestational ages. Neither a D&E nor a D&X is equivalent to a late-term abortion. D&E and D&X are used solely based on the size of the fetus, the health of the woman, and the physician's judgment, and the decision regarding which procedure to use is done on a case-by-case basis.

THE LEGISLATION

Because this legislation is so vague, it would outlaw D&E and D&X (and arguably techniques used in the first-trimester). Indeed, the Congressional findings—which go

into detail, albeit in non-medical terms—do not remotely correlate with the language of the bill. This legislation is reckless. The outcome of its passage would undoubtedly be countless deaths and irreversible damage to thousands of women and families. We can safely assert that without D&E and D&X, that is, an enactment of S. 3, we will be returning to the days when an unwanted pregnancy led women to death through illegal and unsafe procedures, self-inflicted abortions, uncontrollable infections and suicide.

The cadre of physicians who provide abortions should be honored, not vilified. They are heroes to millions of women, offering the opportunity of choice and freedom. We urge you to consider scientific data rather than partisan rhetoric when voting on such far-reaching public health legislation. We strongly oppose legislation intended to ban so-called ''partial birth'' abortion.

Sincerely,

NATALIE E. ROCHE, MD,
Assistant Professor of Obstetrics and Gynecology, New Jersey Medical College.
GERSON WEISS, MD,
Professor and Chair, Department of Obstetrics, Gynecology and Women's Health, New Jersey Medical College.

Mrs. BOXER. What the physicians have told us is there are serious health consequences of banning safe procedures such as the one that will be banned in this bill. One is hemorrhage. People can die, they can lose blood, or be ill for a very long time. They can rupture their uterus and therefore never be able to carry a baby. They could get blood clots and have serious brain damage, an embolism, a stroke. There could be damage to nearby organs. There could even be paralysis. These are the terrible incidents that could happen to a woman if a doctor is in a situation of an emergency late-term procedure and is not able to use everything he has been able to use up until S. 3.

Mr. DURBIN. So for clarity, I ask the Senator, the bill we are going to be asked to vote on has an exception. This procedure is allowed if the life of the mother is at stake. But all of the significant health risks which you have just read, does this bill allow a doctor, in the midst of a medical emergency, to terminate a pregnancy if there is a significant health risk to the mother?

Mrs. BOXER. The answer is absolutely not. That is why it is so shocking to me. My friend knows because he worked hard on this. He tried to get a health exception. As a matter of fact, it was very strong language. Will my friend remind me what he said in making that health exception?

Mr. DURBIN. I offered an alternative to the bill that will be before us. I said, if late in a pregnancy a woman who is carrying a fetus is in danger of a grievous physical health risk, verified by two doctors—not just a doctor performing the procedure but another doctor, for a second opinion, has to verify it—then it would be allowed. That was defeated on the floor. What I tried to do was to narrow the exception, even probably more narrow than the Supreme Court said so my colleagues would give a doctor, in an extraordinary emergency situation, not life or death but one equally serious, at least in terms of the woman's future health. As the Senator from California probably will recall, that was defeated on the floor.

I ask the Senator from California this: If the Supreme Court has already said, don't send us a statute, don't send us a proposal that doesn't protect the health of the mother when there is a significant health risk late in the pregnancy because that violates what we found to be the right of privacy under Roe v. Wade, why are we now considering S. 3, this bill, which defies the Supreme Court and says to them, we know better, we are going to change your mind, we are going to send you something that doesn't meet the test in light of the Nebraska statute? Can the Senator from California explain why we are going through this?

Mrs. BOXER. Well, I would say politics is part of it, but I would also say there is an agenda in this Senate and in the House. That agenda is to overturn Roe, to keep on pushing through bills that challenge Roe directly. And Roe, as I said, is very clear on the health exception.

Let's go back to the first chart. The bottom line is, Roe is very clear:

In 1973, for the stage subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe—

which is a fancy word for ban—

abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.

This is the heart of Roe.

Mr. DURBIN. The Senator is saying this proposal we are receiving, banning a specific abortion procedure, does not allow an exception for the health of the mother.

Mrs. BOXER. That is right.

Mr. DURBIN. Even though the Supreme Court ruled 2 or 3 years ago on a State statute that tried to do the same thing that it clearly was unconstitutional or at least violative of Roe v. Wade, they have already thrown that out. Yet the Senate is going to be asked to vote again to eliminate an abortion procedure which a doctor may decide is in the best interest of a woman who, late in her pregnancy, facing an emergency, has a significant health risk; that is what we are being asked to vote on?

Mrs. BOXER. That is right. But it is even worse because the language TOM HARKIN had written into the bill, the sense-of-the-Senate language, is now being stripped out of the bill by the House. The reason we are here talking about this is, I want the Senate to disagree with what the House did. It is bad enough to do what we have done here without my vote—and I believe without yours, although I am not sure in the end how you voted.

The bottom line is, it is bad enough to ban a procedure and make no exception for the health of a woman. It is so violative of her rights and her dignity and of the respect that is due her. But in addition, they stripped out the language we added that said, maybe people, for whatever reason, are going to vote for this, but we also want to go on record in support of Roe. The reason we are here now is that the House, rather than take that language and send it off to the President, would have gotten their ban with a little sense-of-the-Senate language that supported Roe. No, the House had to prolong this, strip this out. And now to get to conference, we have to have a motion to disagree with what the House did, which I hope we will disagree with what they did.

So what I was trying to do and what Harkin was trying to do—and we all were trying to do—is say: S. 3 has problems, but you should know we still support Roe.

Mr. DURBIN. I ask the Senator, is it your impression the House conferees and those who agreed in the Senate are really going after the heart of the issue in Roe v. Wade? It is their intention to overturn Roe v. Wade by reason of the fact they have stripped the language Senator HARKIN offered affirming Roe v. Wade?

Mrs. BOXER. That is right.

Mr. DURBIN. And if we eliminated Roe v. Wade—and there are some in your State and in my State, too, who would say, do that, because of our personal, religious and philosophical beliefs—what protection would there be that an abortion procedure under any circumstances would be safe and legal in the United States?

Mrs. BOXER. It would be a disaster for women. I have noted that before Roe, 5,000 women a year died because there were very harsh laws. If Roe v. Wade was eliminated, women would not have the right to privacy in this matter. Early-stage abortion would not be between her and her doctor and her God and family, but it would be a matter for Senators to determine—and State Senators and assembly members and Governors all over this country. And a woman would risk her freedom if she had an abortion, just like we had before 1973.

So affirming Roe v. Wade is the right thing to do. It has made a difference in women's lives. More than anything, I think as our country matures, we recognize that women deserve to be treated with respect and dignity. It has been a long, hard road for women in this country, I say to my friend who is such a supporter of equality across the board. Women didn't even get to vote until 1920. We had to struggle. In 1973, I remember it very well. I remember women risking their lives to get an illegal abortion. I had read a case of a woman who was raped and she was so fearful and embarrassed and ashamed, she got an illegal, botched abortion. She was sick and the doctor even threatened to call the police on her.

Mr. DURBIN. I ask the Senator this question. I can recall in the time I have

been in public service that the vocal supporters of Roe v. Wade and keeping abortion safe and legal used to contain in their ranks many women who remembered vividly from a personal experience or a family experience what it was like before Roe v. Wade, when women in desperate circumstances sought an abortion in an unhealthy, unsanitary, unclean surrounding, endangering their lives. I ask the Senator, does she believe the national debate is different today because we have had 25 or 30 years of legal opportunities to terminate a pregnancy and, thank goodness, there are fewer of those women whose lives were lost or damaged because of these illegal and unsafe abortions that preceded them?

Mrs. BOXER. I think the Senator is right. The further we get away from those years, there is less memory. I think there is something else. I think most people—young people and middle-aged people—who don't have that many memories of it think Roe v. Wade will not be overturned; it is just a slogan.

Let me say what my friend knows so well. Roe v. Wade is hanging by a 5-to-4 vote in the Supreme Court. That is why I think my colleagues keep coming back with this approach of banning this medical procedure, which many doctors have used because it was the safest one to save the life and health of a woman. They keep coming and they keep thinking someday the Court will reverse it and go 5-to-4 the other way. I think at that point women will rise up. But it is our job. That is why I am so grateful to the Senator for coming over here. It is our job because we are lawmakers to look ahead and not wait for that crisis, and to make the point and to discuss what could happen to a woman. She could have a stroke if this procedure is outlawed. She could have a hemorrhage or a blood clot. She could become paralyzed. She could be infertile. These are horrible things that can happen to our daughters, our granddaughters, and it could even be worse. We can have some States, if Roe were overturned, that could put a woman in jail, could put a doctor in jail for trying to assert a privacy right.

Mr. DURBIN. I will ask one last question of the Senator from California. First, let me say, though I personally oppose abortion, and I would counsel a woman in my family to look for an alternative, or adoption, and help in any way I could, I believe we have to really make a special effort to protect the legality of the decision that a woman ultimately makes in this situation, when her life and her health are at stake—a decision that should be made by her, her doctor, her conscience, and her family, as the Senator said.

What I found 21 years ago, when I came to Congress with that belief, was the startling discovery that so many people who opposed abortion also opposed family planning. That, to me, seems totally inconsistent—that you would not give to a woman options so that she could avoid an unplanned pregnancy.

I want to ask the Senator from California this: Based on what she has seen, and what I have seen in almost 21 years on Capitol Hill, if those people are successful in the Senate and House and eventually overturn Roe v. Wade, can the Senator give me some indication of what she thinks is next when it comes to issues of family planning—issues that women value as much as their Roe v. Wade rights, but those issues as well? Have we not seen repeatedly in the Congress the same voices who are calling for the overturning of Roe v. Wade also limiting options for women to plan the size of their family—the frequency of children in their family?

Mrs. BOXER. There is no question about it. With this administration, the very first thing the President did was put in place the international gag rule, which stopped nonprofits all over the world from getting Federal funds to use to help these women to plan their families.

Let me tell you what has happened. We have seen already an assault on a woman's right to choose. I think my colleague is absolutely right to point out that Roe is just one of their goals; it is their major goal, however. I will tell you what is happening. Federal regulations were issued by this administration that make embryos and fetuses, but not pregnant women, eligible for health benefits. What you will see is this is all leading up to the place where a woman eventually will not have a right to choose, or any rights at all when she is pregnant. In other words, pregnant women now cannot get the prenatal care; it is the fetus. We have never done that before. We have always recognized that it is the woman who is nurturing that child; that the woman gets the help and the child gets the nourishment.

There is legislation being pushed here to recognize an embryo as a person with rights separate and apart from the woman. That is another move to set up a situation where abortion, even in the first minute, would be seen as murder. So this is what is happening today. There is moving legislation forcing some young women to make reproductive health choices alone and criminalizing caring adults who help them. There are attempts to block women's access to RU486, a drug that is proven safe and effective and would be an alternative to surgical abortion. There are attempts to block access to emergency contraception. There is a denial of Roe v. Wade protections to Federal employees and low-income women who rely on the Federal Government, who live in the District of Columbia, and to U.S. servicewomen living overseas, and women in Federal prison. These women cannot get the health care if they want to exercise their right to choose, whereas a wealthy woman can do that.

Here is your point: They are starving funding for family planning programs, both here and abroad. And there is also the cancellation of international family planning funding. We voted in Congress for $34 million for international family planning money. The Bush administration will not spend a penny. When you ask them why, they say these agencies are using it for abortion. That is plain untrue. It is untrue. They don't because they are audited and monitored, and they cannot.

In winding down this debate—and we have several hours left—I want to say why I think it is so important that we stand in favor of Roe v. Wade. We are going to go back to what the debate is really about. It is about standing up for the Senate language that was brought to us by the Senator from Iowa, Tom Harkin, with over 50 of us signing on and voting for it, that simply says it is the sense of the Senate that the decision of the Supreme Court in Roe v. Wade was appropriate and secures an important right, and such decision should not be overturned. It is a very straightforward and simple statement—elegant, if I may say so; it is an elegant amendment by the Senator from Iowa that says to the women of this country that we respect you and, as my friend said, he is personally opposed to abortion. You know what. That is so much that is right in this country of ours. That is what being pro-choice is—that each of us in our own hearts, with our own family, with our God, can decide this issue for ourselves, without Senators peering into our private decisions. What a horrible thought is that. Really, life is complicated enough without having a bunch of Senators deciding what we should do in the privacy of our own homes in the early stage of a pregnancy.

That is what Roe was—a very balanced decision. It says: If you want to go through with this pregnancy, absolutely that is your right, but if you do not, in the early stages it says to women: We respect you enough, we give you that dignity; we trust you enough to make that decision.

Senator HARKIN said it right. This Senate stood up with him and we voted in favor and appended that language to the banning of this medical procedure. Our colleagues in the House looked at this—and they are so radical, I say to my friend—and rather than moving that bill right through to the President's desk with sense-of-the-Senate language that has no force of law, they chose to strip out this language from the bill, and now we have to take this bill to conference.

The reason I am here and the reason the Senator from Illinois is here tonight is to say we are going to take another stand in favor of Roe. We are going to vote to disagree with what the House did. We hope that vote will be large, and we hope that the conferees will, therefore, go into that conference and push hard to have this language added.

If this language is not added, this Senate is going on record with S. 3,

minus this language, of saying: Women's health is just not important. I hope every woman in this country, whether they agree with Roe or they disagree with Roe, whether they themselves would make one decision or another, will come together and say: Prochoice means that the Government respects the individual, and isn't that really what our country is all about?

I thank the Chair. I yield back my time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I admire my distinguished colleague from California. She is a fighter. She has a conscience, and she is dedicated. I am delighted to listen to her. I agree with her absolutely.

TAXES

Mr. HOLLINGS. Mr. President, I wish to speak about a no-no subject—taxes. I get really worn out when I go home and hear the local folks are against taxes. I came to public service over 50 years ago when there was a conscience of paying the bill for the Government we provided. I will never forget, one of the first measures we had come before us was a veterans' bonus for the World War II veterans. I can see Julian Dusenberry, a Member from Florence, whose legs had been shot out from under him. He was a Distinguished Service Cross recipient. He raised himself up on those brass bars we had at the back of the Chamber for him, and he said: Mr. Speaker, we all are veterans, but we are all South Carolinians. South Carolina doesn't have the money, and I move to table the bill. And we killed the veterans' bonus.

It was shortly thereafter that I could see we were not providing public education in a general sense for all of our constituency. More particularly, there were just absolutely no schools for African Americans. I went to one shortly after I was elected. It was a one-square building, one floor. It was a cold November day. They had a potbellied stove in the middle, a class in one corner, a class in another corner, a class in the third corner, and a class in the fourth corner. This African American school had one teacher for the four classes. So I introduced the sales tax to pay for education. It was a 3 percent sales tax, and we finally enacted it in 1951. It was quite a struggle, but nobody has really contested that measure, nor has anyone put in a bill to repeal it.

We have to pay for the public schools. Under Governor Riley—he was Secretary of Education—we increased that from 3 to 5 percent.

When I came in as Governor of South Carolina, some 40 years ago, we had to attract industry. Everybody was looking for jobs. I am sort of an expert at looking for jobs. I traveled the highways and byways, but before I did that, I prepared myself to sell the point. I knew they were not going to invest in South Carolina, unless we had a pay-as-you-go operation. So I moved to increase taxes and got the AAA credit rating for the State of South Carolina back in 1959, before any Southern State, including the State of Virginia, had a AAA credit rating.

I address the distinguished Chair because he gave real leadership to his State of Virginia when he was Governor. He knows exactly what we are talking about. In fact, the gentleman we had in South Carolina went back up to Richmond, VA, to help in industrial expansion. So we worked together trying to develop public education, strong communities, and fiscal responsibility at the State level. But you can come up here to Washington and you can forget about it.

I saw one article the other day that was put in the RECORD relative to President Lyndon Baines Johnson. It said he didn't care. Oh, no, he did. He didn't give us guns and butter. He paid in 1968 and 1969 for the Vietnam War. The last time your U.S. Government balanced the budget was under President Lyndon Baines Johnson in 1968–1969. We ended up in the black with a surplus. Thereafter, as chairman of the Budget Committee under President Carter I can tell you, we still had a conscience.

I will never forget that 1980 election. They cleaned out Democrats. I went to the ones who were cleaned out and said: Look, you have to give me a vote. We can't leave this year with a deficit bigger than the one we inherited from President Ford. I went to Senator Magnuson, I went to Senator Church, I went to Senator Culver, I went to Senator McGovern, I went to Senator Bayh, I went to Senator Gaylord Nelson—all defeated in 1980. I said: You have to give me one vote. They did, and we reduced that deficit.

Then, of course, when President Reagan came in with voodoo, which Vice President Bush called it, the idea is to cut your taxes and that will increase your revenue. That is absolute nonsense. We know now from voodoo 1, 2, 3, and 4 that we are in the worst trouble we have ever been. That is why I take the floor today to speak generally with respect to taxes.

All politicians are against taxes. In fact, some are so adamant against them, they run against the Government, they run against the job they are running for. But taxes are what we pay for a civilized society, said Oliver Wendell Holmes.

Let's try, Mr. President, a nation without taxes, just momentarily. Let's agree, for example, to not touch Social Security and Medicare—they are both in surplus. In fact, everybody wants to save Social Security. If you just left it alone and quit spending the Social Security revenues on any and everything but Social Security, you would have a $1.5 trillion surplus in the Social Security trust fund, which the Greenspan Commission called for and which we passed in law, section 13–301 of the Budget Act, that we totally ignore now. So let's leave Social Security, Medicare, and Defense alone.

But let's take all the other things government does with taxpayer dollars and get rid of them so we can get rid of taxes. The Departments of State, Justice, Commerce, and Education would immediately be abolished. We would eliminate the FBI.

We would stop building roads or fixing the ones we have. We would do away with the hospitals receiving Federal support, eliminate the National Institutes of Health, and close all the Veterans Hospitals.

We would close the monuments and the parks, decertify the food certified by the Food and Drug Administration, decertify the drugs for the same reason, eliminate all the farm programs. When one mentions farm programs, they can get some attention in this body. That is the crowd that does not want to pay for anything, but they wiggle their way in and walk away with billions every time, every session. They always get billions, but let's do away with the farm programs, eliminate the development programs, forget about clean air, clean water, just close the Environmental Protection Administration; cancel NOAA, cancel NASA, cancel the housing programs, close the airports because they are supported by Federal taxes.

In fact, just close the prisons. Tell all the prisoners, sooey, pig, just get out. Just shoo, get out. Get rid of the President, get rid of the Congress, the Cabinet, the courts. Just get rid of the government.

I talked to a group in South Carolina and finally got their attention that we are lucky to be born in America where there is a government supported by the taxes that helps provide our opportunities. For example, someone born in Zambia can expect to live to only 37 years of age; born in Swaziland, 38 years; born in Rwanda, 39 years; Mozambique, 40 years; Niger, where someone found yellow cake, he lives to be 41 years of age. If I had been born in Niger, I would have been dead already for 40 years. I do not want to give that idea out to a lot of people listening to what I am talking about.

Eighty percent of those born today in rural India have worms. Eighty-five percent will go hungry and 95 percent in rural India will drink dirty water all of their lives. One born today in Botswana has a one in three chance of getting AIDS, and someone born in Mali instead of the United States has only a 10-percent chance of completing the first grade. One born in Brazil has a 40-percent chance of dropping out of school by the sixth grade. A girl born in Pakistan has less than a 10-percent chance of attending high school. In Senegal one has only a 50-percent chance of finding a job.

In Sri Lanka, one can expect to earn only 40 cents an hour; Haiti, 30 cents an hour; Bangladesh, 20 cents an hour. So one born in many countries instead of

the good old USA, they cannot vote, they have no labor rights, they cannot even assemble.

We all like to think, wait a minute now, we all came up by our own bootstraps; that we did it on our own. No. If one is born in America, the government has furnished the boot. The government in America has furnished the law and order, educational opportunity, a market economy, clean air, clean water, civil rights, labor rights, a free society. Born in America, as Thomas Wolfe wrote, each has his own shining golden opportunity.

Because of this land of opportunity, supported by taxes, Asians come hidden in containers on ships, and Mexican immigrants risk their lives every day to get here.

Some will say we do not need the taxes. What we need is spending cuts. I say to my dear colleagues, spending cuts will not do it. I think that is the thrust of the point that I hope sobers this crowd up. It worries them, as it worries me. Even if Congress eliminated every nondefense Government program, it would not get us out of the deficit hole.

Every American should refer to page 8 of the Congressional Budget Office Budget and Economic Outlook Update. I ask unanimous consent that page 8 and page 10 be printed in the RECORD.

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

TABLE 1–3.—CBO'S PROJECTIONS OF DISCRETIONARY SPENDING AND HOMELAND SECURITY SPENDING

[In billions of dollars]

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total, 2004–2008	Total, 2004–2013
TOTAL DISCRETIONARY SPENDING IN CBO'S BASELINE [1]													
Budget Authority:													
Defense	455	465	476	488	500	514	527	541	556	571	587	2,442	5,226
Nondefense	391	407	416	427	437	449	462	474	487	500	514	2,136	4,573
Total	846	872	892	914	938	963	989	1,015	1,044	1,071	1,101	4,579	9,799
Outlays:													
Defense	407	452	472	481	489	506	519	533	552	558	578	2,400	5,140
Nondefense	419	448	460	467	479	491	502	515	528	542	556	2,345	4,988
Total	826	900	931	948	969	996	1,022	1,048	1,080	1,100	1,134	4,745	10,128
DISCRETIONARY SPENDING CLASSIFIED AS HOMELAND SECURITY SPENDING [2]													
Budget Authority:													
Defense	12	12	12	13	13	13	14	14	14	15	15	63	135
Nondefense	26	27	28	29	29	30	31	32	33	34	35	143	309
Total	38	39	40	41	42	44	45	46	47	49	50	206	444
Outlays:													
Defense	11	12	12	12	13	13	13	14	14	15	15	62	133
Nondefense	22	26	27	28	29	30	31	32	33	34	35	141	305
Total	32	38	40	41	42	43	44	46	47	48	50	203	438

[1] CBO's baseline assumes that discretionary spending grows at the rate of inflation after 2003. Inflation is projected using the inflators specified in the Balanced Budget and Emergency Deficit Control Act of 1985 (the GDP deflator and the employment cost index for wages and salaries).

[2] This classification includes much of the funding associated with the Department of Homeland Security, as well as funding for homeland security activities performed by other federal agencies, such as the Departments of Justice, Health and Human Services, and Energy. Funding for certain activities of the Department of Homeland Security, such as maritime safety and immigration services, is not included because those activities are not part of the Administration's definition of homeland security. For a complete discussion of the Administration's definition of homeland security, see Office of Management and Budget, Annual Report to Congress on Combating Terrorism (June 2002), available at www.whitehouse.gov/omb/legislative/combating__terrorism06-2002.pdf. In addition, the Administration's definition includes roughly $1 billion of mandatory spending each year.

Source: Congressional Budget Office.

Note: Discretionary outlays are usually higher than budget authority because of spending from the Highway Trust Fund and the Airport and Airway Trust Fund, which is subject to obligation limitations set in appropriation acts. The budget authority for such programs is provided in authorizing legislation and is not considered discretionary.

TABLE 1.5.—CBO'S BASELINE PROJECTIONS OF FEDERAL INTEREST AND DEBT

[In billions of dollars]

	Actual 2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Total, 2004–2008	Total, 2004–2013
NET INTEREST OUTLAYS														
Interest on the Public Debt (Gross interest) [1]	333	322	318	356	409	463	510	549	583	611	633	647	2,057	5,080
Interest Received by Trust Funds:														
Social Security	−77	−84	−87	−93	−102	−114	−128	−142	−157	−173	−190	−208	−524	−1,395
Other trust funds [2]	−76	−73	−66	−69	−74	−78	−82	−87	−91	−96	−101	−106	−369	−848
Subtotal	−153	−157	−153	−162	−176	−192	−210	−229	−248	−269	−291	−314	−893	−2,244
Other Interest [3]	−8	−8	−10	−11	−13	−15	−17	−19	−21	−23	−25	−28	−65	−182
Other Investment Income [4]	0	(*)	(*)	−1	−1	−1	−1	−1	−1	−1	−1	−1	−3	−7
Total (Net interest)	171	157	155	184	220	255	282	301	312	318	316	305	1,096	2,648
FEDERAL DEBT (AT END OF YEAR)														
Debt Held by the Public	3,540	3,986	4,443	4,790	5,027	5,242	5,450	5,631	5,784	5,800	5,645	5,438	n.a.	n.a.
Debt Held by Government Accounts:														
Social Security	1,329	1,486	1,650	1,828	2,025	2,241	2,475	2,727	2,996	3,281	3,580	3,891	n.a.	n.a.
Other government accounts [2]	1,329	1,367	1,436	1,523	1,627	1,739	1,856	1,978	2,104	2,235	2,373	2,513	n.a.	n.a.
Total	2,658	2,852	3,085	3,352	3,653	3,980	4,331	4,705	5,100	5,516	5,953	6,404	n.a.	n.a.
Gross Federal Debt	6,198	6,838	7,528	8,142	8,679	9,222	9,782	10,335	19,774	11,316	11,598	11,842	n.a.	n.a.
Debt Subject to Limit [5]	6,161	6,801	7,491	8,105	8,642	9,185	9,744	10,297	10,845	11,277	11,599	11,803	n.a.	n.a.
FEDERAL DEBT AS A PERCENTAGE OF GDP														
Debt Held by the Public	34.2	37.1	39.5	40.4	40.1	39.7	39.2	38.5	37.6	36.0	33.4	30.7	n.a.	n.a.

[1] Excludes interest costs of debt issued by agencies other than the Treasury (primarily the Tennessee Valley Authority).

[2] Principally Civil Service Retirement, Military Retirement, Medicare, and Unemployment Insurance.

[3] Primarily interest on loans to the public.

[4] Earnings on private investments by the Railroad Retirement Board.

[5] Differs from gross federal debt primarily because most debt issued by agencies other than the Treasury is excluded from the debt limit. The current debt limit is $7,384 billion.

Source: Congressional Budget Office.

Note: * = between −$500 million and zero; n.a. = not applicable.

Mr. HOLLINGS. If we turn to page 8, we will see that nondefense outlays for this particular fiscal year that we are in is 419 billion bucks. But if we turn to page 10, we will see that the deficit for this fiscal year is $640 billion. So do not just cut. Eliminate all nondefense programs, eliminate all those departments, prisons, the FBI, the Congress, the courts, the President. Just eliminate everything. Get rid of it. And we still have a $200 billion dollar or more deficit.

So do not come around in these debates and give these nice, pleasant, Chamber of Commerce, rotary club

talks that what we really need in Washington is to cut down the spending, cut down the size of Government, Government is just too big.

Well, by gosh, come on up here and just cut it out, and there is still a deficit. So we have over a $200 billion deficit right there and then, and now comes President Bush who says he needs $87 billion—like we have some money. We are just nothing but wallowing around in the red using credit cards, and so he asks that the Congress provide $87 billion more for Iraq. Of course, that is all on the credit card further, a bigger deficit. It is really a sin and a shame.

What we are saying is, me and my generation and most of the generations of the Members that I see and who can speak this evening say we ain't going to pay the bill. We do not want that GI in downtown Baghdad to get killed. We want him to rush back to pay the bill because we ain't going to pay for it. We need a tax cut so next year we can get reelected. That is the message of everybody running around with flags on their lapels showing how they support the troops.

Well, come on. Support the troops? When are they going to cosponsor my value-added tax? I tried it with the value-added tax after we failed with Gramm-Rudman-Hollings. We worked with President Reagan in a bipartisan fashion and we did a good job momentarily for 2 or 3 years, but then instead of using Gramm-Rudman-Hollings to cut back some $35 billion in spending each and every year, we were using it as a cover to increase spending $35 billion each and every year.

So I said give me a divorce from that. I don't want my name connected with it. I got hold of Dick Darman, when President George Herbert Walker Bush, the senior Bush, took office. Darman was the OMB Director.

I said: Dick, we ought to have a value-added tax.

They discussed it. I got a little note from Papa Bush to the effect that he might consider that but not right now, his first year in office.

We tried and tried until we got to President Clinton. Then we had a showdown on how to act responsibly. Without a single Republican vote in the House, without a single Republican vote in the Senate, President Clinton and this Democratic Congress passed an increase in taxes as well as spending cuts. We cut some $350 billion to $400 billion in spending, but we increased taxes on the high and wealthy. We increased the income taxes. We increased gasoline taxes. We increased Social Security taxes.

I will never forget the distinguished Senator from Texas, Mr. Phil Gramm, saying they were going to be hunting down the Democrats in the streets and shooting us like dogs when they found out we were, by gosh, going to increase taxes on Social Security.

But you see now that rich crowd comes in, and what they want and all they ask for is: Give me an income tax cut. Give me a retroactive one, nunc pro tunc. They sneaked in all kinds of things for Kenny Boy Lay. It came to $250 million. I have never seen such things.

Then they wanted to get rid of the taxes on dividends. I want the party of Lincoln to remember that Abraham Lincoln put a tax on dividends to pay for the Civil War. He was willing to pay for the war. We have paid for every war, until now.

Let me be brief here because I can see the hour is getting late. Rather than going into this very interesting article by the former Secretary of Labor, Dr. Robert B. Reich, printed in USA Today entitled ''Tax wealthy to pay for Iraq war,'' I ask unanimous consent to have that article printed in the RECORD.

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

[From the USA Today, Sept. 15, 2003]

TAX WEALTHY TO PAY FOR IRAQ WAR

TEST PATRIOTISM'S DEEPER MEANING

(By Robert B. Reich)

President Bush says he will ask Congress for $87 billion in emergency spending for military and intelligence operations in Iran and Afghanistan. That's on top of the $79 billion Congress already has approved to pay for the war and its immediate aftermath. Neither of these figures includes an estimated $50 billion more that will be needed to rebuild Iraq, or any additional expenditures we may need for homeland security.

How can we afford all that?

The coming fiscal year's federal budget deficit already is approaching $600 billion. Add in the extra spending, and it's close to $600 billion. And that's just one year's tab. The total over all the years it will take to stabilize both Iraq and Afghanistan and win the war against terrorism is likely to be far higher.

Bush and the Republican Congress have no real plan to pay for these extra costs. At one time they mentioned Iraq oil, but the oil won't be flowing in substantial volume until wells and pipelines are rebuilt, which could take years. America's major allies haven't offered to foot the bill. Given that France and Germany are still grumpy about the Iraqi war, and Britain's Prime Minister Tony Blair is taking a great deal of heat about it at home, there's no reason to suppose that they will be offering a lot of financial help.

One thing is certain. Neither the White House nor Congress is considering the best solution: a year tax on wealthy. Raising taxes is politically unpopular. Bush has wanted only to cut taxes, especially on America's wealth. Yet there's a strong history of conservatives and Republicans who have embraced war taxes as the fairest and best way to finance the costs.

Traditionally during wartime, taxes have been raised on top incomes to pay the extra costs of war. The estate tax—overwhelmingly paid by wealthy families—was imposed by wartime Republican presidents Abraham Lincoln and William McKinley. It was maintained through World War I, World War II, the Korean War, Vietnam and the Cold War. Now, the estate tax is being phased out, at least until 2011, as part of the tax cut of 2001.

The top income tax rate rose during World War I to 70 percent. In World War II, it reached more than 90 percent. In 1953, with the Cold War raging, Republican President Dwight Eisenhower refused to support a Republican move to reduce it. By 1980, it was still way up there, at 70 percent. Then Ronald Reagan slashed it to 28 percent, giving us the lowest top tax rate of all modern industrialized nations. Because Reagan kept spending record sums on the military, the federal deficit ballooned. A few years after that, the Berlin Wall came down, ending the Cold War. We congratulated ourselves and then faced the largest budget deficit since World War II.

It seems only fair that the rich should pay proportionately more, especially now that the cost of the war against terrorism is rising. They're the only ones with money to spare. Look at the numbers: In 1979, the top 5 percent of earners took home 16.4 percent of total family income, but by 2001, their share had increased to 22.4 percent. In contrast, in 1979 the bottom 60 percent of earners took home 31.4 percent of total income; by 2001 their share had declined to 26.8 percent.

Besides, the very richest Americans benefit disproportionately from a stable federal government that protects their property and maintains public tranquility.

President Teddy Roosevelt made that case in 1906, arguing that the wartime inheritance tax should continue during peacetime: ''The man of great wealth owes a particular obligation to the state because he derives special advantages from the mere existence of government.''

It is the least the wealthy can do when so many others are sacrificing for the nation. Most wealthy kids never come near a front line. During the first Gulf War, enlistment rates for children of the richest 15 percent were one-fifth of the national average. Charles Moskos, a sociology professor at Northwestern University and expert on military affairs, notes that in his 1956 Princeton class, 450 of 750 men served in the military. In those days, America still had a draft. Last year, only three of Princeton's 1,000 graduates served.

The Bush administration doesn't seem interested in a war tax on the wealthy. To the contrary, the White House has been busily shifting the tax burden away from the rich—phasing out the estate tax, cutting taxes on dividends and parceling out other tax breaks to them. The president says this is the way to stimulate a sluggish economy. But the rich aren't going to spend the extra cash. They already spend as much as they want. They're more likely to invest it around the world, wherever they can get the highest return. Repealing a year's tax cut for the top 1 percent would generate almost enough to cover the entire $87 billion of additional spending on Iraq.

A war tax, properly structured, also would prevent the rich from squirreling away their income in foreign tax shelters. An acquaintance from law school, now a partner in one of Washington's biggest firms, with offices to many countries, recently explained to me one such dodge as we lunched in a swanky restaurant. He and his partners use tax rules to create offsetting taxable gains and losses, then allocate the gains to the firm's foreign partners, who don't pay taxes in the United States. That way, they keep the losses in the United States and shelter their income abroad. A war tax, properly structured, would close such foreign loopholes.

I noted he had an American flag lapel pin. ''You're supporting our troops,'' I said, referring to it. ''Yup,'' he replied, entirely missing my point. ''And I can't stand all those naysayers who are knocking America. I mean, we stand or fall together, right?''

Exactly. Suggesting that the wealthy should pay more to support the nation in time of war isn't inviting class warfare. It's exploring a deeper meaning of patriotism. The basic question is what we own one another as citizens. The question seems especially pertinent in a newly dangerous world, in which we stand or fall together.

Mr. HOLLINGS. Secretary Reich, he wants to tax the 1 percent most wealthy. He says that will get us $87 billion.

I am for doing away with all of President Bush's tax cuts so we can get jobs and the economy going, as we did under President Clinton. When we passed that, back in 1993, we had 8 years of the finest economic growth that you have ever seen. We put the Government back in the black, and we did it by increasing taxes. Now they say to put it back in the black, give the rich a tax cut.

FCC MEDIA OWNERSHIP

Mr. HOLLINGS. Mr. President, let me address the particular resolution for disapproval of the Federal Communication Commission's order relative to not only increasing media ownership from 35 percent to 45 percent but, more particularly, also eliminating cross-ownership rules so you can own everything. You can own the cable, you can own the television, you can own the newspaper, you can own the satellite and many stations and what have you, and, in the main, the networks own them.

I hasten to add that I hold no brief for or difference with any of the 10 particular Federal Communications Commission Chairmen with whom I have served. I have served, it will be almost 37 years, beginning with Rosel Hyde back in 1966, to Dean Burch, to Richard Wiley, to Charles Ferris, to Mark Fowler, to Dennis Patrick, to Alfred Sikes, to James Quello, to Reed Hundt, to William Kennard. Ask any one of them.

I got on the Commerce Committee and on the Subcommittee on Communications, when John Pastore of Rhode Island was the chairman of the subcommittee. For over 20-some years I have served as either chairman of that subcommittee or ranking member.

Right to the point, I want to try to agree with our distinguished FCC chairman, Michael Powell. I tried my best to sit down and talk with him. I realized from the get-go that he was off on a toot because he was asked, just as he was coming into office, about the public interest. He was asked, at his maiden news conference, for his definition of the public interest.

Powell joked:

> I have no idea. The term can mean whatever people want it to mean. It's an empty vessel in which people pour in whatever their preconceived views or biases are.

I could see we would have trouble because here is a regulatory body to carry out the rules and regulations and the intent of the Congress to regulate, and here he is coming in and saying: No, no—market forces. The public interest is just something fanciful. It is an ''empty vessel,'' to use his characterization.

Free market analysis does not apply to the broadcasting industry because of spectrum scarcity; that is, the primary local broadcast is the primary source for local news, weather, public affairs programming, and emergency information.

When we had the 1996 act, it actually was a bill that I had worked on 2 years as chairman of the Commerce Committee. I can see George Mitchell, the majority leader, trying to get it up because we passed it out of the committee unanimously. We worked in a bipartisan fashion. He could not get it up. In desperation and frustration, he said: The first thing I am going to do when we convene next year is call up the Telecommunications Act.

Of course we Democrats were beat. The Republicans took over. Senator Larry Pressler, the distinguished Senator, took over as chairman of the Commerce Committee and he put in the Republican version. But in conference—you can ask Tom Bliley, who was the Republican chairman in the House and I was working on the Senate side—that we more or less reconciled it to a bill that we had worked on literally for 4 years to promote competition.

We realized we were into a dynamic environment, changing each day. We worded the language in there so it would not only deregulate but reregulate.

Of course the distinguished Chairman Powell went along with every gimmick in the book, such as it didn't refer to data, and various other things that my colleague over on the House side, BILLY TAUZIN, put in, but we held up.

Finally, the other day they put out an order relative to the ownership cap and the cross-ownership. Let's take 1 second with respect to the ownership cap.

What happens is that we were really trying to hold it to the 25 percent. There were some in violation, in excess of that. They wanted to be able to reconcile themselves and come into conformance with the law itself and the rule. We got down to the base wire and everything else of that kind. There was not any question in our own minds that the 25 percent was enough ownership, because we could see how the radio was going at the particular time.

We all know how radio has gone, where they can own 1,200 stations. When you get that kind of ownership, they can't just give numbers, you have to get control.

I can't get any kind of local thing. It is all foreign. In fact, you are liable to get the weather out of India at your local hometown station. They are reading from some kind of report.

We had a system that was actually checks and balances at the Federal Government level. In other words, in broadcasting, the content was provided by producers. The networks served as wholesalers and the local affiliates as distributors. Now the networks have come in and gotten their own programming. They have done away with the financial syndication rule. They have gotten into their own programming in vertical integration.

The networks have been allowed to buy up stations, and they are buying them up like gangbusters. What we are going to have here is almost one branch of government trying to preserve localism in the public interest. It is not going to happen if this continues. It just threw everyone into turmoil.

There isn't any question. On the House side, even though Chairman TAUZIN opposed it vigorously, a bipartisan group put in the State, Justice, Commerce appropriations bill that the 45-percent rule of the Federal Communications Commission be reversed and go back to 35 percent. We considered the same thing over at the markup of the State, Justice, Commerce appropriations bill, and we included that same provision word for word.

I ask unanimous consent that an article entitled ''How Michael Powell Could Have the Last Laugh,'' in this week's Business Week, which goes right to the cross-ownership, be printed in the RECORD.

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

[From BusinessWeek, Sept. 22, 2003]

HOW MICHAEL POWELL COULD HAVE THE LAST LAUGH

(By Catherine Yang)

Federal Communications Commission Chairman Michael K. Powell looks like a man on the run. Since he passed sweeping rules in June enabling greater media consolidation, an angry public has ignited a fast-burning backlash against his deregulatory agenda. On Sept. 3, at the urging of public interest groups, the U.S. Court of Appeals in Philadelphia stayed the rules until it could finish reviewing them. The next day, the Senate Appropriations Committee voted to bar the FCC from implementing a new rule allowing TV networks to own stations covering up to 45% of the U.S. audience.

But while the opponents of media consolidation seem to be gaining ground fast, they shouldn't be too quick to declare victory. In fact, Capitol Hill's expected repudiation of the networks' 45 percent limit risks letting the steam out of the debate—and leaving Powell's laissez-faire legacy intact. Until now, lawmakers and the anti-Big Media insurgents have focused on gutting this one rule. The 45 percent cap has become a rallying symbol, but the regulations that would truly reorder America's media landscape and affect local communities have flown under the radar. These would allow companies to snap up not only two to three local TV stations in a market but also a newspaper and up to eight radio stations. If the courts and Congress are worried about the dangers of media consolidation, they'll have to resist calling it a day after dispensing with the network cap and go after the rule with real bite.

As it stands now, TV's Big Four networks will be losers among media outlets—thanks mostly to vociferous lobbying by independent TV affiliates. With strong ties to lawmakers who depend on them for campaign coverage, the affiliates have succeeded in getting a House vote against the 45 percent rule and will likely see a rerun of that episode when the Senate votes by October. But with Fox and CBS already each owning stations that cover about 40 percent of the nation's audience, ''going up another 5 percent isn't going to make a dramatic difference,'' says Scott A. Stawski, a media consultant at Inforte in Chicago.

In contrast, opening the floodgates to allow local behemoths to combine newspapers, TV, and radio stations under one roof would change media ownership in towns and cities, concentrating it in the hands of a few. Even in midsize cities, such as San Antonio, for instance, one company might own the leading newspaper, two TV stations, eight radio stations, and several cable channels. Powell argues the explosion of cable networks and the Internet brings a wide choice of media to communities, even if there's a spate of mergers. And—no surprise here—most media companies agree.

Yet there's little doubt that, once given the go-ahead, these rules would spur local consolidation. Owning a second or third station in a market is irresistible for TV station owners, which can splash expenses by a third by ditching duplicate cameramen, studio technicians, and reporters. The economies of newspaper-broadcast crossownership may be dicier, but publishers such as Tribune Co., Gannett, and Media General want stations where they publish—if for nothing more than to cut costs in back-office operations.

True, the new media giants could conceivably plow their savings back into improving local news coverage. But public companies are more likely to use them to boost returns to shareholders. ''If they can downsize the operational budget through having fewer people cover the news, they'll do it,'' says Jill Geisler, head of the leadership program at the Poynter Institute, which promotes journalism standards.

But even asking whether TV duopolicies and newspaper TV combos can produce better news may be beside the point. ''The test is how many different voices we have,'' says James F. Goodmon, CEO of Capitol Broadcasting Co., a Raleigh (NC)-based TV station group that is opposed to the FCC's rules. ''What's good news to you is bad news to me. I'm really worried about someone deciding what good news is.'' The courts and Congress, too, should guard against a Powell doctrine that could end up muffling more voices than it adds.

Mr. HOLLINGS. Mr. President, we had the support of the National Association of Broadcasters with respect to the overall check of the 45 percent being turned back to the 35 percent and not go up to 45 percent. However, the station owners realized that money could control and they could be in a position where cross-ownership would be done away with. There is a lot of big money with these oligopolies coming in and buying up their stations, which would position them monetarily and enhance the value of their station.

We don't have the support of the National Association of Broadcasters on that cross-ownership. But the Senator from North Dakota, Mr. DORGAN, has it in as a resolution of disapproval. I am a cosponsor. Senator LOTT and many of our Republican colleagues are also cosponsors. We discharged that one out from the Commerce Committee.

The Stevens-Hollings authorization bill on the return of 45 percent from the 35 percent has been reported and is pending at the desk for consideration. I think the appropriations process is the only way that we can proceed.

I ask unanimous consent to have printed in the RECORD an article from USA Today from this morning entitled ''FCC's Powell keeps chin up as regulation storm rages.''

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

[From USA Today, Sept. 15, 2003]

FCC'S POWELL KEEPS CHIN UP AS REGULATION STORM RAGES

(By Paul Davidson)

WASHINGTON.—Federal Communications Commission Chairman Michael Powell is unbowed by a string of rebukes from Congress, the courts and the public to his agency's ruling allowing media giants to get bigger.

''In hindsight, maybe I would have done a little more of this, a little less of that,'' Powell, a Republican, said last week in an interview in his corner office. ''But I don't believe what we did in the mainstream was incorrect.''

Powell has endured an unusually punishing year for an FCC chairman. He lost his bid early this year to deregulate the regional Bells' phone service when fellow Republican Kevin Martin sided with the agency's two Democrats. He has come to personify a much-maligned push by the Bush administration to give ''big media'' too much influence. And each move against his media plan by Congress or the courts is portrayed as a personal defeat that further erodes Powell's status as the USA's top communications regulator.

In an interview, Powell was calmly defiant, exuding little sense that he is at the epicenter of a national firestorm. ''It does not faze me one bit that you're going to talk about me, because I don't think I'm the story,'' says Powell. ''The story should be (what is the best) policy for the American people.''

The newest and potentially most far-reaching setback could come Tuesday, when the Senate considers a rare resolution to reverse all the FCC's new media ownership rules. Backers of the measure expect it to pass, though it faces a battle in the House from Republican leaders and a veto threat from President Bush.

The FCC rules, approved by the commission in a party-line 3–2 vote in June, would let TV networks own local stations reaching, in total, 45% of the national audience, up from 35%. The rules also would allow ownership of a newspaper and a TV or radio station in the same market and up to three TV stations in the largest cities.

A diverse coalition, from the National Rifle Association to Common Cause, argues the overhaul would give a handful of conglomerates too much control over what people see, hear and read.

Powell downplays concerns as ''melodramatic.'' Noting that a 1996 law and a federal appeals court ordered the FCC to justify its old rules or scrap them, he said the resolution to be voted on Tuesday would spawn ''chaos.''

''Why is it better for this country to reinstate rules that have been overturned by a court? Under the terms of the (resolution), we're not even allowed to replace them.''

But Sen. Byron Dorgan, D–N.D., who launched the resolution push, disagrees. ''The court did not overturn the rules. The court told the FCC that they must justify the rules. Instead, the FCC decided to take a high dive on behalf of the biggest corporate interests.''

Dorgan says his measure would simply reinstate the old media limits, adding nothing would stop the FCC from issuing revised rules that make more tempered changes.

The resolution is the latest blow to Powell's media deregulation plan. The House in July voted to reinstate the 35% cap, and the Senate is expected to follow suit. That more limited measure stands the best chance of withstanding a White House veto because it's attached to a spending bill.

Powell says the tighter rules are outmoded as cable threatens free broadcast TV, but, ''(Congress) makes the rules, and we implement them. I think that's completely fine.'' Yet he ripped the legislative proposals as hollow because they don't offer guidance on ownership regulation. ''It is, in some ways, an anti-vote.'' he says.

And when critics rail against big media, ''I'm not sure what problem people are trying to solve. I don't have the sense I don't hear every viewpoint from the left to the right on Fox, MSNBC and CNBC.''

Powell says he can ''absolutely see the argument'' that easing media limits further could give too much influence to a handful of behemoths, but insists his changes are moderate. ''It's an amazingly gradual, modest package. The difference between 35 and 45 (percent) is the network might own five more stations in the United States. So no, I do not think that's the end of democracy.''

But Andrew Schwartzman of the Media Access Project notes the national cap was 25% before Congress raised it in 1996. ''This is a very substantial increase. Chairman Powell persistently trivializes the heartfelt concerns of the public.''

Schwartzman, some say dealt Powell his most stinging defeat when he persuaded a U.S. appeals court this month to block all the FCC's new regulations from talking effect until it rules on a broader challenge to them. Washington media lawyer Christy Kunin says the stay indicates the court believes the challenge has at least ''some merit.''

But Powell contends: ''The court's decision has been radically exaggerated. It has merely said, 'Let's chill out,' and gives us a fair change to consider'' the case.

He also dismisses complaints that he could have handled the media ruling with more sensitivity, perhaps heeding calls to delay the vote another 30 days to give the public a chance to comment.

''The commissioners who asked for the 30 days weren't going to change their vote in any way.''

Powell concedes the drumbeat of protest against his media plan ''is intense. I'm a human being.'' But, ''I don't personalize policy.''

The son of Secretary of State Colin Powell, Michael Powell is a former Army officer, Justice Department official and antitrust lawyer who is deemed a rigorous intellectual analyst but short on the political skills required of an FCC chairman. He admits discomfort with the swirl of politics. ''I like to think of the agency as more judicial than legislative. And when it gets infected with whose constituency is going to win, I don't like that. It's very unsatisfying when you realize somebody's voting a certain way for political reasons.''

Powell cites deregulation of the wireless industry and promotion of high-definition TV among his biggest successes. He denies rumors he's poised to step down. There's nothing imminent. The criticism, he adds, ''is not fun. But it's what you're forced to endure to be successful in this job.''

Mr. HOLLINGS. Mr. President, you can see, as they say in this article, that Chairman Powell is defiant. He says that it would spawn chaos. It wasn't chaos. We had some competition. In fact, Senator MCCAIN and I are trying to reregulate the radio stations, bring them back and do away with the ownership and make them divest to a certain number. But he says the commissioners now ought to have the

views of the public. That is very interesting.

Mr. President, now Michael Powell is going to have a task force designed to prevent any media company from having excess power over competition or viewpoints.

He does that after two of the commissioners begged for public hearings. They literally begged. They were told they did not have money enough, and they could only hold one hearing. That hearing was held in Richmond.

From their own particular little budget, they had 13 hearings. Now a firestorm has erupted. You not only have the National Rifle Association and consumer groups, but you have the people of authority and respect such as Walter Cronkite and Barry Diller. You can go right on down the list all saying this is the worst thing that could possibly happen.

The interesting thing is that Commissioner Powell says they have ''produced a balanced structural rule faithful to the directors of Congress.'' Total, total applesauce—applesauce and baloney. I can tell you that we begged and we coached. I thought maybe it was a personality difference.

I get along with his father, Secretary Powell. In fact, he and I received honorary degrees at Tuskeegee together. He calls me Dr. Hollings. I call him Dr. Powell. I have provided him every red cent he has ever wanted for State Department appropriations as Secretary of State. I have that particular appropriations.

But Michael Powell is a different character entirely. He is very competent, very smart, and very intelligent, but not a regulator. He just believes that the public interest is an empty vessel and the market forces should control. When he says ''faithful to the directors of Congress,'' that is exactly what he has not been. He has been totally unfaithful. We begged him to hold up the order.

This particular reference in the order itself shows that he thinks they need big hearings on localism. Why didn't he hold up the order before he had the task force, before he had the hearings? The task force will make legislative recommendations to Congress to strengthen localism. We fought like tigers to try to get him to listen, and he just absolutely would not listen.

Mr. President, quoting from this morning's Wall Street Journal:

> Entertainment giants such as Viacom, NBC parent General Electric Co. and Walt Disney Co., which owns ABC, now reach more than 50 percent of the prime-time television audience through their combined broadcast and cable outlets. The total rises to 80 percent, if you include the parents of newer networks—such as News Corp.'s FOX and AOL, Time-Warner, Inc.'s WB—and NBC's pending acquisition of Vivendi Universal SA's cable assets, estimates Tom Wolzien, an analyst at Sanford C. Bernstein & Co.
>
> The big media companies are quietly recreating the ''old programming oligopoly'' of the pre-cable era, notes Mr. Wolzien, a former executive of NBC. Of the top 25 cable channels, 20 are now owned by 1 of the big 5 media companies.

They own each other. You talk to Chairman Powell, and he says, Look, cable is going to be taken over and there won't be any free broadcast. The free broadcaster is the one who owns the cable. He is totally off base. He just will not regulate. An order for localism is a sham and a farce. The American people ought to understand it and they ought to understand why we do not have the support of the National Association of Broadcasters. They want to enhance the value of their individual stations. They see if you can get the cross-ownership, the value of their station locally. One of the big oligarchies will give an inordinate price and they can go to Virginia Beach, the sun, take it easy, and will not have to worry.

I appreciate the indulgence of the Senate at this late hour. I only ask that you give close attention to the bipartisan Dorgan-Lott resolution, that we disapprove it, and put us back to where we were before they started a feeding frenzy, according to all the stockbrokers in the market in New York, ready to buy up all the rest of the stations as soon as it becomes effective. It has been stayed by the court. Rather than causing chaos, it will bring us back and maybe we can find out from the task force of localism, of Chairman Powell, what really needs to be done, what the public interest is.

I yield the floor.

MORNING BUSINESS

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

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

CONGRATULATIONS ON 50 YEARS OF SERVICE

Mr. DASCHLE. Mr. President, today I would like to congratulate Chapter 0336 of the National Association of Retired Federal Employees, NARFE, on the occasion of its 50th anniversary.

Fifty years ago, Chapter 0336 was formed by 17 NARFE members in Rapid City, SD. Today, the chapter's membership has grown to include over 200 persons. As many of my colleagues know, NARFE has been instrumental in protecting the rights of retired Federal and civilian employees.

The importance of Federal employees is well illustrated by the overwhelming majority of those in the Chamber today. Federal and civilian employment is an essential component of governmental efficiency. These employees are the backbone of our great country, and those who devote their lives to public service deserve to know that they will retire with dignity.

By acting as an advocate for these retirees, NARFE not only ensures that retirees receive the benefits that were promised to them but also aims to improve future conditions for current Federal and civilian employees. The years of experience on Capitol Hill and in Federal agencies have made NARFE a name respected by Members of Congress and a key player in the Federal community.

Throughout my congressional career, NARFE offices across my State have contacted me on numerous occasions urging me to support legislation beneficial to those who helped strengthen our country over the past decades. Its members have always been forthright in suggesting legislative remedies for their problems—I appreciate that.

Again, I wish to extend my congratulations to all involved in making this momentous occasion possible, and I look forward to working closely with Chapter 0336 and other NARFE offices well into the future.

THE AL NEUHARTH MEDIA CENTER

Mr. DASCHLE. Mr. President, today I would like to salute a great American and South Dakotan, Mr. Al Neuharth. As the founder of USA Today, former chief executive officer of Gannett New Service, and founder of the Freedom Forum, he has made immeasurable contributions to our understanding of the world.

Mr. Neuharth's commitment to free speech and the press began with a paper route in Eureka, SD, when he was 11 years old. Al continued to work in local media throughout his youth, later in the composing room at the weekly Alpena Journal in neighboring Alpena. Following his service in World War II, Al returned home to South Dakota, graduating from the University of South Dakota in 1950 with a degree in journalism.

Upon graduation, Al Neuharth began what would be a historic career in print media. He began working for the Associated Press in Sioux Falls, SD, as a reporter and soon launched his first publication, a statewide weekly tabloid called SoDak Sports. While SoDak Sports would not prove to be his most successful venture, Mr. Neuharth pressed forward as a journalist. In 1954, he became a reporter at the Miami Herald, quickly ascending the ranks, and in 1960 he was named assistant executive editor of the Detroit Free Press. This remarkable success demonstrates that Al's talent for straight truth and love of communication was visible to all who worked with him. In 1963, Neuharth began his career with Gannett News Service as the general manager of its two Rochester, NY, newspapers. Only 7 years later he was named president and chief executive officer of Gannett News Service, a position he held until his retirement in 1989. Under Al's leadership, the company launched USA Today in 1980—the first national daily newspaper—and their reputation for quality journalism has grown each year since.

Upon retiring from Gannett News Service, Al Neuharth founded the Freedom Forum in 1991 and has since dedicated his work to the pursuit of ''free press, free speech, and free spirit for all people.'' I have had the pleasure of working with Al on many occasions and have seen his genuine commitment to preserving free expression for all Americans.

In addition to his ongoing efforts to preserve free speech, Al Neuharth has also dedicated both time and treasure to his hometown of Eureka, SD, and has never forgotten his South Dakota roots. Most notably, he contributed greatly to the Eureka Information Center. This center houses community nonprofits and civic organizations, providing a space for the involvement and dialogue that strengthens small towns.

On September 25, 2003, Mr. Neuharth's alma mater, the University of South Dakota, will dedicate its Al Neuharth Media Center. This center, funded by the Freedom Foundation and the University Foundation, will house the Freedom Foundation's regional offices, South Dakota Public Broadcasting, the University's Department of Contemporary Media and Journalism, the Native American Journalists Association, the University's publication The Volante, campus radio station KAOR and television station KYOT.

Freedom of the press is an essential component of America's experiment in democracy and one of the principal reasons the experiment has succeeded. By training future journalists and defenders of the first amendment, the Neuharth Media Center will convey Al's passion for free speech and help ensure that this great experiment in democracy will be preserved for generations to come.

I am proud to honor Al Neuharth and the University of South Dakota Neuharth Media Center and proud to know Al Neuharth.

TRIBUTE TO GOVERNOR O'BANNON

Mr. LUGAR. Mr. President, it is my sad duty today to inform the Senate that the State of Indiana has lost its beloved Governor, Frank O'Bannon. He passed away on Saturday at Northwestern Memorial Hospital in Chicago, where he was being treated for a massive stroke suffered five days earlier. He was 73 years old.

All of us in Indiana mourn the loss of this fine man, whose kind and gentle nature had won the hearts of so many Hoosiers over the years. Frank O'Bannon will always be remembered for the warmth and friendliness that were essential elements of his character. He was a true Hoosier.

He and his wife, Judy, had been married 46 years and were part of a close-knit family that includes their three children and five grandchildren. Judy was at his side at the hospital when he passed away. I extend my deepest condolences to Judy, and I know she will draw strength and support from her family and many dear friends.

I consider it a privilege to have known Frank O'Bannon. He grew up in Southern Indiana in the town of Corydon during the 1940s, where he experienced first-hand the special charm of that era captured so wonderfully in the movie Hoosiers. After graduating from Indiana University in 1952, he served in the Air Force, went to law school and then came home to settle down and work as a lawyer and publisher of weekly newspapers.

He was first elected to the Indiana State Senate in 1970 and went on to serve 18 years there—much of it as the Democratic floor leader. He was Lieutenant Governor for 8 years before being elected Governor in 1996 and then re-elected by a wide margin in 2000. He was an optimist by nature, a consensus builder and a man of absolute integrity. I always looked forward to my visits with him. I will miss him greatly.

On Saturday, our Lieutenant Governor, Joe Kernan, was sworn in as Indiana's 48th Governor. He will serve the remainder of Governor O'Bannon's term, until January 2005.

Frank O'Bannon's remains will be buried near other family members in a small cemetery in Corydon. He touched many people in his life. May he rest in peace.

WITHDRAWAL OF THE ESTRADA NOMINATION

Mr. LEAHY. Mr. President, earlier this month the President withdrew the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Colombia Circuit. This was a nomination for a lifetime appointment to the second highest court in the land. The Constitution accords the Senate the duty to make informed judgments for these lifetime appointments to our Federal courts. Senators cannot make informed judgments if the White House stonewalls the Senate.

This withdrawn nomination is another example of the White House's insistence on dividing instead of uniting the American people over the President's decisions for the Federal courts. Ultimately, the nomination was a casualty of that divisive policy. For more than a year, the White House has consistently spurned many private and public bipartisan appeals to resolve this matter by working with the Senate to provide access to requested information. Mr. Estrada's work at the Justice Department was at the core of the administration's claims for his qualification to serve on this court. Despite the questions raised about his work at the Justice Department and the ample precedents from similar document requests involving earlier nominations, this administration decided to stonewall the Senate. This stonewalling, combined with Mr. Estrada's reluctance to answer substantively Senators' questions, prompted this impasse. The White House always had the key to unlock this stalemate.

In the absence of cooperation from the White House, and with the persistence of the White House's stonewalling, Mr. Estrada has concluded that this impasse will continue. He is probably right, and he and his family can now move on with their lives.

In the aftermath of the announcement on September 4, some Republican Members of the Senate have come to the Senate floor and sought out the airwaves to renew their offensive and untrue rhetoric about this nomination. I must take a few moments to set the historical record straight.

First, some Republicans have repeated their false assertion that Democrats opposed Mr. Estrada's nomination because of his ethnicity. That is absurd. In the last Congress, Senate Democrats swiftly acted to confirm six Latino judicial nominees—Christina Armijo, NM; Judge Phillip Martinez, TX; Randy Crane, TX; Judge Jose Martinez, FL; Magistrate Judge Alia Ludlum, TX; and Jose Linares, NJ. During this Congress, Democrats have unanimously supported the confirmation of six other Latino judicial nominees—Edward Prado, Fifth Circuit; Consuelo Callahan, Ninth Circuit; S. James Otero, CA; Cecilia Altonaga, FL; Xavier Rodriguez, TX; and Frank Rodriguez Montalvo, TX. All of these nominees received the unanimous support of the Senators in the Democratic caucus.

Moreover, it was Democrats who worked to clear the nominations of Judge Prado and Judge Callahan to the circuit courts over delays and initial objections from the Republican side of the aisle. Yet some Republican Senators assert that those who opposed Mr. Estrada's confirmation to the circuit court did so ''because he's Hispanic.'' That is obviously false, demeaning and divisive.

These partisans may need to be reminded that, in addition to supporting the confirmation of two other Latinos nominated to the appellate courts by President Bush, Democrats supported the appointment of 11 Latinos nominated by President Clinton to the appellate courts. It was Republicans who blocked three of those Latino circuit court nominees of President Clinton. Those qualified and distinguished Latino nominees were never given hearings by the Republican majority and never allowed to come before the full Senate. They were not opposed through debate and votes in the light of day; instead, their nominations were filibustered and killed by delay, in the dark of night, without any meaningful explanation of any substantive concerns about their nominations. This all begs the rhetorical question: Do the current Republican charges mean that Republicans are anti-Hispanic for having blocked three Hispanic nominees to

the circuit courts and for having opposed, delayed and voted against numerous others nominated by President Clinton? The facts are clear and the facts are indisputable, and the facts belie the false charges that we have heard from some on the other side of the aisle.

Republicans blocked three Latino nominees of President Clinton to the appellate courts from ever receiving a vote: Enrique Moreno, who was nominated to the 5th Circuit; Jorge Rangel, who was nominated to the 5th Circuit; and Christine Arguello, who President Clinton nominated to the 10th Circuit. In addition, Republicans refused to allow votes on three of President Clinton's Hispanic district court nominees, Ricardo Morado, R. Samuel Paz, and Anabelle Rodriguez. Republicans did not allow a hearing or a vote in the Judiciary Committee or on the floor in a cloture vote or confirmation vote on any of these six Latino nominees. I will include for the RECORD a letter from Judge Rangel, a well-regarded nominee of President Clinton, who never received a confirmation vote from the Republican majority at that time.

Republicans did not just block those six Latino judicial nominees of President Clinton from receiving votes, they also dragged their feet on the confirmation of others who were left pending for a long time, often without any public statements identifying the concerns that were delaying those nominees, in contrast to Mr. Estrada's nomination which has been debated in the light of day. When they unsuccessfully filibustered Judge Rosemary Barkett and Judge Richard Paez, were they doing so because the nominees were Hispanic? When they delayed and opposed the confirmation of Judge Sonia Sotomayor, do recent Republican statements mean that they did so because she is Hispanic?

Overall, during President Clinton's tenure, 10 of his more than 30 Hispanic nominees were delayed or blocked from receiving hearings or votes by Republican leaders. The Hispanic judicial nominees denied a vote by Republicans are Moreno, Rangel, Arguello, Morado, Paz, and Rodriguez. The four Hispanic judicial nominees delayed but ultimately confirmed over Republican opposition are Judges Richard Paez, a Mexican-American nominated to the Ninth Circuit; Judge Hilda Tagle, a Mexican-American nominated to the Texas district court; Judge Rosemary Barkett, an immigrant from Mexico nominated to the Eleventh Circuit; and Judge Sonia Sotomayor, whose family hails from Puerto Rico. Of these 10, three waited more than 2 years to receive a vote or were never accorded one. Republicans delayed consideration of the nomination of Judge Richard Paez for more than 1,500 days yes, that is correct, more than 1,500 days and then when he finally did get a vote, 39 Republicans voted against his confirmation to the Ninth Circuit. He was unsuccessfully filibustered by Republicans. Senator SESSIONS moved to indefinitely postpone the vote after we overcame the Republican filibuster, after Judge Paez had been waiting for more than 4 years, and 31 Republicans voted with Senator SESSIONS on that motion after their filibuster failed. Of course, now Republicans have the temerity to assert that it is unprecedented to filibuster a circuit court nomination. What short memories they must believe the American people have. I discussed this in more detail in the CONGRESSIONAL RECORD of February 10, 2003.

The nomination of Judge Hilda Tagle to a District Court seat in Texas was pending before the Senate for 943 days, before Republicans finally allowed her a vote on the floor of the Senate. After failing to defeat her nomination through anonymous delay, not a single Republican explained the delay. Republican delays such as these on Clinton nominees are discussed in more detail in my statements published in the CONGRESSIONAL RECORD on May 1, 2003, as well as in statements about Mr. Estrada's nomination by Senator REID, Senator KENNEDY, Senator SCHUMER and others.

I hope these facts will finally put to rest the untruths that have been manufactured and perpetrated to attack those who opposed the confirmation of Miguel Estrada. For Republicans to claim that those who opposed the Estrada nomination were motivated by anti-Hispanic sentiment is wrong. It is offensive, base and baseless. Indeed, I have spoken about the extensive opposition to the Estrada nomination from Hispanic leaders and organizations. That opposition of Latino leaders from around the country who opposed the Estrada nomination included our colleagues in the Congressional Hispanic Caucus, CHC. According to the CHC scorecard, Mr. Estrada failed most of the factors for their evaluation of judicial nominees. Furthermore, Mr. Estrada told members of the Caucus:

> [H]e has never provided any pro bono legal expertise to the Latino community or organizations. Nor has he ever joined, supported, volunteered for or participated in events of any organizations. Nor has he ever joined, supported, volunteered for or participated in events of any organization dedicated to serving and advancing the Latino community. As an attorney working in government and the private sector, he has never made efforts to open doors of opportunity to Latino law students or junior lawyers . . . [and] he never appealed to his superiors about the importance of making such efforts on behalf of Latinos.

These are just a few of the concerns raised by the Members of the CHC, which are detailed in several statements I have made, including my statements in the CONGRESSIONAL RECORD on February 5, 2003; February 10, 2003; February 24, 2003; February 25, 2003; as well as on July 30, 2003.

Mr. Estrada was also opposed by the Puerto Rican Legal Defense and Education Fund, PRLDEF, a national civil rights organization concerned with advancing the civil and human rights of the Latino community. After interviewing Mr. Estrada, like the CHC, and also reviewing his public record and his reputation, PRLDEF concluded that Mr. Estrada was not sufficiently qualified for a lifetime seat on the nation's second highest court and that, among other concerns about his poor temperament for the job, ''he has not had a demonstrated interest in or any involvement with the organized Hispanic community or Hispanic activities of any kind.'' Their letter was included in the CONGRESSIONAL RECORD and discussed on the dates I just noted. I also included for the CONGRESSIONAL RECORD, the serious concerns raised by the Mexican American Legal Defense and Education Fund, MALDEF, and California La Raza Lawyers, CLRL, which also opposed Mr. Estrada's confirmation. They wrote:

> [I]t is unclear whether he would be fair to Latino plaintiffs as well as others . . . we found evidence that suggests he may not serve as a fair and impartial jurist on allegations brought before him in the areas of racial profiling, immigration, and abusive or improper police practices where those practices are adopted under a 'broken window theory' of law enforcement . . . We have concerns about whether he would fairly review standing issues for organizations representing minority interests, affirmative action programs or claims by low-income consumers. We are also unsure, after a careful view of his record, whether he would fairly protect labor rights of immigrant workers or the rights of minority voters under the Voting Rights Act.

In the CONGRESSIONAL RECORD of February 24, 2003, I also included the announcements of the opposition to this nomination by most of the past Presidents of the Hispanic National Bar Association. In the face of the facts about our confirmation of a dozen Hispanic candidates nominated by President Bush to the circuit or district courts and the breadth and depth of the opposition of most of the Latino civil rights groups, it is astonishing that Republicans continue to assert that those who oppose Mr. Estrada's confirmation are anti-Hispanic. That is such an outright and obvious untruth. Yet we see some of these untruths recycled again and again in news reports and commentaries, despite the facts. These baseless allegations for purposes of wedge politics and partisan advantage are wrong and dangerous.

The facts are that of the 12 Latino appellate judges currently seated on the Federal courts, eight were appointed by President Clinton and two, Judges Prado and Callahan, were nominated by President Bush and confirmed with unanimous Democratic support. I discussed the problems with the Estrada nomination in contrast to the nominations of Judge Prado and Judge Callahan in the CONGRESSIONAL RECORD of April 28, 2003 and May 22, 2003, respectively, as well as in contrast to less controversial district court nominees on March 27, 2003, March 31, 2003, and May 6, 2003.

I have included in the record almost seven dozen editorials or commentaries

in opposition to the Estrada nomination or in support of the Democratic filibuster. Those editorials were mentioned in the CONGRESSIONAL RECORD on March 6, 2003, and April 2, 2003. At the end of my remarks today, I will include excerpts from additional editorials and op-ed columns in opposition to the Estrada nomination or in support of the Democratic filibuster of this nomination. In particular, I note the editorial of The New York Times this week entitled, ''Straight Talk on Judicial Nominees.''

On the issue of the history of the use of filibusters in connection with nominations, some Republicans would now have the public believe that a filibuster of a nominee is, in their words, ''unprecedented.'' This is another deception. As some of these same Republicans well know, they filibustered the nominations of Judge Paez and Judge Berzon on the floor of the Senate in 1999 and 2000, as they conceded at that time. By way of example, I note that several Republicans currently serving voted against cloture, the motion to close debate, after the Paez nomination had been pending before the Senate for more than four years. I have already noted that even after losing the cloture vote, Republicans led by Senator SESSIONS moved to indefinitely postpone a vote on Judge Paez's nomination, and a number of Republican Senators currently serving voted to continue to block action on the Paez nomination in 2000. Yet some Republican Senators now claim that it is unprecedented to filibuster or deny a circuit court nominee an up or down confirmation vote on the Senate floor.

Their filibuster of Judge Paez's nomination is just one example of Republican filibusters of Democratic nominees. Others include Dr. David Satcher to be Surgeon General in 1998; Dr. Henry Foster to be Surgeon General in 1995; Judge H. Lee Sarokin to the Third Circuit in 1994; Ricki Tigert to the Federal Deposit Insurance Corporation in 1994; Derek Shearer to be an Ambassador in 1994; Sam Brown to an ambassador-level position in 1994; Rosemary Barkett, born in Mexico, nominated to the Eleventh Circuit, 1994; Larry Lawrence, to be ambassador in 1994; Janet Napolitano at the Justice Department in 1993; and Walter Dellinger to be Assistant Attorney General for the Office of Legal Counsel at the Justice Department in 1993.

The nominations of Dr. Foster and Mr. Brown were successfully filibustered on the Senate floor by Republicans. Similarly, the nomination of Abe Fortas by President Lyndon B. Johnson to the Supreme Court of the United States was successfully filibustered by Republicans with help from some southern Democrats.

In addition, to the short-term and life-time appointees of Democrats whose nominations were subject to sometimes fatal delay on the floor, Republicans made an art form of killing nominations in Committee so that they would never have a vote on the floor. According to the public record, more than 60 of President Clinton's judicial nominees were defeated by willful refusal to allow them a vote and more than 200 executive branch nominees of President Clinton met the same fate, including several Latinos, with their nominations nixed in the dark of night without any accountability. They were filibustered and never allowed a vote on the Senate floor. I discussed this history in more detail on February 26, 2003, in the CONGRESSIONAL RECORD.

In addition, in the CONGRESSIONAL RECORD on March 5, 2003, March 11, 2003, and March 13, 2003, I summarized the history of filibusters of nominees. I also spoke on May 19, 2003, about the history of Senate debate and the constitutionality of Rule XXII of the Senate rules. The fact of the matter is that many nominees have been blocked from receiving votes throughout the Senate's history. For example, 25 Supreme Court nominees were not confirmed in the history of our Nation. Eleven of those nominations were defeated by delay, not by confirmation votes on the Senate floor, including the nomination of Justice Fortas. Since the early 19th Century, nominees for the highest court and to the lowest short-term post have been defeated by delay, while others were voted down. Not even all of President Washington's nominees were confirmed or those of other presidents, often for political or ideological reasons. Filibusters and other parliamentary tactics to delay matters were known to the Framers. There was even a filibuster in the first Congress over locating the capital.

The plain truth is that Democrats opposed the nomination of Mr. Estrada to the DC Circuit based on serious and legitimate concerns regarding the stonewalling of the Senate by this White House and this nominee. The DC Circuit is the nation's second most important court, because it has exclusive or special jurisdiction over a broad array of far-reaching federal regulations, such as the rights to safe workplaces, fair employment practices, clean air and water, and other important laws—areas with which Mr. Estrada had very little experience.

Republicans lean heavily on the rating of the ABA, a group that Republicans helped oust from the pre-nomination process and a group which ever since then has sometimes seemed overly eager to get back into their good graces. Yet, as Senator REID noted in the CONGRESSIONAL RECORD in February and March of this year, there were certainly irregularities in the rating given to this nominee by the American Bar Association, with the person who recommended a well qualified rating working closely with the Bush administration on high-level appointments and co-founding the Committee for Justice to run attack ads against Democrats, while still serving on the ABA rating committee. Other nominees with similar records did not receive the high rating Mr. Estrada did, in this or past administrations. In fact, people with similar records received partial not qualified ratings, when the process was conducted more fairly and with more candor, and when the candidate did not already have the imprimatur of the President through his nomination.

I would also note that before the hearing on the Estrada nomination, Federalist Society insiders gave a special seminar on how to get through the confirmation process and urged President Bush's judicial nominees to say as little as possible. Mr. Estrada appears to have followed those marching orders to a ''T'' and to his own detriment. During the hearing on his nomination he often refused to answer questions or provided evasive answers. He declined to share his views on important Supreme Court cases and his judicial philosophy. For example, Senator SCHUMER asked Mr. Estrada to name a single case from the entire history of Supreme Court law that he disagreed with, Mr. Estrada refused. He claimed he could not comment on any case if he had not read the briefs, listened to oral argument, done independent research and conferred with colleagues.

Most who knew Mr. Estrada personally seemed to agree that he was actually a very opinionated person. He admitted in his testimony that he could be ''ruthless'' in his criticism of legal and political opinions. Yet, before the Senate Judiciary Committee, he would not describe those views and claimed to have no views he could or would share with the only people entrusted with reviewing his record and recommending his nomination for a lifetime job on the Federal bench.

Then Republicans even tried to assert that it would be unethical for Mr. Estrada to answer questions by Senators. However, the Supreme Court held in 2001 that it does not violate judicial ethics for judicial candidates to comment on legal issues, as long as they do not promise how they will rule. Ironically it was the Republican Party that had sued the State of Minnesota to ensure that their candidates for judicial office could give their views on legal issues without violating judicial ethics, the State counterpart to the ABA model rule. Republicans took the case all the way to the Supreme Court and won. In an opinion by Justice Scalia, the Supreme Court ruled that the ethics code did not prevent candidates for judicial office from expressing their views on cases or legal issues. Justice Scalia said that anyone coming to a judgeship is bound to have opinions about legal issues and the law, and there is nothing improper about expressing them. Specifically, in *Republican Party of Minnesota* v. *White*, 122 S. Ct. 2528 (2002), the Supreme Court overruled ABA modeled restrictions against candidates for judicial office from expressing their views on legal issues while seeking judicial office. Justice

Scalia explained in that majority opinion:

> Even if it were possible to select judges who do not have preconceived views on legal issues, it would hardly be desirable to do so. ''Proof that a Justice's mind at the time he joined the Court was complete tabula rasa in the area of constitutional adjudication would be evidence of lack of qualification, not lack of bias.''. . . And since avoiding judicial preconceptions on legal issues is neither possible nor desirable, pretending otherwise by attempting to preserve the ''appearance'' of that type of impartiality can hardly be a compelling state interest either.

Id. at 2536 (quoting Justice Rehnquist's opinion in *Laird* v. *Tatum*, 409 U.S. 824 (1972)).

Judicial ethical rules do not prevent Senators from learning about a judicial candidate's views. Senators are trying to evaluate whether a nominee should be given a lifetime position, and the Senate hearing room should not be the only place where a judicial candidate cannot or will not discuss his views of the law and his opinions.

Especially problematic was the stand taken by the administration on the Senate's request to examine the memoranda written by Mr. Estrada at the Justice Department. Because Mr. Estrada has no record and because his impartiality was called into question by one of his direct supervisors at the Justice Department, these memoranda would have provided important insights into Mr. Estrada's approach to issues involving individual rights and the weight of precedent. I discussed the precedent for this request in my remarks reprinted in the CONGRESSIONAL RECORD of February 5, 2003; February 12, 2003; February 13, 2003; March 5, 2003; March 18, 2003; and May 8, 2003. Senator DURBIN and Senator KENNEDY also addressed this issue at length in their remarks. History makes clear that internal legal memos were requested and provided to the Senate in connection with, among others, the nominations of Robert Bork to the Supreme Court, Brad Reynolds to be Associate Attorney General, William Rehnquist to the Supreme Court, Stephen Trott to the Ninth Circuit, and Ben Civiletti to be Attorney General. In each of these appointments, internal legal memos to or from the nominees were requested and provided to the Senate.

Basically, the Bush administration's response to our request has been contemptuous from the beginning. The initial response of the Justice Department was that the request was unprecedented. That is abundantly inaccurate. This administration has itself shared White House Counsel records in connection with a nomination. There is simply no legal or historical basis for denying the Senate access to the memoranda requested here. The historical precedent for the Senate's request actually supports it. Scores of legal memos to and from Robert Bork when he was Solicitor General were provided to the Senate during his judicial nomination. Walter Dellinger himself advised the Senate during Justice Rehnquist's judicial nomination when he reviewed memos provided to the Senate by the Justice Department which were written by and to Rehnquist when he was the head of the Office of Legal Counsel. Indeed, the long-standing policy of the Justice Department, prior to this administration, regarding Congressional requests for memos and other non-public information was a ''policy of accommodation.'' Former administrations cooperated with countless requests for internal documents sought by Members of Congress as well as more recently by Kenneth Starr, who sought and obtained documents containing the advice of the President's attorneys and closest advisors.

The administration also objected that some other Justice Department attorneys who have been nominated to other positions were not the subject of memo requests. However, they fail to acknowledge that those nominees were not the subject of allegations by their supervisor of many years that they could not keep their ideological views out of their memos and their work for the Department, unlike Miguel Estrada. The fact that the Senate does not always request such memos does not diminish its power to do so and the precedent to request such documents when Senators believe it is important to examine them. Indeed, the Senate would be abdicating its responsibilities to serve as a check on nominations if it had ignored the serious concerns raised about Mr. Estrada's writings before giving him a lifetime appointment as a judge with immense power over the lives of all Americans. Mr. Estrada told the Senate that he was proud of his writings and that he did not object to their being shared with the Senate but the administration refused every attempt at compromise. Additionally, as Republicans readily admitted when a Democrat was in the White House, it has been the long-standing practice of the Senate not to recognize attorney-client, work-product, or deliberative process privilege claims.

As for the generic claim that people working for the federal government in the Solicitor General's office would be chilled from candidly expressing their views, it seems unlikely that Mr. Estrada was chilled by the revelation of legal memoranda during the Bork, Rehnquist, Trott and Reynolds nominations in the few years before he joined the Solicitor General's office. Indeed, as the Supreme Court noted in the Nixon tapes case, it is quite unlikely ''that advisors will be moved to temper the candor of their remarks by the infrequent occasions of disclosure.'' *U.S.* v. *Nixon*, 418 U.S. 683 at 712, 1974. Thus, while the desire for candor in the Executive Branch may be strong, it is not an absolute right against disclosure in response to requests from a coequal branch pursuant to its express powers under the Constitution.

In my previous statements on the floor of the Senate about the document request, I have put into the record numerous examples of legal memos provided to the Senate by other administrations, so I will not list them again. I will only say that it is clear to me and other Senators who have examined the record or remember the history that past requests of the Senate for legal memos from the Justice Department were honored, that many of these memos involved decisions about appealing cases or other significant legal or policy issues, that these memos were written by line attorneys to the Solicitor General as well as by the Solicitor General or Assistant Attorney General, that some memos were provided on a confidential basis while others were made public and placed in hearing records and other congressional documents, and that all these claims about this request being unprecedented are just so much false rhetoric. Congress was not required to stumble in the dark in connection with other nominations where memos were sought, and I am glad that the Senate did not cave in here, despite all of the attacks, intimidation and false claims the Bush administration and its allies have made.

In sum, this administration treated the concerns of members of this coequal branch with contempt at nearly every turn. As I stated at the outset of this debate, I would have welcomed a record on which I could have had strong confidence about the type of judge Mr. Estrada would be. Senators were denied adequate information to make an informed judgment about whether to entrust this nominee with the powerful position to which he was nominated. As I mentioned in the CONGRESSIONAL RECORD of July 30, 2003, it is regrettable that this Administration did not choose to cooperate and act in good faith in this nomination and instead sought to use this nominee as a pawn in its high stakes game of wedge politics. I am certain that this process must have been a difficult one for Mr. Estrada and his family. It is too bad that White House and Justice Department advisors did not follow the approach they took with another Bush nominee, Jeffrey Holmstead who was nominated to the EPA, and whose White House Counsel's Office memos this very administration shared with the Senate in order to accommodate the concerns of Senators. Instead, the Administration ignored precedent and common sense in stonewalling the Senate, ignored the suggestions of compromise by Republican and Democratic Senators, and chose the path and the tactics of unilateralism.

As I mentioned, earlier this year, on March 6, and April 2, 2003, I placed into the record excerpts from 45 editorials and 34 op-eds in support of the position of Democratic Senators on the nomination of Mr. Miguel Estrada's nomination to the Court of the Appeals for D.C. Circuit, because Republicans had been asserting that there were only a few editorials or op-eds in support of our concerns. Here are some excerpts

from 14 additional editorials or op-eds expressing concerns about Mr. Estrada's nomination, bringing the total to nearly 100. This controversial nomination clearly divided, rather than united, the American people. I ask unanimous consent to print in the RECORD excerpts of 11 recent editorials and 3 op-eds, as well as the New York Times piece entitled ''Straight Talk on Judicial Nominees.''

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

Straight Talk on Judicial Nominees, The New York Times, September 10, 2003: ''When Miguel Estrada withdrew his nomination for a federal judgeship last week, his backers blamed anti-Hispanic bias. Republicans are regularly tossing around such charges over judicial nomination setbacks, calling them anti-Hispanic, anti-Catholic, anti-woman. But these battles have been over ideology, and the scope of the Senate's questioning of nominees. The name-calling is puerile and divisive . . . [S]ome of the stiffest opposition to Mr. Estrada . . . came from Hispanic leaders, including the Congressional Hispanic Caucus. And while many Democratic senators opposed Mr. Estrada, they have voted to confirm 12 of President Bush's other Hispanic judicial nominees. The Republicans' record is worse. In the Clinton era, they denied confirmation votes to six Hispanic judicial nominees, and delayed others for years. Jorge Rangel, who went 15 months without a hearing on his federal appeals court nomination, wrote to Senate Democrats last week to ask where Republican senators' ''cry for diversity on the bench'' was when he was forced to withdraw in 1998. . . . Diversity is not the only issue on which Republicans are not talking straight. During the Clinton administration, prominent Republicans argued that there were too many judges on the District of Columbia Circuit, and opposed Clinton nominees on the grounds that confirming them would be a waste of tax dollars. But now that a Republican president is nominating people like Mr. Estrada to the court, these objections to its size have withered.''

No Tears Needed Over Estrada's Withdrawal, The Post-Standard (Syracuse, NY), September 7, 2003: ''Conservatives engaged in over-the-top condemnation of Estrada's opposition after he resigned. Bush called Estrada's treatment disgraceful. Senate Majority Leader Bill Frist, R-Tenn., called it a shameful moment in the history of this great institution. Hardly. Never mind that conservatives have done the same thing to liberal nominees. Estrada, however, was secretive about his views, refusing to answer many questions the Senate needed to evaluate him. The Senate wisely declined to rubber-stamp him for such a key post. Also troubling was the GOP claim that Democrats were anti-Hispanic for rejecting Estrada. Fact is that most Hispanic leaders also rejected Estrada, believing his views were too conservative and detrimental to Hispanics, as well.''

Estrada Was a Bad Pick, Capital Times (Madison, WI), September 5, 2003: ''When the president nominates responsible conservatives to fill judicial vacancies, they are approved with little trouble. When he nominates judicial activists who put their politics above the law, however, they run into trouble. That's what happened with Estrada. America has been well served by the senators who blocked this bad nomination.''

Estrada is Out: Perhaps Future Federal Judicial Nominees Will Be More Cooperative, Omaha World Herald (Nebraska), September 5, 2003: ''His refusal to discuss such basics as his views of federalism vs. states, prerogatives, for instance, was disturbing because it was virtually impossible to assess his fitness for the job. It's unfortunate that his legal practice and his family life were disrupted in such a manner. . . . But senators concerned about the federal judiciary could hardly do less when they knew so little about him.''

Miguel Estrada Bows Out, The New York Times, (September 5, 2003: ''The Constitution requires not only the Senate's consent but also its advice, and it is on this score that the Bush administration has been most recalcitrant. The White House has resisted Senate Democrats' requests to be brought into the process earlier. If the administration insists on having conservative ideologues choose its judicial nominees in secret, it should not be surprised when Mr. Estrada, and others like him, fail to be confirmed.''

Estrada Case Shows How Not to Nominate a Judge, Newsday (New York), September 11, 2003: ''Bush should have advised Estrada not to stonewall legitimate Senate inquiries. And he should have allowed senators a look at Estrada's legal writings from his time in the solicitor general's office. Lacking any real sense of what Estrada thinks about the legal issues of the day, senators were right to block his appointment to the powerful U.S. Circuit Court of Appeals for the District of Columbia. Stealth nominees shouldn't be rewarded with lifetime jobs on the federal bench. Neither should nominees with ideologies outside the broad mainstream of political thought, like the handful currently being blocked, as Estrada was, by Democratic filibusters.''

A Shame, But Nothing New, Columbus Ledger-Enquirer, September 9, 2003: ''In fact, Congress has both the right and the duty to advise and consent—not merely to obstruct, and not merely to rubber-stamp. And maybe it shouldn't be enough that a nominee is 'qualified' in a nominal sense, if his or her ideology or interpretation of the Constitution should strike a lawmaker as outrageous or unconscionable.''

Bush Team Should Look In The Mirror, The Berkshire Eagle, September 8, 2003: ''The White House can fume all it wants at the Democrats whose Senate filibuster blocked the nomination of Miguel Estrada to the powerful U.S. Court of Appeals for Washington, D.C. but if it truly wants to find the source of the blame for the failed nomination it should look in the mirror. The Bush administration's penchant for secrecy, contempt for the legislative branch of government and determination to force radical justices onto the courts, doomed the nomination from the start.

Some Judicial Picks Aren't Lightning Rods, San Antonio Express-News, September 6, 2003: ''When presidents insist on nominating strongly ideological candidates to the judiciary, they provoke this kind of frustrating action. Republicans bottled up a full 60 percent of President Clinton's nominees. The Senate Judiciary Committee never voted on two of his choices for the D.C. appeals court.''

Democrats Mustn't Allow Bush to Pack Courts With Extremists, Charleston Gazette (West Virginia), August 10, 2003: ''As for the others, Democrats would be remiss in exercising their ''advice and consent'' responsibility if they did not block Pryor, Owen and Kuhl. All have records of ideological extremism inconsistent with respect for tolerance and diversity. . . . Republicans and Democrats share blame for the rancorous standoff—one that the president has shown no inclination to ameliorate despite suggestions that he confer with the minority party, as other presidents have done, to seek their advice on his candidates. The Democrats' filibuster is our only hope that this administration won't pack the courts with judges eager to reverse precedents that reflect the American mainstream.''

When All Else Fails, Throw Mud, It Might Stick, Roanoke Times & World News, August 6, 2003: ''When far-right appellate candidate Miguel Estrada failed to get through, it was a case of anti-Hispanic bias, they claimed. . . . The charges might be humorous if not for their potential harm to the public sphere. Most immediately, the threat is that they would actually succeed in their purpose, mislead Americans into an uproar and pressure Democrats to abandon opposition for which they had valid reason: Each of the candidates had either an extremist record or, in Estrada's case, little record at all and no inclination to enlighten the Senate on his views. Over the longer term, the danger is that repeated false accusations such as these, however ludicrous, will provoke ethnic and sectarian divisions as well as increase cynicism among the many Americans already estranged from the political process.''

Estrada's Dream Lost Out to King's, Mary Sanchez, Kansas City Star, September 9, 2003: ''The cries from Senate Republicans came quickly and were not so thinly veiled. Appalled, several accused their filibustering colleagues of bias against Hispanics. It is not that some members of the Senate don't want Hispanic nominees. They just didn't want this Hispanic nominee. The facts do not support the accusation of bias.''

Bush's 'Good Hispanic' Has Telling Record, Cindy Rodriguez, Denver Post, September 5, 2003: ''Bush hoped the 38 million Latinos across the country would cheer his pick. Bush's people depicted Estrada as a humble immigrant from Honduras who struggled, learned English, then made his way into Columbia University, then Harvard Law School. That's what we call una gran mentira. A big lie.''

Dem's Judicial Objections Valid, Richard J. Condon, Seattle Post-Intelligencer, August 7, 2003: ''Miguel Estrada refused to answer pertinent questions about his judicial philosophy and the Bush administration refused to provide significant background on Estrada's judicial work; Estrada has never served as an appellate judge. Democrats rightly view that the Senate cannot ''advise and consent'' to a nomination without substantive information to support the nominees' qualifications for the bench. Although Bush seems willing to wait until after Estrada is confirmed to a lifetime appointment to the federal appellate bench to measure his qualifications, I agree with Senate Democrats that it is prudent to get that issue resolved beforehand.''

In addition, there have been many dozen letters to the editor submitted and published in opposition to editorials or reports supporting the Republican position on this nomination. Here is just a few recent examples of many letters from across the country:

Scrutiny In Order, Amanda S. Mattingly, Argus Leader (Sioux Falls, SD), May 29, 2003: ''In South Dakota, we would never hire anyone for a job without an interview or an application. That simply makes no sense. Yet, that is exactly what people want done with Miguel Estrada. Estrada has failed to provide the Senate with even the most basic information. A federal judgeship is a lifetime appointment. That means they can't ever be fired. It seems incredibly irresponsible to hire someone for a lifetime job without knowing everything about them.''

A Perfectly Appropriate Filibuster, George Immerwahr, Christian Science Monitor (Boston, MA), September 9, 2003: ''What was so bad about the Senate Democrats' filibuster to deny Estrada's confirmation? Over the

course of a four-year term, a president will submit a great number of nominees to the Senate. Most of them are readily confirmed by large majorities, some even with the unanimous vote of each party. So when a nominee refuses, as this one did, to answer key questions, the opposition party's use of legitimate ways to reject him is far from improper.''

A Judicial Nominee, Derailed, Shirley Zempel, The New York Times, September 6, 2003: ''Should our senators blindly vote to approve a nomination without knowing all that they need to know about him? I hope not. All information should be available for scrutiny.''

A Judicial Nominee, Derailed, Harold House, The New York Times, September 6, 2003: ''A more cynical view may be that the Bush administration simply put Miguel Estrada forth knowing that the combination of his views and the stonewalling for information would cause the delay and resultant fight. Could this have been nothing more than a talking point in a Republican effort to fractionalize Hispanic voters?''

Checks, Balances Fulfilled Objective, D.B. Decot, The Arizona Republic, September 7, 2003: ''Our system was deliberately designed to enable the minority to thwart the tryanny of the majority as it deemed necessary. The Senate gave its 'advice' on Estrada; a sufficient number did not 'consent' to his lifetime appointment to the federal bench. So the Bush administration has to go back to the drawing board and nominate someone who is able to gain the ''consent'' of at least 60 senators. Big deal. There are plenty of qualified prospects who are not extremists, as Estrada is.''

Schumer Made His Case, Carol Jigarjian, The Journal News (Westchester County, NY), July 31, 2003: ''The Bush people are still whining about delayed approval for federal judges and promoting the canard that Estrada is being opposed because he is Hispanic. Estrada is being opposed because, during his hearings, he refused to answer questions about whether his ideology would get in the way of the objectivity required of a federal judge. Bush compounded the problem by refusing to release information he has regarding Miguel Estrada's judicial positions. Estrada's silence and Bush's refusal to release pertinent and critical information on Estrada's views raise justifiable suspicion that this is just one more attempt by Bush to get a committed radical appointed to a powerful lifetime position, under the radar.''

Uncover His Record, Evelyn J. Griesse, Argus Leader (Sioux Falls, SD), June 11, 2003: ''Our justice system needs to be filled with qualified judges who are at least comfortable with having the public informed of their philosophy and interpretation of the Constitution. To Estrada, I say, let the light shine on his record.''

Supreme Struggle: Advise and Consent Require Elucidation, Josh Hayes, The Seattle Times, September 4, 2003: ''And sure, the Republican-controlled Senate did not use the filibuster to block Bill Clinton's nominees, because they were in the majority and could deep-six them without resort to a filibuster and of course, they did. . . . [Estrada] declines to answer any questions about his legal philosophy. How can a senator claim, in good conscience, to ''advise and consent'' on an appointment when the candidate is a complete blank? His ethnic background is, of course, irrelevant, or is Korrell suggesting we need a quota system on the federal bench? (And if you want to make it an issue, it's worth pointing out that the Mexican-American Legal Defense Fund (MALDEF) opposes Estrada's appointment.)''

A Judicial Nominee, Derailed, Richard Cho, The New York Times, September 6, 2003: ''It seems clear that survival for the Democrats will have to come from outside the game of party politics. They must hope that Hispanic-Americans can see through the Republicans' shallow use of racial politics to overshadow their utter lack of commitment to real issues, like job creation, health care and immigration issues.''

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

[From the New York Times, Sept. 10, 2003]

STRAIGHT TALK ON JUDICIAL NOMINEES

When Miguel Estrada withdrew his nomination for a federal judgeship last week, his backers blamed anti-Hispanic bias. Republicans are regularly tossing around such charges over judicial nomination setbacks, calling them anti-Hispanic, anti-Catholic, anti-woman. But these battles have been over ideology, and the scope of the Senate's questioning of nominees. The name-calling is puerile and divisive. The administration and its supporters should argue for their nominees on the merits.

The House majority leader, Tom DeLay, called the effort to defeat Mr. Estrada a ''political hate crime.'' Yet some of the stiffest opposition to Mr. Estrada, who was nominated to the United States Court of Appeals for the District of Columbia Circuit, came from Hispanic leaders, including the Congressional Hispanic Caucus. And while many Democratic senators opposed Mr. Estrada, they have voted to confirm 12 of President Bush's other Hispanic judicial nominees.

The Republicans' record is worse. In the Clinton era, they denied confirmation votes to six Hispanic judicial nominees, and delayed others for years. Jorge Rangel, who went 15 months without a hearing on his federal appeals court nomination, wrote to Senate Democrats last week to ask where Republican Senators' ''cry for diversity on the bench'' was when he was forced to withdraw in 1998.

Hispanic leaders did not oppose Mr. Estrada because he is Hispanic. Catholic senators like Richard Durbin and Patrick Leahy do not oppose William Pryor, a nominee to the United States Court of Appeals for the 11th Circuit, because he is Catholic. Senators Dianne Feinstein and Barbara Boxer do not oppose Priscilla Owen, a nominee to the United States Court of Appeals for the 5th Circuit, because she is a woman. Mr. Estrada would not answer Senators' questions. Mr. Pryor and Ms. Owens have met resistance for their archconservative views.

Diversity is not the only issue on which Republicans are not talking straight. During the Clinton administration, prominent Republicans argued that there were too many judges on the District of Columbia Circuit, and opposed Clinton nominees on the grounds that confirming them would be a waste of tax dollars. But now that a Republican president is nominating people like Mr. Estrada to the court, these objections to its size have withered.

Charing discrimination may score political points, but the confirmation of federal judges is too important to be treated so cynically. Republican and Democratic senators know what they are fighting over: legitimate disagreements over how to interpret the Constitution and define the role of a federal judge. They owe it to the American people to be honest about their differences.

Mr. LEAHY. I ask unanimous consent to print the following correspondence from Jorge C. Rangel which I earlier referenced.

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

THE RANGEL LAW FIRM, P.C.,
Corpus Christi, TX, September 5, 2003.

Hon. PATRICK LEAHY,
Russell Senate Office Building,
Washington, DC.

Hon. CHARLES SCHUMER,
Hart Senate Office Building,
Washington, DC.

DEAR CHAIRMAN LEAHY AND SENATOR SCHUMER: Where was the outrage from your Republican colleagues when Enrique Moreno and I were denied the courtesy of a hearing on our nominations? Where was their disappointment and cry for diversity on the bench when I was compelled to submit the enclosed letter withdrawing my nomination to the Fifth Circuit? The American people deserve better.

Your truly,

JORGE C. RANGEL.

JORGE C. RANGEL,
October 22, 1998.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Fifteen months ago, you nominated me to the United States Court of Appeals for the Fifth Circuit. I enthusiastically welcomed the nomination and eagerly awaited a hearing before the Judiciary Committee of the United States Senate to have my qualifications reviewed. I patiently waited for months, but I never received a hearing. My nomination died when the Senate adjourned yesterday.

Our judicial system depends on men and women of good will who agree to serve when asked to do so. But, public service asks too much when those of us who answer the call to service are subjected to a confirmation process dominated by interminable delays and inaction. Patience has its virtues, but it also has its limits.

Many friends and colleagues have urged me to stay in the process by requesting that my name be resubmitted to the Senate next year. Even if you were to decide to renominate me, I have no reason to believe that the Senate would act promptly on the nomination. I am not willing to prolong the continued uncertainty and state of limbo in which I find myself. As a professional, I can no longer postpone important decisions attendant to my law practice.

Therefore, I would ask that you *not* resubmit my nomination next year. There is a season for everything, and the time has come for my family to get on with our lives and for me to get on with my work.

Thank you for your trust and confidence in nominating me to the Fifth Circuit. I pray that you will continue to recognize and honor the diversity that is America, so that, one day, our great country can realize its full potential.

Yours truly,

JORGE C. RANGEL.

THE ASSAULT WEAPONS BAN

Mr. LEVIN. Mr. President, in 1994, I supported legislation that President Clinton signed into law banning the production of certain semiautomatic assault weapons and high-capacity ammunition magazines. The 1994 law banned a list of 19 specific weapons as well as a number of other weapons incorporating certain design characteristics such as pistol grips, folding stocks, bayonet mounts, and flash suppressors. The 1994 assault weapons ban prohibited the manufacture of semiautomatic weapons that incorporate at least two

of these military features and accept a detachable magazine. Pre-existing military-style semiautomatic weapons were not banned. This law is scheduled to sunset on September 13, 2004.

Last week the Educational Fund to Stop Gun Violence released a report entitled ''Killing Machines: The Case for Banning Assault Weapons.'' This report explains why assault weapons are the guns of choice for criminals, and makes the case for renewing and strengthening the federal assault weapons ban. Also last week, the Consumer Federation of America announced its support for the reauthorization of the assault weapons ban. Former Senator Howard Metzenbaum and Sonia Wills, mother of bus driver Conrad Johnson, the last victim of the Washington, DC-area sniper attacks, were joined by CFA and 25 state consumer, gun safety, and public health advocates to announce the beginning of a year-long effort to renew and strengthen the federal assault weapons ban. I commend all of these individuals for their commitment to gun safety, and I look forward to working with them and other gun safety groups to reauthorize the assault weapons ban.

Earlier this year, Senator FEINSTEIN introduced the Assault Weapons Ban Reauthorization Act, which would reauthorize this important piece of gun safety legislation. I am a cosponsor of this bill because I believe it is critical that we keep these weapons off the streets and out of our communities. If the law is not reauthorized, the production of assault weapons in the U.S. can legally resume. Restarting production of these weapons will increase their number and availability, and I believe lead to a rise in gun crimes committed with assault weapons.

Although President Bush has indicated his support for renewing the ban, he has not yet taken action on its behalf. A spokesperson for House Majority Leader TOM DELAY recently said, ''We have no intentions of bringing it up.'' I hope the President will take steps to urge the Congress to take up and reauthorize the bill.

AN AGROTERRORIST ATTACK—ARE WE PREPARED?

Mr. AKAKA. Mr. President, I rise today to discuss the need for greater preparation to protect our agriculture from a terrorist attack.

After September 11, the President placed agriculture on the list of critical infrastructure that deserved to be protected from an agroterrorist attack. Since then, the U.S. Department of Agriculture, USDA, has moved to improve our preparedness to prevent and respond to an attack upon our agriculture. The President's February 2003 ''National Strategy for the Physical Protection of Critical Infrastructures and Key Assets'' also outlines a strategy for increasing our ability to react to an agroterrorist attack. Yet, we still have a long way to go in protecting our agriculture industry.

There has been a steady drumbeat of warnings about the vulnerability of our agriculture. Two major studies were recently released that concluded we should do more to guard our agriculture. The Council on Foreign Relations, CFR, published a report on our emergency response capability that said we lacked an effective response to an attack on our national food supply. The report recommended spending an additional $2.1 billion over the next 5 years to improve our ''animal/agricultural'' emergency response.

On the heels of the CFR report, the Partnership for Public Service issued a study that examined whether the Federal Government has the necessary expertise to defend against a bioterrorist attack. In regards to agricultural security, it said that federal agencies responsible for safeguarding our agriculture and food supply from bioweapons would face ''crushing burdens'' if our food and water supplies were contaminated.

These are just the most recent reports that recommend we need to do more to increase our guard. Last fall, the National Academy of Sciences published a major study on vulnerability of U.S. agriculture. The General Accounting Office, GAO, has issued three reports in the last year that looked at food processing security, foot and mouth disease, and mad cow disease. All suggested that we still have a way to go to prevent or prepare for an attack on our agriculture.

An attack on our agriculture could have serious consequences. Agricultural activity accounts for approximately 13 percent of the U.S. gross domestic product and nearly 17 percent of domestic employment. The United States is a top producer and exporter of agricultural goods, including beef, pork, poultry, wheat, corn and soybeans. Major agricultural States could be severely affected depending on the nature of the attack.

States with large cattle herds could be devastated by a deliberately set outbreak of foot and mouth disease. There were over 96 million cattle and calves in the United States valued at some $70 billion in 2003. Texas has the largest number by far, 14 million animals, and could be particularly hard hit. In 2001, the cattle industry generated $6.8 billion in income for Texas. The breeding herd of beef cows is particularly concentrated in Kansas, Kentucky, Missouri, Montana, Nebraska, Oklahoma, South Dakota, Tennessee, and Texas, with each State having have more than a million head of beef cows.

Dairy States could also suffer. The United States has over nine million milk cows that produce almost $25 billion in income. California and Wisconsin are the largest producers. Both have more than a million milk cows that yield close to $8 billion in income. But a number of States—Idaho, Iowa, Michigan, Minnesota, New Mexico, New York, Ohio, Pennsylvania, Texas, and Washington each have more than 200,000 cows, contributing substantially to their economies.

Hog-raising States also could be vulnerable to the spread of foot-and-mouth disease, or to an outbreak of African swine fever. The United States had almost 60 million hogs and pigs valued at over $4 billion dollars in 2002. Iowa has the largest industry with more than 15 million animals valued at over a billion dollars. North Carolina is next with some 9.6 million animals valued at a half a billion dollars. Ten additional States have substantial industries with more than a million animals: Illinois, Indiana, Kansas, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Pennsylvania, and South Dakota.

States with large poultry industries are vulnerable to Exotic Newcastle Disease or avian influenza. In 2002, 14 States had flocks of over 15 million birds each: Alabama, Arkansas, California, Florida, Georgia, Indiana, Iowa, Minnesota, Mississippi, Nebraska, North Carolina, Ohio, Pennsylvania, and Texas. Iowa alone has over 40 million birds valued at over $64 million.

Crops, such as wheat, could also be a target. A purposeful spread of the Karnal bunt wheat fungus could have a strong adverse impact on U.S. exports. The United States is the world's leading exporter of wheat, accounting for almost one-third of world wheat exports valued at over $3.5 billion in 2002. Since almost 80 countries do not allow Karnal infected wheat to be imported, a ban on U.S. exports could have a substantial effect on the U.S. economy. The Economic Research Service of the USDA estimated that the total cost of a reduction of exports from 2003 to 2007 could be over $7 billion if there was such a ban. The top wheat-producing States—Kansas, Montana, North Dakota, Oklahoma, South Dakota, Texas, and Washington—would be particularly hard hit.

I have been concerned about the vulnerability of our agriculture for quite some time. When I was a member of the House Agriculture Appropriations Subcommittee, I was a supporter of the USDA's Animal and Plant Health Inspection Service, APHIS. APHIS plays a critical role in guarding our borders and farms from agricultural pests and diseases, something that is of prime importance to Hawaii. As a Senator, I continue to be concerned about this problem. In the 107th Congress I introduced a bill to enhance agricultural biosecurity in the United States.

In this Congress, I have introduced two bills that will help address our shortcomings in agricultural security preparedness. The Agriculture Security Assistance Act, S. 427, and Agriculture Security Preparedness Act, S. 430, are designed to address the need for increasing coordination in confronting the threat to America's agriculture industry. The two bills provide for better funding and better-coordinated response to an incident of agroterrorism. The bills will also serve to increase our defenses against debilitating agroterrorism attacks.

The Agriculture Security Assistance Act is primarily aimed at assisting States and communities in responding to threats to the agriculture industry. The legislation will provide funds for communities and States to increase their ability to handle a crisis. It also will help animal health professionals to participate in community emergency planning activities to assist agriculturists in strengthening their defenses against a terrorist threat.

The Agriculture Security Preparedness Act will enable better interagency coordination thereby enhancing agriculture security. The legislation will establish senior level liaisons in Departments of Homeland Security, DHS, and Health and Human Services, HHS, to coordinate with USDA on agricultural disease emergency management and response. The bill requires DHS and USDA to work with the Department of Transportation to address the risks associated with transporting animals, plants, and people between and around farms.

Recently Mother Nature has provided warnings of the costs and dangers of a possible agroterrorist attack. In May, Canadians discovered that an 8-year-old cow that had been killed in January was infected with mad cow disease. The same disease affected cattle in Britain in the 1980s and 1990s leading to a slaughter of over 3.7 million animals.

Canada faced an enormous adverse economic impact due to the discovery of the mad cow disease. Canada's cattle industry generates $7 billion in cattle sales and the industry remained paralyzed during the period immediately following the discovery of the disease. Major importers of Canada's beef, like the United States, Mexico, Japan and Australia, temporarily halted their imports causing almost $8 million a day loss to the cattle industry. The news also affected companies like McDonald's, Wendy's, and Tyson Foods.

Canada acted to control the spread of the disease by quarantining herds of suspected cattle and slaughtering them to test for the presence of the disease. All the herds believed to have come in contact with the infected cow were quarantined and killed for medical examination. More than 2,700 Canadian cattle were slaughtered and eighteen farms were quarantined in the process of determining the disease's source and to control the spread of the disease.

In the United States, the southwest poultry industry has been beset by a costly outbreak of Exotic Newcastle Disease, END, since last fall. The outbreak was first detected in a backyard chicken flock in Los Angeles County in early October 2002. It then spread to Nevada, Arizona and Texas. Over the past months, some 25 countries including the European Union have put embargoes on chicken from affected areas. In Texas, where the poultry industry employs about 15,000 people and is ranked sixth in the Nation, the industry said it could lose about $100 million as a result of the embargoes. In California, State officials ordered the destruction of more than 3 million birds, enforcing a quarantine over a wide area. The outbreak in 2002 and 2003 cost the state almost $100 million to control the spread of the disease.

We all know an ounce of prevention is worth a pound of cure. The Nation's capability to counter agroterrorism is increasing. But agriculture's central importance to our country suggests greater efforts are needed. As the recent cases of Mad Cow and Exotic Newcastle disease dramatically demonstrate, the consequences of a lack of preparedness could be quite high. Containing these naturally occurring diseases was costly and it involved extensive coordination. It could be much more difficult to counter a deliberate attack. The two bills I have introduced will help us to act now so that a future agroterrorist attack can be avoided, or dealt with rapidly before it can get out of hand. I urge my colleagues to support this legislation.

ADDITIONAL STATEMENTS

THE HARNEY LITTLE LEAGUE SOFTBALL TEAM

• Mr. JOHNSON. Mr. President, I rise today to recognize and congratulate the Rapid City Harney All-Star Little League softball team. The Rapid City Harney All-Stars, under coaches Rich Larsen and Rick Johnson, made it to the Central Regional Championship Game August 1, in Joplin, MO.

The Rapid City Harney All-Stars went through the Central Regional Tournament with wins over such teams as, Illinois with a final score of 10–5, and Kansas with a winning score of 18–0. They advanced to the championship game by defeating the Tallmadge Little League team from Tallmadge, OH with a winning score of 9–5.

These young people represented Rapid City and South Dakota in an extraordinary fashion. Their hard work is representative of South Dakota and has resulted in a great outcome. I would like to give credit to the coaches, parents, supporters and organizers and especially the hard work and dedication of these young players. I would like the community of Rapid City to recognize the hard work, dedication, and sportsmanship this team has shown on their way through the tournament. This is a well deserved victory and the team deserves to be acknowledged for their extraordinary achievement.

I want to recognize Manager Dave Johnson, Coach Rich Larsen, and Coach Rick Johnson for their guidance and support to help make this year's team so successful. I also want to congratulate all of this year's team members: Hailey Rae Brown, Nicole Tresch, Andrea Johnson, Kaitlyn Ringo, Camie Johson, Stevie Wessel, Devin Jacob, Ashley Kiewel, Dawn Henderson, Allysa Nelson, Alysa Sack, and Ali Larson for their hard work, dedication and commitment this thriving season.

Again, congratulations to the Rapid City Harney All-Stars on fighting their way to within one game of the World Series in Portland, OR.•

HONORING ROBERT DUXBURY

• Mr. JOHNSON. Mr. President, I rise today to publicly command Robert Duxbury of Wessington, SD, on his selection as one of South Dakota State University's Eminent Farmers for 2003.

The Eminent Farmer and Homemaker Program, which was honored nominees since 1927, seeks farmers who have not only made significant contributions to their community, State and Nation, but have also given unselfishly of their talent, time and leadership to public programs, educational institutions, and church.

Bob has earned the respect and admiration of all those who have had the opportunity to work with him. His love for South Dakota and passion for agriculture set him apart from other outstanding farmers in the State. Bob's friendly demeanor and wealth of knowledge have helped him develop close relationships in various agriculture groups, including the South Dakota 4–H Leaders Association and the State Fair Board. Bob has also served South Dakota in additional capacities: as a member in the South Dakota Legislature in both the Senate and House of Representatives; as a senior member of the Appropriations Committee for nearly 20 years; and as South Dakota secretary of agriculture from 1975 to 1978. Furthermore, after earning a degree from South Dakota State College, Bob used his extensive agriculture know-how to teach animal science and coach livestock-judging teams from 1956 to 1959.

Americans are the envy of the world because we enjoy the most affordable and the safest food, spending only 10 percent of our household income on groceries. Agricultural producers in the U.S. must cope with the unpredictability of the weather, markets, and government policy, yet time and time again they are the most productive and efficient in the entire world. Farming and ranching families provide immeasurable contributions to quality of life, economic development, and the culture of rural America. Farmers and ranchers are the backbone of South Dakota's economy and should be commended for what they do.

This prestigious honor is a reflection of Bob's extraordinary success as a farmer, as well as his commitment to conservation, and contributions to the community. I am proud to claim Bob as a good personal friend and former colleague in the South Dakota legislature. I am pleased that his agricultural leadership is being publicly recognized, and that his achievements will serve as a model for outstanding agricultural producers throughout the state to emulate. It is with great honor that I share

his impressive achievements with my colleagues.●

VOLUNTEERS OF AMERICA, DAKOTAS CELEBRATES 80 YEARS

● Mr. JOHNSON. Mr. President, it is with great honor that I rise today to congratulate the Volunteers of America, Dakotas in South Dakota, which celebrated its 80th anniversary celebration in August, 2003.

Volunteers of America, Dakotas is one of over forty affiliates making up a national network of nonprofit, spiritually based organizations providing local human service programs and creating opportunities for individual and community involvement. Nationally, Volunteers of America employs more than 11,000 people and each year more than 1.5 million people feel the helping hand of this organization.

Began in the early 1920s, Volunteers of America, Sioux Falls was started as a prison ministry by Frank and Emma Tremont. However, the concerns of the couple were expanded when, during World War I, men went to war and women went to work, and childcare became a pressing need. In response, the organization opened a childcare center and soup kitchen. Over the years, the soup kitchen and prison ministry faded away, but quality childcare remained a service priority. It was the recent merger of this organization with another group, Turning Point, that formed Volunteers of America, Dakotas. Started as Project Threshold on September 16, 1972, Turning Point's original vision was a home for delinquent and runaway girls. Over its next 20 years, Project Threshold became a widely recognized leader in adolescent issues, treatment, and prevention services, Together, these two associations are now assisting more than 290 children each day.

I want to take this opportunity to acknowledge all of the Volunteers of America-Dakotas Centers in South Dakota, including the Bollinger Center, Joe Foss School, Whittier Middle School, Thrift Store, and other Centers in Sioux Falls, SD; the Native Hope Center in Sisseton, SD; and the Volunteers of Americas, Dakotas Center in Aberdeen, SD. Headquartered in Sioux Falls, Volunteers of America, Dakotas serves over 12,000 individuals of all ages each year. Their mission, which is to assist people of all ages in stepping toward a brighter future, is one that all South Dakotans should strive to live by.

I am proud to have this opportunity to honor the Volunteers of America–Dakotas for its 80 years of outstanding service. People of all ages need to think more about how we, as individual citizens, can work together at the local level to ensure the health and vitality of our towns and neighborhoods. I strongly commend the hard work and dedication of these Centers, and I am very pleased that their efforts are being publicly honored and celebrated. It is with great honor that I share their impressive accomplishments with my colleagues.●

IN TRIBUTE TO JOHN McKISSICK'S 500TH FOOTBALL WIN

● Mr. HOLLINGS. Mr. President, on Friday night, John McKissick, of Summerville, SC, won his 500th victory as the head coach of the Summerville Green Wave high school football team, and this Senator rises to congratulate this towering giant of coaches.

I want to put this in perspective. That is almost 100 more victories than Eddie Robinson, the winningest coach ever in college football, had at Grambling and Leland. That is 170 more victories than Don Shula, the winningest coach ever in the NFL had with the Miami Dolphins and Baltimore Colts. This is a record that not Bear Bryant, not Woody Hayes, not Tom Landry, not Vince Lombardi, not any coach—pro, college, or high school has ever come close to ever seeing.

He started coaching in 1952, 2 years before Strom Thurmond entered the Senate, 14 years before I came, and now he'll outlast us both. In 5 decades at Summerville High School, he has 10 State championships and 26 regional titles under his belt; and many of the 3,000 teenagers he has coached went on to win scholarships at colleges across the country. In this time, he has had only two losing seasons, and he has never missed a game. Most of all, he has kept his priorities straight: education first, football second.

In my part of the country, John McKissick is a legend. I know all my football-fanatic colleagues join me in saying to John: you're a national legend, too. You have done more for the sport of high school football than any person in the country.●

HONORING LAIRD LARSON

● Mr. JOHNSON. Mr. President, I rise today to publicly commend Laird Larson, a farmer near Clark, SD, on his selection as one of South Dakota State University's Eminent Farmers for 2003.

The Eminent Farmer and Homemaker Program, which has honored nominees since 1927, seeks farmers who have not only made significant contributions to their community, State and Nation, but have also given unselfishly of their talent, time and leadership to public programs, educational institutions, and church.

Laird has earned the respect and admiration of all those who have had the opportunity to work with him. His love for South Dakota and passion for agriculture set him apart from other outstanding farmers in the state. Laird's friendly demeanor and wealth of knowledge have helped him develop close relationships in various agriculture groups, including the South Dakota Crop Improvement Association, Northeast Research Farm Advisory Board, and South Dakota FFE Foundation Board. Laird has also worked to raise funds for renovation South Dakota State University greenhouses and is currently working to develop a seed science center at South Dakota State University.

Americans are the envy of the world because we enjoy the most affordable and the safest food, spending only 10 percent of our household income on groceries. Agricultural producers in the United States must cope with the unpredictability of the weather, markets, and government policy, yet time and time again they are the most productive and efficient in the entire world. Farming and ranching families provide immeasurable contributions to quality of life, economic development, and the culture of rural America. Farmers and ranchers are the backbone of South Dakota's economy and should be commended for what they do.

This prestigious honor is a reflection of Laird's extraordinary success as a farmer, as well as his commitment to conservation, and contributions to the community. I am pleased that his agricultural leadership is being publicly recognized, and that his achievements will serve as a model for outstanding agricultural producers throughout the State to emulate. It is with great honor that I share his impressive achievements with my colleagues.●

TRIBUTE TO JAMES D. BENNETT, JR.

● Mr. REED. Mr. President, I rise today to pay tribute to James D. Bennett, Jr., an outstanding public servant who is retiring after a distinguished career spanning more than 34 years as a firefighter in the capital city of Providence, RI.

James Bennett began his career as a Providence firefighter in August of 1968, quickly rising through the ranks becoming lieutenant in December of 1977, captain in February of 1984, and ultimately he was promoted to the coveted rank of battalion chief in April of 1986.

Chief Bennett's illustrious career has been marked with a special dedication to his brethren firefighters, and to seeking out leadership opportunities and specialized training for himself and the department. He completed numerous Federal, State, municipal and professional association training programs, courses and workshops on fire and safety issues. A member of the Fire Department Safety Officers Association and International Association of Fire Chiefs, he served from 1977 to 1982 as president Providence Local 99 of the International Brotherhood of Firefighters.

As a community and as a Nation, it is most fitting that we pause to reflect upon the contribution of those in our society from whom we ask so much. With selflessness, dedication and great personal sacrifice firefighters answer the call each and every day, putting themselves in harm's way to protect

and defend lives and property of our citizens. With courage, compassion and devotion to duty they epitomize the phrase ''public servant.'' Indeed, I am honored to humbly recognize this noble profession and this outstanding individual, Chief James Bennett, on the occasion of his retirement.

I ask that you join me in paying tribute to Chief Bennett on this milestone and ask that you also recognize his devoted wife Kaiji who this June retired from her own career as an elementary school secretary after many years of loyal service. As a grateful community we recognize the immense contributions made by people like James and Kaija Bennett to the cherished quality of life in this great Nation. Please join me and the Bennett's wonderful daughters, Kerrie and Stacie, their many friends and colleagues in this much deserved retirement celebration.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MEASURES REFERRED—on September 11, 2003

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 911. An act to authorize the establishment of a memorial to victims who died as a result of terrorist acts against the United States or its people, at home or abroad; to the Committee on Energy and Natural Resources.

H.R. 1538. An act to posthumously award congressional gold medals to government workers and others who responded to the attacks on the World Trade Center and the Pentagon and perished and to people aboard United Airlines Flight 93 who helped resist the hijackers and caused the plane to crash, to require the Secretary of the Treasury to mint coins in commemoration of the Spirit of America, recognizing the tragic events of September 11, 2001, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2433. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide veterans who participated in certain Department of Defense chemical and biological warfare testing with health care for their illness without requirement for proof of service-connection; to the Committee on Veterans' Affairs.

H.R. 2595. An act to restore the operation of the Native American Veteran Housing Loan Program during fiscal year 2003 to the scope of that program as in effect on September 30, 2002; to the Committee on Veterans' Affairs.

H.R. 2622. An act to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

MEASURE HELD AT THE DESK

The following concurrent resolution was ordered held at the desk by unanimous consent:

S. Con. Res. 68. Concurrent resolution honoring the life of Johnny Cash.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–258. A joint resolution adopted by the Legislature of the State of California relative to antiterrorism funding; to the Committee on Appropriations.

POM–259. A resolution adopted by the Senate of the Legislature of the State of New Jersey relative to increasing the minimum allotment for the Food Stamp Program; to the Committee on Agriculture, Nutrition, and Forestry.

POM–260. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to stronger protections for Lake St. Clair, the Heart of the Great Lakes; to the Committee on Agriculture, Nutrition, and Forestry.

POM–261. A concurrent resolution adopted by the Legislature of the State of Texas relative to the Protect Children from E-Mail Smut Act of 2001; to the Committee on Commerce, Science, and Transportation.

POM–262. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of New Hampshire relative to the Telemarketing Sales Rule and the Know Your Caller Act of 2001; to the Committee on Commerce, Science, and Transportation.

POM–263. A concurrent resolution adopted by the Legislature of the State of Texas relative to reopening La Linda Bridge as a border crossing; to the Committee on Commerce, Science, and Transportation.

POM–264. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the history of a slave quarters located on the site of the planned Liberty Bell Pavilion; to the Committee on Energy and Natural Resources.

POM–265. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to legislation that would ban bear baiting on Federal lands; to the Committee on Energy and Natural Resources.

POM–266. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to nuclear power; to the Committee on Energy and Natural Resources.

POM–267. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to Pennsylvania's veterans; to the Committee on Veterans' Affairs.

POM–268. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the Second Regiment United States Sharpshooters, Company C, during the Civil War; to the Committee on Energy and Natural Resources.

POM–258. A joint resolution adopted by the Legislature of the State of California relative to antiterrorism funding; to the Committee on Appropriations.

ASSEMBLY JOINT RESOLUTION NO. 31

Whereas, The heinous terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001, have deeply impacted the fabric of American life, provided a wakeup call to every American's awareness of the nation's vulnerability to terrorists attacks, and changed Americans' lives forever; and

Whereas, Californians are gravely concerned about the continued threat of violence and their own personal safety; and

Whereas, The takeover of airplane flights by unconscionable terrorists has increased the need for security by state and local governments at all airports and public facilities, including water systems, hospitals, bridges, and dams; and

Whereas, Recent horrific incidents of sending anthrax through the mail, other threats of bioterrorism, and hoaxes have increased demands upon public services, including public health departments and laboratories, public safety and fire protection agencies, hospitals, and emergency rooms, and state and local emergency response agencies; and

Whereas, City and county governments have experienced an increased awareness and demand from the general public for more public services in the area of public health and safety; and

Whereas, Cities and counties have appropriated millions of dollars for increased response and preparedness for potential terrorist threats and anticipate the need for additional funds to continue these efforts; and

Whereas, In this period of economic uncertainty and unprecedented need for enhanced local public safety and health services, cities and counties cannot afford these increased costs of security without additional funding; and

Whereas, There may be continued terrorism activities in California. For example, in San Diego County investigations revealed that some of the hijackers of September 11, 2001, were training in San Diego training facilities in preparation for the attacks; and

Whereas, Public safety officials require specialized training at all levels and local governments have seen an increased demand for additional personnel to effectively protect and serve citizens in the event of a major local incident; and

Whereas, Hazardous material teams lack the specialized equipment and protective gear to deal with bioterrorism and new public health threats; and

Whereas, Due to the continued bioterrorism threats and hoaxes, public health departments need additional staff to increase their surveillance activities for the identification of biological and chemical threats at the earliest possible stage; and

Whereas, Local health departments are the early warning system in the defense against bioterrorism; local health departments rely on strong linkages with other county agencies including emergency medical services, hospitals, county outpatient services, laboratories, mental health departments, and environmental health agencies in preparing for and responding to disasters; and

Whereas, The budgets of many public health departments have been neglected for several years, and in order to assure an adequate response, if necessary, to any potential bioterrorism threat, public health infrastructure needs significant investment of state and federal resources. For example, Orange County has identified the need for $2.1 million for public health infrastructure and training in order for their public health system to respond to a public health crisis; and

Whereas, Local governments have already encountered budget overruns of 13 percent in public safety, with the City of Los Angeles alone incurring security costs in excess of $11 million in the first two and one-half months following September 11, 2001; and

Whereas, Santa Clara County alone has already appropriated $5 million for additional public safety services since September 11, 2001, and expects to spend an additional $7 million by June 30, 2002; and

Whereas, Cities and counties estimate over $1 billion in additional one-time and ongoing funding needs and the State of California anticipates expenditures of at least $500 million in 2002; and

Whereas, Local governments and the state are financially suffering from an economic recession and lack the funds to provide the required additional services and equipment; and

Whereas, Congress has approved a total of $8.3 billion for homeland defense in the emergency supplemental allocation sent to the President for his signature; and

Whereas, Senator Dianne Feinstein of California and Senator Hillary Rodham Clinton of New York have together proposed supplemental federal funding to assist state and local governments in security, prevention, and preparedness; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to provide funds to states and local governments to provide the necessary security and relief measures to protect local citizens from terrorism; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, and to each Senator and Representative from California in the Congress of the United States.

POM–259. A resolution adopted by the Senate of the Legislature of the State of New Jersey relative to increasing the minimum allotment for the Food Stamp Program; to the Committee on Agriculture, Nutrition, and Forestry.

SENATE RESOLUTION NO. 25

Whereas, The minimum monthly allotment for one-person and two-person households under the federal Food Stamp Program is currently $10, which is the same amount as was established by the ''Food Stamp Act of 1977''; and

Whereas, The amount of food that could be purchased in 1977 for $10 costs $29.19 in 2001; the amount of food that can be purchased in 2001 for $10 only cost $3.43 in 1977; and

Whereas, The ''Mickey Leland Memorial Domestic Hunger Relief Act,'' which was enacted in 1990, amended the Food Stamp Act to annually adjust the minimum monthly allotment, with the result rounded to the nearest $5, in accordance with annual adjustments to other elements of the Food Stamp Program; and

Whereas, The ''Personal Responsibility and Work Opportunity Reconciliation Act of 1996'' amended the Food Stamp Act to remove the provision for annual adjustments to the minimum monthly allotment; and

Whereas, Annual cost-of-living adjustments are currently made to maximum monthly allotments and income eligibility standards for the Food Stamp Program; and

Whereas, The maximum monthly income, minus deductions allowable within the program, for eligibility for the Food Stamp Program is $696 for one-person households and $938 for two-person households; one-person households with a monthly income between $400 and $696 and two-person households with a monthly income between $760 and $938 are eligible for no more than the $10 minimum monthly allotment; now, therefore, be it

Resolved by the Senate of the State of New Jersey:

1. This House urges the Congress of the United States to increase the minimum monthly allotment for one-person and two-person households under the federal Food Stamp Program from $10 to $25 and require that the minimum be adjusted annually in accordance with changes in the federal cost-of-living.

2. Duly authenticated copies of this resolution, signed by the President of the Senate and attested by the Secretary of the Senate, shall be forwarded to the Secretary of Agriculture, the presiding officers of the Congress of the United States and each member of New Jersey's Congressional delegation.

POM–260. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to stronger protections for Lake St. Clair, the Heart of the Great Lakes; to the Committee on Agriculture, Nutrition, and Forestry.

SENATE RESOLUTION NO. 131

Whereas, By any measure, Lake St. Clair is a critical component of the Great Lakes system. It is the source of drinking water for millions of Americans and Canadians and a vital element of the region's commercial, recreational, and transportation resources; and

Whereas, Even within the Great Lakes network, Lake St. Clair is unique in its value through its wetlands, its great variety of fish and plant species, and the range of habitats it holds. It is an unsurpassed treasure for boaters and anglers; and

Whereas, In spite of its clear importance to the health of millions of people and the quality of the water system that is the most valuable in the world, Lake St. Clair has been harmed by several environmental problems, including spills, beach closings, and invasive species. Resources to address all of these needs are badly needed; and

Whereas, Congress is considering a measure, House Resolution 121, which calls for increased efforts to protect Lake St. Clair and affirms the central role that it plays as the Heart of the Great Lakes. Clearly, this is a designation that is appropriate not only because of Lake St. Clair's shape and location, but also because of its commercial, environmental, and recreational significance to our nation; now, therefore, be it

Resolved by the State, That we memorialize Congress to adopt House Resolution 121 to endorse stronger protections for Lake St. Clair, the Heart of the Great Lakes; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–261. A concurrent resolution adopted by the Legislative of the State of Texas relative to the Protect Children from E-Mail Smut Act of 2001; to the Committee on Commerce, Science, and Transportation.

HOUSE CONCURRENT RESOLUTION NO. 13

Whereas, A 2000 sample survey of 1,501 of the nearly 24 million school-aged children regularly using the Internet in the United States found that approximately one out of every four children in that sample had experienced unwanted exposure to sexual images while on-line; and

Whereas, The development of the Internet is widely regarded as the most profound change in the way people communicate since the invention of the printing press, but as remarkable as it may be, there are risks to children that are unique to such a pervasive and accessible medium; with the development of newer and increasingly invasive technologies that can deliver or disguise unwanted material through direct marketing e-mails, or ''span'' mailings, the risks are even more pronounced and difficult to detect; and

Whereas, Compounding the challenge of protecting minors from inappropriate material on-line is the fact that children often understand more about the Internet than their parents, teachers, and other caregivers; in addition, common sense measures used to secure a child's environment and the ''physical world'' are not feasible in cyberspace; and

Whereas, In a bipartisan effort to address these concerns, congress passed the Communications Decency Act of 1996 (CDA) and the Child Online Protection Act (COPA) and, in doing so, criminalized Internet transmission of indecent materials to minors; however, the Supreme Court ruled in 1997 that certain provisions of the CDA were unconstitutional and in 2002 upheld a district court's temporary injunction against enforcement of COPA on the same grounds; and

Whereas, Recognizing the need to make children's on-line experiences safe, educational, and entertaining while honoring constitutional safeguards, the 107th Congress is considering legislation that would address specific questions posed by the Supreme Court without discouraging the evolution of the Internet or violating the First Amendment; and

Whereas, Modeled after existing law that regulates the identification of sexually explicit advertisements sent via U.S. mail, House Resolution 2472 requires the National Institute of Standards and Technology to prescribe an electronic tag that would identify sexually oriented messages and allow parents to use the filtering tools already available on e-mail programs to block messages bearing the tag; the legislation is a balanced and realistic solution to the complexities of protecting free speech and children on-line; now, therefore, be it

Resolved, That the 78th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to enact the Protect Children From E-Mail Smut Act of 2001; and, be it further

Resolved, That the Texas Secretary of State forward official copies of this resolution to the president of the United States, the speaker of the house of representatives and the president of the Senate of the United States Congress, and all the members of the Texas delegation to the Congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–262. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of New Hampshire relative to the Telemarketing Sales Rule and the Know Your Caller Act of 2001; to the Committee on Commerce, Science, and Transportation.

HOUSE CONCURRENT RESOLUTION 21

Whereas, telephone subscribes in New Hampshire and throughout the country receive innumerable telephone calls from various telemarketers operating in this country and in other countries; and

Whereas, many telephone subscribers are annoyed by the relentless calling at the most inconvenient times during the day, and other such subscribers have received calls from unscrupulous telemarketers and have been victims of their fraudulent practices; and

Whereas, the Telemarketing Sales Rule and Know Your Caller Act of 2001 are intended to protect subscribers from unscrupulous telemarketers and to maintain the privacy and harmonious nature of American homes; and

Whereas, the Telemarketing Sales Rule requires telemarketers to maintain a list of telephone subscribers who do not wish to receive any further calls from a particular seller; provides for penalties in amounts as high as $10,000 per violation; and allows the Federal Trade Commission, states, and private persons to enforce such provisions; and

Whereas, the Telephone Consumer Protection Act of 1991 also requires that telemarketers abide by ''do-not-call'' requests from consumers as well as restricts telemarketing calling hours, mandates identification of the telephone solicitor, and includes both a private right of action and a right of action by states; and

Whereas, the Know Your Caller Act of 2001 strengthens the consumer protections of the Telephone Consumer Protection Act by preventing telemarketers from blocking caller identification information, by requiring telemarketers to provide such information when they have the capability of doing so, and by prohibiting telemarketers from using information on ''do-not-call'' lists for any other marketing purpose; and

Whereas, since telemarketers can evade state laws restricting telephone solicitation through interstate operation, federal regulation and enforcement actions are needed to control residential telemarketing practices; now therefore be it

Resolved by the House of Representatives, the Senate concurring:

That the general court urges the state attorneys general and the Federal Trade Commission to vigorously enforce the provisions of the Telemarketing Sales Rule that require telemarketers to cease from calling telephone subscribers who have previously requested to be placed on a list of subscribers who do not wish to receive any further calls from that telemarketer and to assess the appropriate penalties for violation of such provisions; and

That the general court urges the United States Congress to pass the Know Your Caller Act of 2001, which will provide telephone subscribers with additional protection from telemarketing abuses and annoyances; and

That a copy of this resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America, to each member of the New Hampshire congressional delegation, to the chairman of the Federal Trade Commission, to the chairman of the Federal Communications Commission, and to the president of the National Association of Attorneys General.

POM–263. A concurrent resolution adopted by the Legislature of the State of Texas relative to reopening La Linda Bridge as a border crossing; to the Committee on Commerce, Science, and Transportation.

HOUSE CONCURRENT RESOLUTION NO. 186

Whereas, In 1962, Pub. L. No. 87–525 authorized the construction of an international bridge across the Rio Grande to join Heath Canyon in Texas with the village of La Linda, Coahuila, Mexico, for the purpose of transporting refined ore into the United States from nearby mills in Mexico and to one day facilitate the movement of tourists interested in visiting the Sierra del Carmen mountain areas across from Big Bend National Park; and

Whereas, Since the bridge was constructed, the Texas Department of Transportation has, without interruption, maintained Farm-to-Market Road 2627 as a paved two-lane highway for a 28-mile stretch connecting the bridge to United States Highway 385, which leads from that junction southward to Big Bend National Park and northward 40 miles to Marathon and United States Highway 90; and

Whereas, La Linda Bridge, also known as the Hallie Stillwell Memorial Bridge, is still in place and is in good repair but cannot be crossed by vehicles or pedestrians because of barriers and the placement of ''no trespassing'' signs at the bridge since 1997 pursuant to orders issued by the governments of the United States of America and the Republic of Mexico; and

Whereas, The La Linda international crossing is the only bridge structure in place and the only point of entry authorized by public law between the United States ports of entry at Presidio and Del Rio, a distance of 385 miles; and

Whereas, The principal owner of the United States section of the international bridge at La Linda, the National Parks Conservation Association, is prepared to donate its interest in the bridge and associated properties to the State of Texas through the General Land Office so that the bridge may be reopened and operated as a legal border crossing; and

Whereas, The tourism industries serving scenic and recreational areas joined by this bridge, including the Big Bend mountains of Texas and the Sierra del Carmen mountains of Northwest Coahuila, wish to promote, accommodate, and economically benefit from cross-border tourism but are unable to implement those objectives if the La Linda crossing is not functioning; and

Whereas, The safety of tourists wishing to enjoy the area, the binational scientific cooperation called for under existing international agreements, and the security and public safety of communities and citizens on both sides of the international border would be enhanced by a functioning border crossing at La Linda; and

Whereas, The State of Coahuila and the commissioners court of Brewster County, respectively represented by the Instituto de Turismo and the Big Bend Border Council and joined by a coalition of local residents and the Big Bend National Park Superintendent, have twice requested that the Binational Bridges and Border Crossings working group, which is convened semiannually by the United States Department of State and the Mexican Secretaria de Relaciones Exteriores, take the necessary actions to have the bridge and border crossing at La Linda reopened by the United States and Mexican federal governments; and

Whereas, The working group, composed of United States and Mexican federal authorities responsible for authorizing international ports of entry and required inspections along the international boundary, will convene again in the coming months to consider action on either reopening the bridge at La Linda or ordering its removal; and

Whereas, It is in the economic, cultural, and security interest of the State of Texas and the homeland security interest of the United States of America to have a functioning border crossing station under the management and control of trained and equipped law enforcement and public safety officials in the extensive area known as the Big Bend; now, therefore, be it

Resolved, That the 78th Legislature of the State of Texas hereby express its support and encouragement for the reopening of the bridge and border crossing at La Linda to accommodate trade and tourism between Texas and Coahuila, Mexico, and to better protect residents of both countries and secure the protection of our nation from threats that might be associated with the illegal crossing of individuals or materials with a lethal intent; and, be it further

Resolved, That the legislature hereby urge the General Land Office to proceed expeditiously with the due diligence needed to make a determination regarding acceptance of an ownership interest in La Linda Bridge by the State of Texas; and, be it further

Resolved, That the legislature hereby urge that the governor, the Texas Department of Transportation, the secretary of state, the Department of Public Safety of the State of Texas, the Parks and Wildlife Department, the Texas Department of Economic Development, the Texas Historical Commission, and other appropriate state agencies render encouragement and assistance to the General Land Office as it proceeds in this matter and render encouragement and assistance as well to Brewster County and to private and public advocates for tourism in the Big Bend in their efforts to develop a regional tourism economy in conjunction with a reopened bridge at La Linda; and, be it further

Resolved, That the legislature hereby call upon the United States Department of State to communicate the interest of the State of Texas in this matter to the government of the Republic of Mexico and to all other parties participating in decisions relating to either reopening or removing the bridge at La Linda; and, be it further

Resolved, That the legislature hereby respectfully memorialize the Congress of the United States to initiate whatever actions are needed to reopen La Linda Bridge as a border crossing; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–264. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the history of a slave quarters located on the site of the planned Liberty Bell Pavilion; to the Committee on Energy and Natural Resources.

HOUSE RESOLUTION NO. 490

Whereas, A portion of the proposed location of the planned Liberty Bell Pavilion in Philadelphia is located on the historic site of the residence of United States Presidents George Washington and John Adams prior to the construction of the White House in Washington, D.C.; and

Whereas, This property, referred to as the President's House, included other complexes such as slave quarters and icehouses; and

Whereas, The land previously occupied by the slave quarters will be partially covered by the newly built facility; and

Whereas, The Liberty Bell is recognized as a symbol of the American Revolution; and

Whereas, The Liberty Bell became famous when abolitionists fighting to rid the nation of slavery adopted it as their . . .

POM–265. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to legislation that would ban bear baiting on federal lands; to the Committee on Energy and Natural Resources.

HOUSE RESOLUTION NO. 82

Whereas, Michigan, along with other states throughout the country, has been very successful in its wildlife management strategies. While there is always more progress to

be made, the increasing numbers of game animals and effective control of wildlife populations in Michigan and other states reflect the wisdom of local management of wildlife and hunting matters; and

Whereas, Congress is considering legislation, H.R. 1472, that would require the adoption and enforcement of regulations that would prohibit the intentional feeding of bears on federal lands in order to end what is known as ''bear baiting''; and

Whereas, Of the states that allow bear hunting, Michigan is one of several that permit bear baiting. The experience in Michigan and the other states that permit bear baiting is that this technique is a valuable and highly effective wildlife management tool. The voters of Michigan overwhelmingly rejected a 1996 ballot proposal that included a ban of bear baiting. Bear baiting is part of an overall strategy that effectively controls the bear population and does so more humanely than hunting techniques that may result in higher rates of injuries for the animals. This mechanism has clearly allowed Michigan to keep the bear population at appropriate levels; and

Whereas, Michigan is a state that includes extensive federal lands. The citizens of our state have used these lands respectfully, and our state's hunting and fishing management efforts have enhanced these lands over the years. Michigan's proven effectiveness in dealing with wildlife management challenges should not be negated by federal control of the matter of bear hunting; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States not to enact any legislation that would ban bear baiting on federal lands; and be if further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–266. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to nuclear power; to the Committee on Energy and Natural Resources.

SENATE RESOLUTION NO. 211

Whereas, Pennsylvania's nine nuclear power reactors have proven to be reliable sources of electricity to Pennsylvania citizens and businesses, producing 36% of the electricity generated in the Commonwealth of Pennsylvania; and

Whereas, Congress enacted the Nuclear Waste Policy Act of 1982 and directed the Department of Energy to establish a program for the management of the nation's high-level waste, including used nuclear fuel, and for its permanent disposal in a deep geologic repository; and

Whereas, More than $7 billion has been spent on scientific testing and studies of Yucca Mountain, Nevada, showing that the proposed site is an ideal repository to safely contain the nation's used nuclear fuel, with a capacity sufficient to meet all foreseeable storage needs; and

Whereas, Studies of Yucca Mountain have yielded the scientific information necessary for a decision by the United States Secretary of Energy that there are no technical or scientific issues to prevent Yucca Mountain from serving as a permanent repository and clearly support the recommendation by the Secretary to the President of the United States to proceed on licensing a permanent repository at Yucca Mountain; and

Whereas, Since 1983, consumers of electricity from the Commonwealth of Pennsylvania have committed nearly $1.5 billion to the Federal Nuclear Waste Fund to finance site assessment and nuclear waste management; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania urge Congress to sustain the President's affirmative decision on Yucca Mountain's suitability as a permanent Federal repository for used nuclear fuel; and be it further

Resolved, That copies of this resolution be transmitted to the President and Vice President of the United States, to the United States Secretary of Energy, to the Speaker of the United States House of Representatives and to each member of Congress from Pennsylvania.

POM–267. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to Pennsylvania's veterans; to the Committee on Veterans' Affairs.

SENATE RESOLUTION NO. 229

Whereas, Pennsylvania's veterans have faithfully and honorably served this nation and this Commonwealth in times of peace and times of war; and

Whereas, There are approximately 1.2 million veterans of the United States armed services living in the Commonwealth of Pennsylvania today; and

Whereas, More than 500,000 of these veterans are 65 years of age or older; and

Whereas, By virtue of the honorable service they have provided, veterans are entitled to certain benefits; and

Whereas, Medical, surgical and rehabilitative services, such as the Veterans Health Administration's cancer program, diabetes program, kidney diseases program and the pharmacy benefits management program, are of particular importance to this Commonwealth's aging veteran population; and

Whereas, These benefits are provided by the United States Department of Veterans Affairs through a network of Veterans Health Administration centers, outpatient clinics, community-based outpatient clinics and veterans centers; and

Whereas, Even though Federal funding for medical services and administration for veterans in Pennsylvania has increased, many of the facilities located throughout this Commonwealth still lack the necessary resources to provide for the veterans who need and richly deserve these services; and

Whereas, There are 12 to 24 month waiting lists at many Veterans Health Administration facilities in Pennsylvania; and

Whereas, These waiting lists will only lengthen and the level of service will only lessen unless funding for these services in Pennsylvania increase to a level that matches needs; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize the President and Congress of the United States to reexamine the level of funding for veterans medical services in order to provide timely, high-quality service to veterans of United States military services; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–268. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the Second Regiment United States Sharpshooters, Company C, during the Civil War; to the Committee on Energy and Natural Resources.

HOUSE RESOLUTION NO. 534

Whereas, At the suggestion of Hiram Berdan, a New York inventor and eventual Colonel of Volunteers, that the best marksmen in the North be organized into two distinct units, the United States Sharpshooters were raised and mustered into action by President Abraham Lincoln in 1861; and

Whereas, These men were to be armed with the most reliable rifles and employed as scouts and skirmishers, with each applicant having to pass a shooting test to prove his worth; and

Whereas, At Orange Court House, the Sharpshooters engaged some Confederate Cavalry, easily pushing them off the field, but the advancing Confederate Infantry forced the Sharpshooters off the field and into the camp of their reserves, the Second Wisconsin; and

Whereas, The Sharpshooters fell in on General Gibbon's left and engaged the Confederates, pushing them off the field for good; and

Whereas, The exploits of this decorated group were rivaled by few as they fought Confederates across the Rappahannock River to the plains of Manassas, through Antietam and Chancellorsville and eventually to the fields of Gettysburg; and

Whereas, At Gettysburg the men of Company C were chosen to be the color company of the entire Second Regiment; and

Whereas, They fought valiantly and courageously, helping to defeat the Confederates at the Battles of Big and Little Round Top; and

Whereas, The men of Company C and all who served with them in the Second Regiment United States Sharpshooters served this nation with honor; and

Whereas, There is no monument recognizing the efforts of the men of Company C at Gettysburg National Military Park; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the National Park Service to erect a monument befitting their sacrifices; and be it further

Resolved, That copies of this resolution be transmitted to each member of Congress from Pennsylvania; to Fran P. Mainella, Director, National Park Service, 1849 C Street NW, Washington DC 20240; and to John A. Latschar, Superintendent, Gettysburg . . .

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 189. A bill to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes (Rept. No. 108–147).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Ms. CANTWELL:

S. 1614. A bill to designate a portion of White Salmon River as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

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

S. 1615. A bill to amend title 37, United States Code, to make permanent the rates of hostile fire and imminent danger special pay

and family separation allowance for members of the uniformed services as increased by the Emergency Wartime Supplemental Appropriations Act, 2003; to the Committee on Armed Services.

By Ms. LANDRIEU:

S. 1616. A bill to amend the Employee Retirement Income Security Act of 1974 to prevent the preemption of State community property law as it relates to nonforfeitable accrued retirement benefits; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself and Ms. SNOWE):

S. 1617. A bill to amend the employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide comprehensive pension protection for women; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. MCCAIN (for himself, Mr. LUGAR, Mr. BIDEN, and Mr. LIEBERMAN):

S. Res. 225. A resolution commemorating the 100th anniversary of diplomatic relations between the United States and Bulgaria; to the Committee on Foreign Relations.

By Mr. ALEXANDER (for himself, Mr. FRIST, Mrs. LINCOLN, and Mr. PRYOR):

S. Con. Res. 68. A concurrent resolution honoring the life of Johnny Cash; ordered held at the desk.

ADDITIONAL COSPONSORS

S. 242

At the request of Mr. DOMENICI, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 242, a bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 480

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 493

At the request of Mrs. LINCOLN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 493, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 595

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financings to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 664

At the request of Mr. HATCH, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 852

At the request of Mr. DEWINE, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 852, a bill to amend title 10, United States Code, to provide limited TRICARE program eligibility for members of the Ready Reserve of the Armed Forces, to provide financial support for continuation of health insurance for mobilized members of reserve components of the Armed Forces, and for other purposes.

S. 874

At the request of Mr. TALENT, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 875

At the request of Mr. KERRY, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Iowa (Mr. HARKIN) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 982

At the request of Mr. SANTORUM, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 1019

At the request of Mr. DEWINE, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 1019, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1470

At the request of Mr. SARBANES, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1470, a bill to establish the Financial Literacy and Education Coordinating Committee within the Department of the Treasury to improve the state of financial literacy and education among American consumers.

S. 1482

At the request of Mr. INOUYE, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1482, a bill to amend the Internal Revenue Code of 1986 to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 1507

At the request of Mr. FEINGOLD, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1507, a bill to protect privacy by limiting the access of the government to library, bookseller, and other personal records for foreign intelligence and counterintelligence purposes.

S. 1524

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 1524, a bill to amend the Internal Revenue Code of 1986 to allow a 7-year applicable recovery period for depreciation of motorsports entertainment complexes.

S. 1557

At the request of Mr. MCCONNELL, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 1557, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

S. 1587

At the request of Mr. BIDEN, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1587, a bill to make it a criminal act to willfully use a weapon, explosive, chemical weapon, or nuclear or radioactive material with the intent to cause death or serious bodily injury to any person while on board a passenger vessel, and for other purposes.

S. 1594

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1594, a bill to require a report on reconstruction efforts in Iraq.

S. 1606

At the request of Mr. KYL, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1606, a bill to strengthen and enhance public safety through pretrial

detention and postrelease supervision of terrorists, and for other purposes.

S. CON. RES. 67

At the request of Mr. COCHRAN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Con. Res. 67, a concurrent resolution expressing the need for enhanced public awareness of traumatic brain injury and supporting the designation of a National Brain Injury Awareness Month.

S. RES. 202

At the request of Mr. CAMPBELL, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932–33.

S. RES. 209

At the request of Mr. JEFFORDS, the names of the Senator from Washington (Ms. CANTWELL), the Senator from Illinois (Mr. DURBIN), the Senator from Iowa (Mr. HARKIN), the Senator from South Dakota (Mr. JOHNSON), the Senator from Wisconsin (Mr. KOHL), the Senator from Washington (Mrs. MURRAY) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. Res. 209, a resolution recognizing and honoring Woodstock, Vermont, native Hiram Powers for his extraordinary and enduring contributions to American sculpture.

S. RES. 222

At the request of Mr. BIDEN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Res. 222, a resolution designating October 17, 2003 as ''National Mammography Day''.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. CANTWELL:

S. 1614. A bill to designate a portion of White Salmon River as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

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

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

S. 1614

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Upper White Salmon Wild and Scenic Rivers Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Columbia River Gorge National Scenic Area Act (16 U.S.C. 544 et seq.) directed the Secretary of Agriculture to study the Upper White Salmon River for possible designation as a component of the National Wild and Scenic Rivers System.

(2) The study, conducted by the Forest Service, included extensive public involvement by a broadly inclusive task force.

(3) The study determined that the Upper White Salmon River and its tributary, Cascade Creek, are eligible for inclusion in the National Wild and Scenic Rivers System based on their free-flowing condition and outstandingly remarkable scenic, hydrologic, geologic, and wildlife values.

SEC. 3 UPPER WHITE SALMON WILD AND SCENIC RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

''( ) WHITE SALMON RIVER, WASHINGTON.—

''(A) DESIGNATION.—Segments of the main stem and Cascade Creek, totaling 20 miles, to be administered by the Secretary of Agriculture as follows:

''(i) 1.6-MILE SEGMENT.—The 1.6-mile segment of the main stem of the White Salmon River from the headwaters on Mount Adams in Sec. 17, T. 8 N., R. 10 E., downstream to the Mount Adams wilderness boundary shall be administered as a wild river.

''(ii) 5.1-MILE SEGMENT.—The 5.1-mile segment of Cascade Creek from its headwaters on Mount Adams in Sec. 10, T. 8 N., R. 10 E. downstream to the Mount Adams Wilderness boundary shall be administered as a wild river.

''(iii) 1.5-MILE SEGMENT.—The 1.5 mile segment of Cascade Creek from the Mount Adams Wilderness boundary downstream to its confluence with the White Salmon River shall be administered as a scenic river.

''(iv) 11.8-MILE SEGMENT.—The 11.8-mile segment of the main stem of the White Salmon River from the Mount Adams Wilderness boundary downstream to the Gifford Pinchot National Forest boundary shall be administered as a scenic river.''.

SEC. 4. ADDITIONAL SECTIONS.

Nothing in this Act, or any amendment made by this Act, shall limit the suitability of the 18.4-mile segment from the Gifford Pinchot National Forest boundary to the confluence with Gilmer Creek for designation as a wild and scenic river under section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)).

SEC. 5. MANAGEMENT.

The Secretary of Agriculture shall develop and administer the comprehensive management plan required by section 3(d)(1) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(d)(1)) for the designated sections of the Upper White Salmon River in general accordance with that portion of the preferred alternative of the Forest Service Wild and Scenic River Study Report and Final Legislative Environmental Impact Statement for the Upper White Salmon River dated July 7, 1997, addressing only the designated sections.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

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

S. 1615. A bill to amend title 37, United States Code, to make permanent the rates of hostile fire and imminent danger special pay and family separation allowance for members of the uniformed services as increased by the Emergency Wartime Supplemental Appropriations Act, 2003; to the Committee on Armed Services.

Mr. DASCHLE. Mr. President, today, I rise to introduce a bill that is as simple as it is significant. It promises our soldiers that while they fight to protect us, we will do what we can do protect them and their families by not allowing their pay to be cut.

Each day brings a fresh reminder of the debt we owe our men and women in uniform. Today, well over 200,000 Americans are stationed abroad, many facing hostile fire in difficult conditions, thousands of miles from home. In spite of enormous difficulties, they have served magnificently, bringing honor to their families and their country.

In light of all that we read in our daily newspapers about our soldiers' heroic performance, it should be unthinkable that anyone would consider cutting their pay. But this isn't a rumor or some errant bureaucratic proposal. Unless the President and the Congress act soon, many of our soldiers will see their monthly pay reduced by as much as $225 at the end of the current fiscal year. My legislation would help us honor the debt we owe to our soldiers by making permanent the rates of pay currently provided to our soldiers.

Unfortunately, we have received very mixed messages from the administration about their position on this issue. In July, the Defense Department issued a position paper to the Congress expressing its views on military pay and a series of other legislative proposals. According to the official Pentagon document, the Defense Department urged Congress to reduce our troops' pay. Last month, the San Francisco Chronicle, in an article entitled ''Troops In Iraq Face Pay Cut,'' reported, ''The Pentagon wants to cut the pay of its 148,000 U.S. troops in Iraq, who are already contending with guerrilla-style attacks, homesickness, and 120-degree plus heat. . . . The Defense Department supports the cuts, saying its budget can't sustain the higher payments and a host of other priorities.''

Not surprisingly, these reports triggered a fire storm. The administration quickly backpedaled. Its latest position is that pay will be kept at current levels for our troops in Iraq and Afghanistan, but pay for troops deployed abroad in other countries should be cut. This does a disservice to the men and women who have chosen to risk their lives for their country and have been deployed far from their homes and their families.

At a time when we are asking so much of these troops and their families, it is inconceivable to me that this Nation can't sustain current pay levels for all troops deployed abroad and that the administration would not fully support this proposition.

The legislation would send a clear signal to all of our troops, both those deployed abroad and those facing the possibility of deployment in the coming weeks and months. This Nation recognizes and appreciates the risks they take on our behalf and we honor our commitment to them. I urge the administration and my colleagues to join with me in this effort. Our troops and their families deserve no less.

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

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

S. 1615

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAINTENANCE OF INCREASED RATE OF HOSTILE FIRE AND IMMINENT DANGER SPECIAL PAY.

(a) RATE.—Section 310(a) of title 37, United States Code, is amended by striking ''$150'' and inserting ''$225''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003.

SEC. 2. MAINTENANCE OF INCREASED RATE OF FAMILY SEPARATION ALLOWANCE.

(a) RATE.—Section 427(a)(1) of title 37, United States Code, is amended by striking ''$100'' and inserting ''$250''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003.

Mr. DURBIN. Mr. President, I have joined Senator DASCHLE in introducing a bill today that would make permanent the increases in Imminent Danger Pay and Family Separation Allowance passed by Congress in the Fiscal Year 2003 Emergency Wartime Supplemental Appropriations Act.

Last spring, when the Senate considered the Budget Resolution, it passed, by a vote of 100 to 0, an amendment I offered with Senator LANDRIEU that would have allowed for $1 billion to cover the increase in these special pay categories.

Then when the Senate considered the Fiscal Year 2003 Emergency Wartime Supplemental Appropriations Act, it unanimously accepted an amendment I offered with Senator STEVENS and Senator INOUYE, increasing these pay categories for the remainder of the fiscal year.

The amendment we offered to the supplemental, sunset these pay increases, not because we wished to end them, but simply to allow the Armed Services Committee—the Committee of Jurisdiction—to increase these pay levels in the Fiscal Year 2004 Defense Authorization bill, which it did.

Now, when soldiers are dying in Iraq and military families have been separated for many months, we hear that the administration wishes to cut these pay increases in the conference committee.

The Statement of Administration Policy on the House version of the bill objects to the provision increasing both pay categories, saying it would ''divert resources unnecessarily.'' The statement on the Senate bill only objects to the increase in Family Separation Allowance.

When confronted with questions about why the administration wanted to reduce these pay categories, Defense Department spokesman, Under Secretary David Chu, came up with the classic Washington non-denial denial. On August 14, Chu said:

I'd just like very quickly to put to rest what I understand has been a burgeoning rumor that somehow we are going to reduce compensation for those serving in Iraq and Afghanistan. That is not true . . .

What I think you're pointing to is one piece of a very thick technical appeal document that speaks to the question, do we want to extend the language Congress used in the Family Separation Allowance and Imminent Danger Pay statutes. And no, we don't think we need to extend that language. That's a different statement from, are we going to reduce compensation for those in Iraq and Afghanistan . . .

What do these statements mean?

Evidently the administration wants to claim that it will keep compensation the same for those serving in Iraq and Afghanistan, through other pay categories, but does indeed intend to roll back the increases to Imminent Danger Pay and Family Separation Allowance.

This means that a soldier getting shot at fighting the war on terrorism in Yemen or the Philippines would receive less money than one who is similarly risking his or her life in Iraq. This means that a family bearing huge costs because of burdensome, long-term deployments would only be helped if the service member is deployed to Iraq or Afghanistan, but not if that same service member is deployed anywhere else in the world.

It is unfair to cut funding intended to help military families that are bearing the costs of far-flung U.S. deployments. It is unacceptable that imminent danger would be worth less in one combat zone than in another.

The bill we introduce today makes a clear statement that these pay categories should be increased permanently and should not be cut in conference.

Until these pay levels were increased in the supplemental, an American soldier, sailor, airman, or Marine who put his or her life on the line in imminent danger only received an extra $150 per month. My amendment increased that amount to $225 per month—still only an acknowledgment of their courage, but an increase nonetheless.

Prior to the increase in the Supplemental Appropriations bill, Family Separation had been only $100 per month. We succeeded in raising it to $250 per month.

These increases are only part of a normal progression of increases—for example, in 1965, Imminent Danger Pay was $55; $100 in 1985, and raised to $150 in 1991. Family Separation Allowance was $30 in 1970, $60 in 1985, $75 in 1991, and $100 in 1997.

Family Separation Allowance was originally intended to pay for things that the deployed service member would have done, like cut the grass, that the spouse may then have had to hire someone to do. That may well have been appropriate in the past, but now most families have two working spouses—sometimes two working military spouses—and the absence of one or both parents may add huge child care costs that even the increased rate is unlikely to cover.

Military spouses sometimes find that they must give up their jobs or curtail their working hours in order to take up the family responsibilities that otherwise would have been shared by the missing spouse.

Examples of increased costs that families may incur when military personnel are deployed, in addition to increased child care costs, include: health care costs not covered by TRICARE; for example, the cost of counseling for children having a difficult time with their parents' deployment; costs for the family of an activated Reservist or National Guard member to travel to mobilization briefings, which may be in another state; various communication and information-gathering costs.

I would like to quote for the RECORD from an article that appeared in The Washington Post on April 11, 2003, entitled ''Military Familes Turn to Aid Groups,'' that outlines how military families have had to rely on private aid organizations to help them when their spouses are deployed. The article highlights the case of one mother, Michele Mignosa and says:

The last 18 months have brought one mishap or another to Michelle Mignosa. Her husband, Kevin, is an Air Force reservist who since the Sept. 11, 2001, terrorist attacks has been away from their Lancaster, Calif., home almost as much as he's been there. First, there were the out-of-state trips to provide airport security. Then he was deployed to Turkey for 2½ months last spring. Now he's in Greece with an air-refueling unit. . . . And while he has been gone, the problems have piled up at home. . . . Strapped for cash since giving up her part-time job because of Kevin's frequent far-off postings, she didn't know where the money would come from to resolve yet another problem.

I applaud the efforts of private aid groups to help military families, but I believe that it is the duty of the U.S. Government to cover more of the costs incurred because of military deployments. If should not matter to which country the service member is deployed. Cuts must not be made to funds helping military families that are bearing the costs of war, homeland security, and U.S. military commitments abroad.

To say that pay will not decrease to those serving in Iraq or Afghanistan is ignoring the truth—rolling back Family Separation Allowance from $250 per month to $100 per month will cost our military families and could be especially painful for those living on the edge.

I urge my colleagues to support the bill that Senator DASCHLE and I introduce today and make a strong statement to the Defense Department that Congress will not stand for cutting Imminent Danger Pay and Family Separation Allowance.

By Ms. LANDRIEU:

S. 1616. A bill to amend the Employee Retirement Income Security Act of 1974 to prevent the preemption of State community property law as it relates to nonforfeitable accrued retirement benefits; to the Committee on Health, Education, Labor, and Pensions.

Ms. LANDRIEU. Mr. President, the Senate is expected to consider important legislation that will affect the pensions of millions of Americans and

their families during the 108th Congress. In the last Congress we provided greater security to pensions by correcting the accounting abuses that lay at the heart of the Enron and WorldCom bankruptcies—bankruptcies that caused the employees of these companies to lose their life savings and hurt the investment portfolios of thousands of individual investors.

Today, I am introducing legislation to correct a unique problem under ERISA for States with community property laws. The issue came to light in the 1997 Supreme Court decision in the case of Boggs v. Boggs. The Court held that ERISA preempted the application of Louisiana's community property law in the disposition of pension benefits. While the case originated in Louisiana, the holding tears a hole in the fabric of community property laws of seven other States, Texas, New Mexico, California, Arizona, Nevada, Washington, and Idaho.

Long before the women's movement, community property laws stood for the basic premise that a marriage is an economic, as well as social, child rearing partnership in which the ownership of property acquired during the marriage is shared equally. The Boggs case involved a husband and wife. The husband began accumulating benefits in a pension plan after they got married. The wife did not have a pension plan, but under the community property law of Louisiana, half of her husband's benefits were hers. The wife died before her husband retired, and before the plan's benefits were subject to distribution. In her will she left her interest in the pension benefits to her husband for the rest of his life, with the remaining interest to her sons for after her husband died. The husband subsequently remarried, retired, and ultimately died, leaving property to his second wife and an interest in his remaining assets to his sons. The sons attempted to enforce their State-law interest in the pension benefits bequeathed to them by their mother against the second wife. The Supreme Court held against the sons, saying that they were not beneficiaries of, nor participants in, the pension plan under ERISA.

This holding goes against the fundamental principles of community property. What the Court is saying is that although a husband's 401K plan may contain a million dollars of deferred earnings accumulated during the course of his marriage, if his wife dies before he retires, her interest terminates; she co-owned none of it. The fundamental principle of marriage as an equal partnership under community property is rendered meaningless by this decision.

The Boggs ruling will also lead to conflicting results in the disposition of assets at death in community property States. If, instead, the money had been put in an ordinary savings account that is not covered by ERISA, half of it would have been owned by the wife as community property in recognition of her contribution to the marriage. At her death, she would have been free to dispose of the assets as she saw fit. Furthermore, after Boggs, if a couple has both a 401K plan and a savings account, upon the death of the wife the husband gets all of the 401K plan plus half of the savings account; the wife's estate gets only half of the savings account. That is not the equal outcome community property laws seek.

The legislation that I am proposing will create a narrow exception within the ERISA preemption provisions to address the circumstances under Boggs. Instead of losing the community property interest in any non-forfeitable accrued pension benefits at death, a spouse will retain that interest and will be able to pass that interest on to his or her heirs. This is not an exceptional change to ERISA. What I am proposing does not affect the joint and survivor annuity required by ERISA nor does it prevent the participant from having the use and enjoyment of the entire retirement asset until his death. It does not place any new burden on the retirement plan administrators. It envisions that upon the death of the participant, the State probate court will apply normal community property principles, taking into account the value of the retirement assets at the time of the participant's death, in distributing the participant's property between the heirs of the participant and the heirs of the predeceased spouse. Furthermore, each community property State will have the freedom to implement the amendment by whatever means the State deems best, including the option not to implement the amendment at all.

ERISA already contains exceptions to its preemption provisions. One applies to divorce or other Qualified Domestic Relations Orders. This exception, added to ERISA by the Retirement Equity Act of 1984, allows States to apply their community property laws or equitable division laws to retirement assets when a couple gets divorced. A divorced spouse can retain an interest in the undistributed pension assets of their ex-husband or wife. As it now stands, therefore, ERISA is more favorable to a spouse who divorced the participant before dying, than a spouse who remained married to the participant until death.

The Senate should act to reaffirm the principles of community property. My legislation upholds the basic ideal of community property law: that marriage is a partnership that values as equal the contributions of both the husband and the wife. This notion of equality holds true whether one spouse worked and the other stayed at home. I urge my colleagues to pass this legislation.

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

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

S. 1616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATE COMMUNITY PROPERTY LAW RIGHT TO RETIREMENT BENEFITS NOT PREEMPTED BY ERISA.

(a) IN GENERAL.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended—

(1) by redesignating paragraphs (8) and (9) as (9) and (10), respectively; and

(2) by inserting after paragraph (7) the following:

''(8)(A) Except as provided in subparagraph (B), if—

''(i) under the community property laws of any State the spouse of a participant of a pension plan is entitled to any portion of the participant's nonforfeitable accrued benefit; and

''(ii) the spouse's interest in such benefit under such laws passed to an individual other than the participant by reason of the death of the spouse;

then subsection (a) shall not apply to an order issued by a court of such State disposing of such interest.

''(B) Nothing in subparagraph (A) shall be construed to allow a claim—

''(i) for a benefit directly from a pension plan;

''(ii) against a qualified joint and survivor annuity or qualified pre-retirement survivor annuity of a surviving spouse of the participant; or

''(iii) against the participant during his or her lifetime.''.

(b) EFFECTIVE DATE.—The amendments made by this Act shall apply to orders regarding the estates of decedents dying after the date of enactment of this Act.

By Mr. KENNEDY (for himself and Ms. SNOWE):

S. 1617. A bill to amend the employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide comprehensive pension protection for women; to the Committee on Finance.

Mr. KENNEDY. Mr. President, it's a privilege to join Senator SNOWE in introducing the Women's Pension Protection Act of 2003, and I commend her for her commitment.

Retirement security is essential for all Americans, but too often we have failed to meet the needs of women on this basic issue. Women live longer than men, but they continue to earn far less in wages over their lifetimes. Women are much less likely to benefit from the private pension system. Just as women receive less pay and less recognition of their contributions in the workplace, they also receive fewer retirement benefits.

Women's lack of retirement security is based in the unfair treatment they face in the workplace. Women still earn only 76 percent of the wages of men, and this gap in pay leads to hundreds of thousands of dollars in lower pay over their careers. Women are twice as likely as men to work in part-time jobs without benefits. They are much more likely to spend time out of the workforce to meet their family responsibilities. All of these factors translate into seriously inadequate retirement income for vast numbers of women.

The realities of this injustice are grim. According to the most recent Census data, fewer than 20 percent of women age 65 and over are receiving private pension income—and these women are receiving an average of only $4,200 a year in such income, compared with $7,800 for men. Minority women are in even more desperate straits—only 15 percent of African-American women and 8 percent of Hispanic women receive pension income.

As a result of these lower wages, longer lifespans and unfair pensions, nearly one in five older single women are living in poverty.

Almost twenty years ago, we modified federal pension laws to provide greater protections for women in their retirements. The Retirement Equity Act of 1984 required defined benefit pension plans to pay survivor benefits, unless the spouse waived this protection. The time has come to extend and expand these protections. In many cases, the amount a spouse receives as a survivor benefit is often far too little to provide adequate support. The existing protections do not cover 401(k) and other defined contribution plans—which are now the only retirement assistance for over half of the American who have private pensions.

Under the legislation we are introducing today, women will have greater retirement security. They will have greater say in the management of their husband's 401(k) funds. Widows will have more generous survivor benefits. Divorced women will have a greater ability to receive a share of their former husband's pension after a divorce. Our legislation offer long overdue improvements in the private system, so that retirement savings programs are more responsive to the realities of women's lives and careers. Congress must do all it can to strengthen women's retirement security and end the many inequities that affect women in our current pension laws. I urge my colleagues to support the Women's Pension Protection Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 225—COMMEMORATING THE 100TH ANNIVERSARY OF DIPLOMATIC RELATIONS BETWEEN THE UNITED STATES AND BULGARIA

Mr. MCCAIN (for himself, Mr. LUGAR, Mr. BIDEN, and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 225

Whereas the United States established diplomatic relations with the Republic of Bulgaria on September 19, 1903;

Whereas the United States acknowledges the courage of the Bulgarian people in deciding to pursue a free, democratic, and independent Bulgaria and the steadfast perseverance of the Bulgarian people in building a society based on democratic values, the rule of law, respect for human rights, and a free market economy;

Whereas the Bulgarian people, including Bulgarian civil and religious leaders, bravely protected 50,000 Bulgarian Jews from deportation and extermination during the Holocaust;

Whereas Bulgaria has supported stability in the Balkans by rendering support to Operation Allied Force and Operation Joint Guardian led by the North Atlantic Treaty Organization (NATO), and by providing peacekeeping troops to the Stabilisation Force in Bosnia and Herzegovina and to the Kosovo Force in Kosovo;

Whereas Bulgaria was among the very first countries to denounce terrorism and pledge active support to the United States in the fight against terrorism following the events of September 11, 2001;

Whereas Bulgaria provided overflight and basing rights at the town of Burgas for Operation Enduring Freedom and Bulgaria deployed a military unit to Afghanistan as part of the International Security Assistance Force;

Whereas Bulgaria has stood firmly by the United States in the cause of advancing freedom worldwide during its tenure as a nonpermanent member of the United Nations Security Council;

Whereas Bulgaria met each request of the United States relating to overflight and basing rights as well as transit of United States and coalition forces, and deployed a 500-man infantry battalion as part of a stabilization force in Iraq;

Whereas in November 2003, Bulgaria was invited to join NATO and has shown determination in enacting the continued reforms necessary to be a productive, contributing member of the Alliance;

Whereas Bulgaria strongly supports the strengthening of trans-Atlantic relations and considers the relations to be a basis for NATO unity and cooperation in countering new threats to global security; and

Whereas in May 2003, the Senate gave its consent with 96 votes to 0 for the ratification of the accession protocols of Bulgaria and 6 other aspirant countries from Central and Eastern Europe to NATO, thereby welcoming their contribution to common trans-Atlantic security: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the 100 years of diplomatic relations between the United States and Bulgaria;

(2) commends the Republic of Bulgaria for developing increasingly friendly and broadly based relations with the United States, which are now the most favorable in the history of United States-Bulgaria relations;

(3) recognizes Bulgaria's continued contributions towards bringing peace, stability, and prosperity to the region of southeastern Europe, including the contributions of Bulgaria to regional security and democratic stability;

(4) salutes Bulgaria's willing cooperation and increasingly vital role as a valuable ally in the war against international terrorism;

(5) highlights the importance of Bulgaria's active participation in regional initiatives such as the Stability Pact for Southeast Europe, the Southeast Europe Cooperative Initiative, and the Southeast Europe Cooperation Process, and the various projects of those initiatives, which are focused on fighting crime and corruption, increasing trade, improving the investment climate, and generally preparing Bulgaria and Southeast Europe as a whole for eventual membership in the European Union; and

(6) encourages opportunities for greater cooperation between the United States and Bulgaria in the political, military, economic, and cultural spheres.

SENATE CONCURRENT RESOLUTION 68—HONORING THE LIFE OF JOHNNY CASH

Mr. ALEXANDER (for himself, Mr. FRIST, Mrs. LINCOLN, and Mr. PRYOR) submitted the following concurrent resolution; which was ordered held at the desk.

S. CON. RES. 68

Whereas Johnny Cash was one of the most influential and recognized voices of American music throughout the world, whose influence spanned generations and musical genres;

Whereas Johnny Cash was born on February 26, 1932, in Kingsland, Arkansas, and moved with his family at the age of 3 to Dyess, Arkansas, where the family farmed 20 acres of cotton and other seasonal crops;

Whereas those early years in the life of Johnny Cash inspired songs such as ''Look at Them Beans'' and ''Five Feet High and Rising'';

Whereas Johnny Cash eventually released more than 70 albums of original material in his lifetime, beginning with his first recording in 1955 with the Tennessee Two;

Whereas Johnny Cash was a devoted husband to June Carter Cash, a father of 5 children, and a grandfather;

Whereas Johnny Cash received extensive recognition for his contributions to the musical heritage of the Nation, including membership in the Grand Old Opry; induction into the Nashville Songwriters Hall of Fame, the Country Music Hall of Fame, and the Rock and Roll Hall of Fame; and his receipt of numerous awards, including Kennedy Center Honors, 11 Grammy awards, and the 2001 National Medal of Arts;

Whereas Johnny Cash embodied the creativity, innovation, and social conscience that define American music;

Whereas Johnny Cash was a vocal champion of the downtrodden, the working man, and Native Americans; and

Whereas the Nation has lost one of its most prolific and influential musicians with the death of Johnny Cash on September 12, 2003, in Nashville, Tennessee: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) honors the life and accomplishments of Johnny Cash;

(2) recognizes and honors Johnny Cash for his invaluable contributions to the Nation, Tennessee, and our musical heritage; and

(3) extends its condolences to the Cash family on the death of a remarkable man.

Mr. ALEXANDER. Mr. President, today I am introducing a concurrent resolution honoring Johnny Cash.

Johnny Cash died on Friday in Nashville. The man whose singing voice sounded like a big freight train coming, is gone. The concurrent resolution I introduce today is on behalf of my colleague, the majority leader, Senator BILL FRIST of Tennessee, the Senators from Arkansas, Mrs. LINCOLN and Mr. PRYOR, and the distinguished Senator ROBERTS, who probably knows the words to ''I Walk the Line,'' as do most of us all over the world.

Johnny Cash lived a little bit outside of Nashville. I was in his home one time and I asked him: Johnny, how many nights do you perform on the road?

He looked at me with some surprise. He said: Oh, about 300 a year.

Why do you do that, I asked him in amazement?

He looked back at me equally amazed. He said: That is what I do.

All weekend the radio stations have been playing the songs of the man who performed 300 times a year for all of us, the ''man in black.'' Stores all over Nashville and all over the world were stocking up on Johnny Cash memorabilia this weekend.

So much has been said in newspapers and on TV that one wonders what else we Senators might say about Johnny Cash. I mean, what could I say better, for example, than what Steven Greenhouse wrote on Johnny on page 1 of the New York Times on Saturday:

Beginning in the mid-1950s, when he made his first record for the Sun label, Mr. Cash forged a lean, hard-bitten country-folk music that at its most powerful seemed to erase the lines between singing, storytelling and grueling life experience. Born in poverty in Arkansas at the height of the Depression, he was country music's foremost poet of the working poor. His stripped-down songs described the lives of coal miners and sharecroppers, convicts and cowboys, railroad workers and laborers.

''Foremost poet of the working poor.'' Mr. Greenhouse was not the only one who wrote beautifully about the foremost poet of the working poor. So did Louie Estrada and David Segal in the Washington Post. So did Craig Havighurst and several other writers in the Tennessean in Nashville, as well as John Sparks in the Memphis Commercial Appeal.

I have no doubt that in Wichita, Topeka, and important cities all over the country and world there were writers who were writing as best they could about the music and the sound of Johnny Cash.

Why do we wait until Johnny Cash dies to write of his poetry? John R. Cash is not the only such poet who ever lived in Nashville, TN. Bob Dylan, Johnny's friend, once said that Hank Williams was America's greatest poet. At last count, there are several thousand songwriters living in Nashville struggling to write poetry, some of which will be known and remembered everywhere in the world one day.

Alice Randall, a Nashville songwriter, a writer of songs and books, once observed that it is odd that there is so little serious literary criticism of the poetry of Johnny Cash, Hank Williams, and other country music songwriters. The outpouring of articles that accompanied Johnny's death this weekend suggest that most of the serious criticism of the poetry found in country music is done by pop music critics in our major newspapers.

But why is there not a department or a chair or at least a conference occasionally dedicated to criticism of the poetry or at least the literature of country music? Literary criticism is a fundamental part of the departments of English in universities all across America. Some of the most famous of these were among the ''Fugitives'' who met during the 1920s at Vanderbilt University. Cleanth Brooks, Robert Penn Warren, Allen Tate, Donald Davidson, and Andrew Lytle were some of those literary critics who began their careers then.

If Vanderbilt University, my alma mater, is such a center of literary criticism, then why has Vanderbilt University not done more about the literature that is country music? Or why does Belmont University in Nashville or the University of Tennessee or the University of Memphis not do it?

These Nashville and Memphis songwriters are certainly among the most famous poets in the world. But why do we wait for the New York Times and Bob Dylan to tell us that Johnny Cash and Hank Williams are also among the best poets when Vanderbilt University, among others, lives right there among them?

There are hundreds of good English professors in dozens of northeastern universities writing thousands of pages of criticism about average poets, while our Tennessee universities are doing almost nothing to write about poets who others say are among the best in the world. We have had a habit in Tennessee of not being willing to look right in front of our own noses to celebrate what is special about us. We sometimes worry about producing only average Chopin when right down the block lives the best harmonica player in the world.

I am all for Chopin, Beethoven, Mozart, and Bach. I have played their music on the piano with symphonies all across Tennessee, but I have also performed with those symphonies some of the most beautiful of the unique American music we call country music.

The death of our friend Johnny Cash, the poet of the working poor, is a good time for our Tennessee universities to consider whether they might want to celebrate our excellence by encouraging literary criticism of some of the best known poets in the world: Our songwriters. Our universities might discover what others have suggested, that some of our songwriters are also among the best in the world.

Mrs. LINCOLN. Madam President, I rise to join Senators ALEXANDER, FRIST, and PRYOR to introduce a resolution in honor of a great American, and one of our greatest Arkansans—Johnny Cash, who passed away on Friday, September 12, at the age of 71.

John R. Cash was born in Kingsland, AR on February 26, 1932. When he was just 3 years old, his father moved the family to Dyess Colony, a New Deal program that set up new farming communities on uncleared land near the Mississippi River. The family had 20 acres upon which they farmed cotton and other seasonal crops and from the beginning, John was taught to work for a living. It was this time spent farming and living in Northeast Arkansas, that inspired songs such as ''Look at Them Beans'' and ''Five Feet High and Rising.'' At the age of six, he was hauling water for a road crew. At twelve he was chopping cotton. When he reached high school he was singing on the radio in Blytheville. Still, John didn't pick up a guitar until he was stationed in West Germany as a soldier in the Army. The instrument was so cheap, he said, that ''it didn't even have a brand name.''

When he returned from Germany, John moved to Memphis, determined to make it in the music industry. He sold appliances door-to-door and went to broadcasting school on the GI bill, playing music whenever he could. Finally, he managed to get an audition before Sam Phillips, the owner of the legendary Sun Records studio. The first time Phillips heard Cash sing, he turned him down, saying that he sounded ''too country.'' John returned with a more rockabilly sound and Phillips began to send his group out with another artist on the Sun Records label, Elvis Presley. Phillips also began to refer to John as Johnny, a name Cash disliked because he thought it made him sound too young. Johnny would go on to record some of his most cherished songs for the label, including such classics as ''Cry, Cry, Cry'' and ''I Walk the Line''.

Over the next 5 decades, Johnny Cash recorded over 400 albums, with 48 hits on the Billboard Hot 100 and over 130 hits on the Billboard country music charts. In the process, the boy from Dyess Colony managed to sell over 50 million records. He is part of a distinguished group of musicians from Arkansas including: Conway Twitty, Sonny Boy Williamson, Glen Campbell, and Charlie Rich. Even though Johnny Cash and these other distinguished artists found fame outside of Arkansas, the experience of growing up in Arkansas gave them a unique perspective on the feelings of the common man and woman, working hard to just get by, a perspective which came through in their music.

The number of artists he has influenced is immeasurable. He has been inducted into the Country & Western Hall of Fame, the Nashville Songwriter's Hall of Fame, and the Rock & Roll Hall of Fame. He received 11 Grammy Awards including the Lifetime Achievement Award, and has been honored by both the Kennedy Center for his contribution to American Culture and the United Nations, receiving the Humanitarian Award. The last two awards illustrate how Johnny Cash became so much more than a musician.

His songs shined a light on aspects of American culture that are integral to our Nation's history but too often overlooked. He never forgot where he came from and the people he met along the way. He told stories about people who worked hard just to survive, people so poor they couldn't afford a car so they snuck out the parts to build one from the plant where they worked, ''One Piece At A Time''. And he told it all with a voice that once was described as ''the perfect voice for a man of his spirit. It's unmistakable. It doesn't sound like anybody else. And it sounds like the real thing, which is what he is.''

I ask that all my colleagues in the Senate join me in honoring a true

American original, a prodigiously talented musician, with a conscience that matched those gifts. Our deepest condolences go out to his family and friends.

AMENDMENTS SUBMITTED & PROPOSED

SA 1654. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 1655. Mrs. FEINSTEIN (for herself, Mr. KENNEDY, Mr. REED, Mr. LAUTENBERG, Mr. WYDEN, Mr. FEINGOLD, and Mrs. BOXER) proposed an amendment to the bill H.R. 2754, making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes.

SA 1656. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2754, supra; which was ordered to lie on the table.

SA 1657. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 2754, supra; which was ordered to lie on the table.

SA 1658. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2754, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1654. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2691, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . None of the funds appropriated or otherwise made available by this or any other Act, previously or hereafter enacted, may be used to permit the use of the National Mall for a special event, unless the permit expressly prohibits the erection, placement, or use of structures and signs bearing commercial advertising or sponsor recognition in any form. For purposes of this section, the term ''special event'' shall have the meaning given to it by section 7.96(g)(1)(ii) of title 36, Code of Federal Regulations; and the term ''structure'' shall have the meaning given to it by section 7.96(g)(5)(x)(A)(4) of title 36, Code of Federal Regulations. This section shall not apply to hand-held signs or to the Festival of American Folklife.

SA 1655. Mrs. FEINSTEIN (for herself, Mr. KENNEDY, Mr. REED, Mr. LAUTENBERG, Mr. WYDEN, Mr. FEINGOLD, and Mrs. BOXER) proposed an amendment to the bill H.R. 2754, making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes; as follows:

After section 503, insert the following:

SEC. 504. (a) REDUCTION IN AMOUNT AVAILABLE FOR NATIONAL NUCLEAR SECURITY ADMINISTRATION.—The amount appropriated by title III of this Act under the heading ''ATOMIC ENERGY DEFENSE ACTIVITIES'' under the heading ''NATIONAL NUCLEAR SECURITY ADMINISTRATION'' under the heading ''WEAPONS ACTIVITIES'' is hereby reduced by $21,000,000, with the amount of the reduction to be allocated so that—

(1) no funds shall be available for the Robust Nuclear Earth Penetrator; and

(2) no funds shall be available for Advanced Weapons Concepts.

(b) PROHIBITION ON USE OF FUNDS FOR CERTAIN MODIFICATION OF READINESS POSTURE OF NEVADA TEST SITE.—None of the funds appropriated or otherwise made available by this Act for the Department of Energy may be obligated or expended for the purpose of modifying the readiness posture of the Nevada Test Site, Nevada, for the resumption by the United States of underground nuclear weapons tests from the current readiness of posture of 24 months to 36 months to a new readiness posture of 18 months or any other readiness posture of less than 24 months.

(c) PROHIBITION ON USE OF FUNDS FOR SITE SELECTION OF MODERN PIT FACILITY.—None of the funds appropriated or otherwise made available by this Act for the Department of Energy may be obligated or expended for the purpose of site selection of the Modern Pit Facility.

(d) REDUCTION OF PUBLIC DEBT.—Of the amount appropriated by this Act, $21,000,000 shall not be obligated or expended, but shall be utilized instead solely for purposes of the reduction of the public debt.

SA 1656. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2754, making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 31, between lines 7 and 8, insert the following:

SEC. 117. Section 219(f) of the Water Resources Development Act of 1992 (Public Law 102–580; 106 Stat. 4835), as amended by section 502(b) of the Water Resources Development Act of 1999 (Public Law 106–53; 113 Stat. 335) and section 108(d) of title I of division B of the Miscellaneous Appropriations Act, 2001 (as enacted by Public law 106–554; 114 Stat. 2763A–220), is further amended by adding at the end the following:

''(71) CORONADO, CALIFORNIA.—$10,000,000 for wastewater infrastructure, Coronado, California.''.

SA 1657. Mr. KOHL submitted an amendment intended to be proposed by him to the bill H.R. 2754, making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, line 20, after ''expended'' insert the following: '', of which $5,000,000 shall be available to pay 100 percent of the costs of a research and development project to demonstrate advanced spent nuclear fuel storage and management technologies, to be carried out through a cooperative agreement between the Secretary of Energy and the Dairyland Power Cooperative at the La Crosse Boiling Water Reactor in the State of Wisconsin''.

SA 1658. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2754, making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, line 20, strike the period at the end and insert '', of which $5,000,000 shall be available for the Navajo electrification demonstration program under section 602 of Public Law 106–511 (114 Stat. 2376).''

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON RULES AND ADMINISTRATION AND COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I wish to announce that there will be a joint meeting of the Committee on Rules and Administration and the Committee on the Judiciary at 9:30 a.m., on Tuesday, September 16, 2003, in SR–325, Russell Senate Office Building, to conduct a joint hearing on Ensuring the Continuity of the United States Government: The Presidency.

For further information concerning this meeting, please contact Susan Wells at 202–224–6352.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS' SUBCOMMITTEE ON FINANCIAL MANAGEMENT, THE BUDGET, AND INERNATIONAL SECURITY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on Financial Management, the Budget, and International Security be authorized to meet on Monday, September 15, at 2:30 p.m., for a hearing titled, ''Safeguarding America's Retirement Security: An Examination of Defined Benefit Pension Plans and the Pension Benefits Guaranty Corporation.''

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

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

On Wednesday, September 10, 2003, the Senate passed H.R. 2660, as follows:

H.R. 2660

Resolved, That the bill from the House of Representatives (H.R. 2660) entitled ''An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real

property for training centers as authorized by the Workforce Investment Act of 1998; $2,652,588,000 plus reimbursements, of which $1,631,407,000 is available for obligation for the period July 1, 2004 through June 30, 2005; of which $1,000,965,000 is available for obligation for the period April 1, 2004 through June 30, 2005, to carry out chapter 4 of the Workforce Investment Act of 1998; and of which $20,216,000 is available for the period July 1, 2004 through June 30, 2007 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers: Provided, That notwithstanding any other provision of law, of the funds provided herein under section 137(c) of the Workforce Investment Act of 1998, $276,608,000 shall be for activities described in section 132(a)(2)(A) of such Act and $1,155,152,000 shall be for activities described in section 132(a)(2)(B) of such Act: Provided further, That $9,039,000 shall be for carrying out section 172 of the Workforce Investment Act of 1998: Provided further, That, notwithstanding any other provision of law or related regulation, $77,330,000 shall be for carrying out section 167 of the Workforce Investment Act of 1998, including $72,213,000 for formula grants, $4,610,000 for migrant and seasonal housing, and $507,000 for other discretionary purposes: Provided further, That $4,609,840 appropriated under this heading in Public Law 108–7 for migrant and seasonal housing under section 167 of the Workforce Investment Act of 1998 and available for obligation for the period July 1, 2003 through June 30, 2004 is hereby rescinded: Provided further, That $4,609,840 is available for obligation for the period July 1, 2003 through June 30, 2004, for farmworker housing organizations with grants expiring June 30, 2003 to carry out migrant and seasonal housing activities, including permanent housing at the option of grantees, under section 167 of the Workforce Investment Act of 1998: Provided further, That funds provided to carry out section 171(d) of the Workforce Investment Act of 1998 may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: Provided further, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act of 1998; $2,463,000,000 plus reimbursements, of which $2,363,000,000 is available for obligation for the period October 1, 2004 through June 30, 2005, and of which $100,000,000 is available for the period October 1, 2004 through June 30, 2007, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers.

For necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act of 1998, $25,000,000 may be used to carry out activities described in section 132(a)(2)(B) of that Act (relating to dislocated worker employment and training activities and other activities for dislocated workers).

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out title V of the Older Americans Act of 1965, as amended, $442,306,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I; and for training, allowances for job search and relocation, and related State administrative expenses under part II of chapter 2, title II of the Trade Act of 1974 (including the benefits and services described under sections 123(c)(2) and 151(b) and (c) of the Trade Adjustment Assistance Reform Act of 2002, Public Law 107–210), $1,338,200,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, $142,520,000, together with not to exceed $3,478,032,000 (including not to exceed $1,228,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund including the cost of administering section 51 of the Internal Revenue Code of 1986, as amended, section 7(d) of the Wagner-Peyser Act, as amended, the Trade Act of 1974, as amended, the Immigration Act of 1990, and the Immigration and Nationality Act, as amended, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 2004, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2006; of which $142,520,000, together with not to exceed $768,257,000 of the amount which may be expended from said trust fund, shall be available for obligation for the period July 1, 2004 through June 30, 2005, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail authorized under 39 U.S.C. 3202(a)(1)(E) made available to States in lieu of allotments for such purpose: Provided, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 2004 is projected by the Department of Labor to exceed 3,227,000, an additional $28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: Provided further, That funds appropriated in this Act which are used to establish a national one-stop career center system, or which are used to support the national activities of the Federal-State unemployment insurance programs, may be obligated in contracts, grants or agreements with non-State entities: Provided further, That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A–87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the ''Federal unemployment benefits and allowances'' account, to remain available until September 30, 2005, $467,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 2004, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $115,824,000, including $2,393,000 to administer welfare-to-work grants, together with not to exceed $63,137,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employee Benefits Security Administration, $121,316,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program, including associated administrative expenses, through September 30, 2004 for such Corporation: Provided, That none of the funds available to the Corporation for fiscal year 2004 shall be available for obligations for administrative expenses in excess of $228,772,000: Provided further, That obligations in excess of such amount may be incurred after approval by the Office of Management and Budget and the Committees on Appropriations of the House and Senate.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $390,045,000, together with $2,016,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d) and 44(j) of the Longshore and Harbor Workers' Compensation Act: Provided, That $2,000,000 shall be for the development of an alternative system for the electronic submission of reports required to be filed under the Labor-Management Reporting and Disclosure Act of 1959, as amended, and for a computer database of the information for each submission by whatever means, that is indexed and easily searchable by the public via the Internet: Provided further, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91–0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): Provided further, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the heading ''Civilian War Benefits'' in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; sections 4(c) and 5(f) of the War Claims Act of 1948

(50 U.S.C. App. 2012); and 50 percent of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $163,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: Provided, That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary of Labor to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: Provided further, That balances of reimbursements unobligated on September 30, 2003, shall remain available until expended for the payment of compensation, benefits, and expenses: Provided further, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary determines to be the cost of administration for employees of such fair share entities through September 30, 2004: Provided further, That of those funds transferred to this account from the fair share entities to pay the cost of administration of the Federal Employees' Compensation Act, $39,315,000 shall be made available to the Secretary as follows: (1) for enhancement and maintenance of automated data processing systems and telecommunications systems, $11,618,000; (2) for automated workload processing operations, including document imaging, centralized mail intake and medical bill processing, $14,496,000; (3) for periodic roll management and medical review, $13,201,000; and (4) the remaining funds shall be paid into the Treasury as miscellaneous receipts: Provided further, That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 U.S.C. 901 et seq., provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, as amended by Public Law 107–275, (the ''Act''), $300,000,000, to remain available until expended.

For making after July 31 of the current fiscal year, benefit payment to individuals under title IV of the Act, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the first quarter of fiscal year 2005, $88,000,000, to remain available until expended.

ADMINISTRATIVE EXPENSES, ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to administer the Energy Employees Occupational Illness Compensation Act, $55,074,000, to remain available until expended: Provided, That the Secretary of Labor is authorized to transfer to any executive agency with authority under the Energy Employees Occupational Illness Compensation Act, including within the Department of Labor, such sums as may be necessary in fiscal year 2004 to carry out those authorities: Provided further, That the Secretary may require that any person filing a claim for benefits under the Act provide as part of such claim, such identifying information (including Social Security account number) as may be prescribed.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

Beginning in fiscal year 2004 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended; and interest on advances, as authorized by section 9501(c)(2) of that Act. In addition, the following amounts shall be available from the Fund for fiscal year 2004 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): $32,004,000 for transfer to the Employment Standards Administration, ''Salaries and Expenses''; $23,401,000 for transfer to Departmental Management, ''Salaries and Expenses''; $338,000 for transfer to Departmental Management, ''Office of Inspector General''; and $356,000 for payments into miscellaneous receipts for the expenses of the Department of the Treasury.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $463,324,000, including not to exceed $93,263,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act (the ''Act''), which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Act; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: Provided, That, notwithstanding 31 U.S.C. 3302, the Secretary of Labor is authorized, during the fiscal year ending September 30, 2004, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: Provided further, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Act which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: Provided further, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Act with respect to any employer of 10 or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: Provided further, That not less than $3,200,000 shall be used to extend funding for the Institutional Competency Building training grants which commenced in September 2000, for program activities for the period of September 30, 2003 to September 30, 2004, provided that a grantee has demonstrated satisfactory performance.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $270,711,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; including up to $2,000,000 for mine rescue and recovery activities; in addition, not to exceed $750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities, notwithstanding 31 U.S.C. 3302; and, in addition, the Mine Safety and Health Administration may retain up to $1,000,000 from fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $445,113,000, together with not to exceed $75,110,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, of which $5,000,000 may be used to fund the mass layoff statistics program under section 15 of the Wagner-Peyser Act (29 U.S.C. 49l–2).

OFFICE OF DISABILITY EMPLOYMENT POLICY

SALARIES AND EXPENSES

For necessary expenses for the Office of Disability Employment Policy to provide leadership, develop policy and initiatives, and award grants furthering the objective of eliminating barriers to the training and employment of people with disabilities, $47,333,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including the management or operation, through contracts, grants or other arrangements of Departmental activities conducted by or through the Bureau of International Labor Affairs, including bilateral and multilateral technical assistance and other international labor activities, and $48,565,000, for the acquisition of Departmental information technology, architecture, infrastructure, equipment, software and

related needs which will be allocated by the Department's Chief Information Officer in accordance with the Department's capital investment management process to assure a sound investment strategy; $351,295,000; together with not to exceed $314,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund: Provided, That no funds made available by this Act may be used by the Solicitor of Labor to participate in a review in any United States court of appeals of any decision made by the Benefits Review Board under section 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921) where such participation is precluded by the decision of the United States Supreme Court in Director, Office of Workers' Compensation Programs v. Newport News Shipbuilding, 115 S. Ct. 1278 (1995), notwithstanding any provisions to the contrary contained in Rule 15 of the Federal Rules of Appellate Procedure: Provided further, That no funds made available by this Act may be used by the Secretary of Labor to review a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) that has been appealed and that has been pending before the Benefits Review Board for more than 12 months: Provided further, That any such decision pending a review by the Benefits Review Board for more than 1 year shall be considered affirmed by the Benefits Review Board on the 1-year anniversary of the filing of the appeal, and shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals: Provided further, That these provisions shall not be applicable to the review or appeal of any decision issued under the Black Lung Benefits Act (30 U.S.C. 901 et seq.): Provided further, That of this amount, sufficient funds shall be available for the Secretary of Labor, not later than 60 days after the last day of the fiscal year, may submit to Congress a report on the amount of acquisitions made by the Department of Labor during such fiscal year of articles, materials, or supplies that were manufactured outside the United States. Such report shall separately indicate the dollar value of any articles, materials, or supplies purchased by the Department of Labor that were manufactured outside the United States, an itemized list of all waivers under the Buy American Act (41 U.S.C. 10a et seq.) that were granted with respect to such articles, materials, or supplies, and a summary of total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States. The Secretary of Labor shall make the report publicly available by posting the report on an Internet website.

VETERANS EMPLOYMENT AND TRAINING

Not to exceed $193,443,000 may be derived from the Employment Security Administration Account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100–4012, 4211–4215, and 4321–4327, and Public Law 103–353, and which shall be available for obligation by the States through December 31, 2004, of which $2,000,000 is for the National Veterans' Employment and Training Services Institute. To carry out the Homeless Veterans Reintegration Programs (38 U.S.C. 2021) and the Veterans Workforce Investment Programs (29 U.S.C. 2913), $26,550,000, of which $7,550,000 shall be available for obligation for the period July 1, 2004 through June 30, 2005.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $59,291,000, together with not to exceed $5,561,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

For the acquisition of a new core accounting system for the Department of Labor, including hardware and software infrastructure and the costs associated with implementation thereof, $9,700,000.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II.

(TRANSFER OF FUNDS)

SEC. 102. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: Provided, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 103. In accordance with Executive Order No. 13126, none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended for the procurement of goods mined, produced, manufactured, or harvested or services rendered, whole or in part, by forced or indentured child labor in industries and host countries already identified by the United States Department of Labor prior to enactment of this Act.

SEC. 104. There is authorized to be appropriated such sums as may be necessary to the Denali Commission through the Department of Labor to conduct job training of the local workforce where Denali Commission projects will be constructed.

SEC. 105. Of the funds appropriated for fiscal year 1999 under section 403(a)(5)(H)(i)(II) of the Social Security Act (42 U.S.C. 603(a)(5)(H)(i)(II)) that were allotted as welfare to work formula grants to the States under section 403(a)(5)(A) of such Act (42 U.S.C. 603(a)(5)(A)), $210,833,000 is hereby rescinded. In order to carry out this section, the Secretary of Labor shall recapture unexpended funds from the States that have received such allotments based on the relative amount of funds from such allotments that remain unexpended in each State as compared to the total amount of funds from such allotments that remain unexpended in all States as of September 30, 2003. The Secretary of Labor is authorized to establish such procedures as the Secretary determines are appropriate to carry out this section.

SEC. 106. None of the funds provided under this Act shall be used to promulgate or implement any regulation that exempts from the requirements of section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) any employee who is not otherwise exempted pursuant to regulations under section 13 of such Act (29 U.S.C. 213) that were in effect as of September 3, 2003.

SEC. 107. The Department of Labor may cease the implementation of closing procedures for the Department of Labor Employment and Training Administration regional office in New York City, New York, and the Employment and Training Administration affiliate offices in Seattle, Washington, Kansas City, Missouri, and Denver, Colorado until September 30, 2004.

SEC. 108. (a) FINDINGS.—Congress finds that—

(1) it is projected that the Department of Labor, in conjunction with labor, industry, and the National Institute for Occupational Safety and Health, will be undertaking several months of testing on Personal Dust Monitor production prototypes; and

(2) the testing of Personal Dust Monitor prototypes is set to begin (by late May or early June of 2004) following the scheduled delivery of the Personal Dust Monitors in May 2004.

(b) RE-PROPOSAL OF RULE.—Following the successful demonstration of Personal Dust Monitor technology, and if the Secretary of Labor makes a determination that Personal Dust Monitors can be effectively applied in a regulatory scheme, the Secretary of Labor shall re-propose a rule on respirable coal dust which incorporates the use of Personal Dust Monitors, and, if such rule is re-proposed, the Secretary shall comply with the regular procedures applicable to Federal rulemaking.

This title may be cited as the ''Department of Labor Appropriations Act, 2004''.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, IV, VII, VIII, X, XII, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V (including section 510), and sections 1128E and 1820 of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, the Native Hawaiian Health Care Act of 1988, as amended, the Cardiac Arrest Survival Act of 2000, and the Poison Control Center Enhancement and Awareness Act, $5,881,322,000, of which $39,740,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program under section 1820 of such Act: Provided, That of the funds made available under this heading, $250,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: Provided further, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: Provided further, That fees collected for the full disclosure of information under the ''Health Care Fraud and Abuse Data Collection Program'', authorized by section 1128E(d)(2) of the Social Security Act, shall be sufficient to recover the full costs of operating the program, and shall remain available until expended to carry out that Act: Provided further, that no more than $10,000,000 is available for carrying out the provisions of U.S.C. Title 42 Section 233(o) including associated administrative expenses: Provided further, That $10,000,000 is to establish a National Cord Blood Stem Cell Bank Program: Provided further, That no more than $45,000,000 is available for carrying out the provisions of Public Law 104–73: Provided further, That of the funds made available under this heading, $283,350,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: Provided further, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: Provided further, That $739,000,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: Provided further, That in addition to amounts provided herein, $25,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out Parts A, B, C, and D of title XXVI of the Public Health Service Act to fund section 2691 Special Projects of National Significance: Provided further, That notwithstanding section 502(a)(1) of the Social Security Act, not to exceed $116,381,000 is available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act: Provided further, That $73,044,000 is available for special projects of regional and national significance under section 501(a)(2) of the Social Security Act, which shall not be counted toward

compliance with the allocation required in section 502(a)(1) of such Act, and which shall be used only for making competitive grants to provide abstinence education (as defined in section 510(b)(2) of such Act) to adolescents and for evaluations (including longitudinal evaluations) of activities under the grants and for Federal costs of administering the grants: Provided further, That grants under the immediately preceding proviso shall be made only to public and private entities which agree that, with respect to an adolescent to whom the entities provide abstinence education under such grant, the entities will not provide to that adolescent any other education regarding sexual conduct, except that, in the case of an entity expressly required by law to provide health information or services the adolescent shall not be precluded from seeking health information or services from the entity in a different setting than the setting in which the abstinence education was provided: Provided further, That the funds expended for such evaluations may not exceed 3.5 percent of such amount: Provided further, That up to $1,000,000 may be made available to carry out the rural emergency medical service training and equipment assistance program under section 330J of the Public Health Service Act (42 U.S.C. 254c–15).

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM ACCOUNT

Such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended. For administrative expenses to carry out the guaranteed loan program, including section 709 of the Public Health Service Act, $3,389,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: Provided, That for necessary administrative expenses, not to exceed $2,972,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, XIX, XXI, and XXVI of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act of 1977, sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act, and section 501 of the Refugee Education Assistance Act of 1980; including purchase and insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft, $4,432,496,000, of which $260,000,000 shall remain available until expended for equipment, and construction and renovation of facilities, and of which $232,569,000 for international HIV/AIDS shall remain available until September 30, 2005, including up to $90,000,000, to remain available until expended for the ''International Mother and Child HIV Prevention Initiative.'' In addition, such sums as may be derived from authorized user fees, which shall be credited to this account: Provided, That in addition to amounts provided herein, $14,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the National Immunization Surveys: Provided further, That in addition to amounts provided herein, $127,634,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the National Center for Health Statistics surveys: Provided further, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used, in whole or in part, to advocate or promote gun control: Provided further, That in addition to amounts provided herein, $28,600,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out information systems standards development and architecture and applications-based research used at local public health levels: Provided further, That in addition to amounts provided herein, $41,900,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out Research Tools and Approaches activities within the National Occupational Research Agenda: Provided further, That the Director may redirect the total amount made available under authority of Public Law 101–502, section 3, dated November 3, 1990, to activities the Director may so designate: Provided further, That the Congress is to be notified promptly of any such transfer: Provided further, That not to exceed $12,500,000 may be available for making grants under section 1509 of the Public Health Service Act to not more than 15 States: Provided further, That without regard to existing statute, funds appropriated may be used to proceed, at the discretion of the Centers for Disease Control and Prevention, with property acquisition, including a long-term ground lease for construction on non-Federal land, to support the construction of a replacement laboratory in the Fort Collins, Colorado area: Provided further, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: Provided further, That the solicitation and contract shall contain the clause ''availability of funds'' found at 48 CFR 52.232–18.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $4,770,519,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $2,897,595,000.

NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $386,396,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, $1,683,007,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $1,510,926,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

(INCLUDING TRANSFER OF FUNDS)

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $4,335,255,000: Provided, That $150,000,000 may be made available to International Assistance Programs, ''Global Fund to Fight HIV/AIDS, Malaria, and Tuberculosis'', to remain available until expended.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $1,917,033,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $1,251,185,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $657,199,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $637,074,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $1,031,411,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, $505,000,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $384,577,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $135,579,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, $431,521,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $997,614,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, $1,391,114,000.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $482,372,000.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND BIOENGINEERING

For carrying out section 301 and title IV of the Public Health Service Act with respect to biomedical imaging and bioengineering research, $289,300,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $1,186,483,000: Provided, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants: Provided further, That $119,220,000 shall be for extramural facilities construction grants.

NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to complementary and alternative medicine, $117,902,000.

NATIONAL CENTER ON MINORITY HEALTH AND HEALTH DISPARITIES

For carrying out section 301 and title IV of the Public Health Service Act with respect to minority health and health disparities research, $192,824,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $65,900,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications,

$311,835,000, of which $4,000,000 shall be available until expended for improvement of information systems: Provided, That in fiscal year 2004, the Library may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health: Provided further, That in addition to amounts provided herein, $8,200,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out National Information Center on Health Services Research and Health Care Technology and related health services.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $323,483,000: Provided, That funding shall be available for the purchase of not to exceed 29 passenger motor vehicles for replacement only: Provided further, That the Director may direct up to 1 percent of the total amount made available in this or any other Act to all National Institutes of Health appropriations to activities the Director may so designate: Provided further, That no such appropriation shall be decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer: Provided further, That the National Institutes of Health is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: Provided further, That all funds credited to the National Institutes of Health Management Fund shall remain available for 1 fiscal year after the fiscal year in which they are deposited: Provided further, That up to $497,000 shall be available to carry out section 499 of the Public Health Service Act.

BUILDINGS AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For the study of, construction of, renovation of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $89,500,000, to remain available until expended: Provided, That notwithstanding any other provision of law, single contracts or related contracts, which collectively include the full scope of the project, may be employed for the development and construction of the first and second phases of the John Edward Porter Neuroscience Research Center: Provided further, That the solicitations and contracts shall contain the clause ''availability of funds'' found at 48 CFR 52.232–18.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act with respect to substance abuse and mental health services, the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and section 301 of the Public Health Service Act with respect to program management, $3,157,540,000: Provided, That in addition to amounts provided herein, $79,200,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out subpart II of title XIX of the Public Health Service Act to fund section 1935(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1935(b) activities shall not exceed 5 percent of the amounts appropriated for subpart II of title XIX: Provided further, That in addition to the amounts provided herein, $21,850,000 shall be available from amounts available under Section 241 of the Public Health Service Act to carry out subpart I of Part B of title XIX of the Public Health Service Act to fund section 1920(b) technical assistance, data collection and program evaluation activities, and further that the total available under this Act for section 1920(b) activities shall not exceed 5 percent of the amounts appropriated for subpart I of Part B of Title XIX: Provided further, That in addition to amounts provided herein, $16,000,000 shall be made available from amounts available under section 241 of the Public Health Service Act to carry out national surveys on drug abuse.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data shall be credited to this appropriation and shall remain available until expended: Provided, That the amount made available pursuant to section 927(c) of the Public Health Service Act shall not exceed $303,695,000.

CENTERS FOR MEDICARE AND MEDICAID SERVICES

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $124,892,197,000, to remain available until expended.

For making, after May 31, 2004, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 2004 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or in the case of section 1928 on behalf of States under title XIX of the Social Security Act for the first quarter of fiscal year 2005, $58,416,275,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under section 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $95,084,100,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, XIX, and XXI of the Social Security Act, titles XIII and XXVII of the Public Health Service Act, and the Clinical Laboratory Improvement Amendments of 1988, not to exceed $2,707,603,000, to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act and section 1857(e)(2) of the Social Security Act, and such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended, and together with administrative fees collected relative to Medicare overpayment recovery activities, which shall remain available until expended: Provided, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act shall be credited to and available for carrying out the purposes of this appropriation: Provided further, That $30,000,000, to remain available until September 30, 2005, is for contract costs for CMS's Systems Revitalization Plan: Provided further, That $56,991,000, to remain available until September 30, 2005, is for contract costs for the Healthcare Integrated General Ledger Accounting System: Provided further, That the Secretary of Health and Human Services is directed to collect fees in fiscal year 2004 from Medicare+Choice organizations pursuant to section 1857(e)(2) of the Social Security Act and from eligible organizations with risk-sharing contracts under section 1876 of that Act pursuant to section 1876(k)(4)(D) of that Act: Provided further, that to the extent Medicare claims processing unit costs are projected by the Centers for Medicare & Medicaid Services to exceed $0.87 for Part A claims and/or $0.65 for Part B claims, up to an additional $18,000,000 may be available for obligation for every $0.04 increase in Medicare claims processing unit costs from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds. The calculation of projected unit costs shall be derived in the same manner in which the estimated unit costs were calculated for the Federal budget estimate for the fiscal year

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 2004, no commitments for direct loans or loan guarantees shall be made.

ADMINISTRATION FOR CHILDREN AND FAMILIES

PAYMENTS TO STATES FOR CHILD SUPPORT ENFORCEMENT AND FAMILY SUPPORT PROGRAMS

For making payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), $3,292,270,000, to remain available until expended; and for such purposes for the first quarter of fiscal year 2005, $1,200,000,000, to remain available until expended.

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV–A of the Social Security Act before the effective date of the program of Temporary Assistance for Needy Families (TANF) with respect to such State, such sums as may be necessary: Provided, That the sum of the amounts available to a State with respect to expenditures under such title IV–A in fiscal year 1997 under this appropriation and under such title IV–A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $2,000,000,000.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $383,894,000: Provided, That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act for fiscal year 2004 shall be available for the costs of assistance provided and other activities through September 30, 2006: Provided further, That up to $9,935,000 is available to carry out the Trafficking Victims Protection Act of 2000.

For carrying out section 5 of the Torture Victims Relief Act of 1998 (Public Law 105–320), $9,935,000. For carrying out section 462 of the Homeland Security Act of 2002, (Public Law 107–296), $34,227,000.

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), $2,099,729,000 shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: Provided, That $19,120,000 shall be available for child care resource and referral and school-aged child care activities, of which $1,000,000 shall be for the Child Care Aware toll free hotline: Provided further, That, in addition to the amounts required to be reserved by the States under section 658G, $272,672,000 shall be reserved by the States for activities authorized under section 658G, of which $100,000,000 shall be for activities that improve the quality of infant and toddler care: Provided further, That $10,000,000 shall be for use by the Secretary for child care research, demonstration, and evaluation activities.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, $1,700,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, sections 310 and 316 of the Family Violence Prevention and Services Act, as amended, the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Adoption and Safe Families Act of 1997 (Public Law 105–89), sections 1201 and 1211 of the Children's Health Act of 2000, the Abandoned Infants Assistance Act of 1988, sections 261 and 291 of the Help America Vote Act of 2002, the Early Learning Opportunities Act, part B(1) of title IV and sections 413, 429A, 1110, and 1115 of the Social Security Act, and sections 40155, 40211, and 40241 of Public Law 103–322; for making payments under the Community Services Block Grant Act, sections 439(h), 473A, and 477(i) of the Social Security Act, and title IV of Public Law 105–285, and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, section 5 of the Torture Victims Relief Act of 1998 (Public Law 105–320), sections 40155, 40211, and 40241 of Public Law 103–322, and section 126 and titles IV and V of Public Law 100–485, $8,780,002,000, of which $42,720,000, to remain available until September 30, 2005, shall be for grants to States for adoption incentive payments, as authorized by section 473A of title IV of the Social Security Act (42 U.S.C. 670–679) and may be made for adoptions completed before September 30, 2004; of which $6,815,570,000 shall be for making payments under the Head Start Act, of which $1,400,000,000 shall become available October 1, 2004 and remain available through September 30, 2005; and of which $717,620,000 shall be for making payments under the Community Services Block Grant Act: Provided, That not less than $7,203,000 shall be for section 680(3)(B) of the Community Services Block Grant Act, as amended: Provided further, That in addition to amounts provided herein, $6,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the provisions of section 1110 of the Social Security Act: Provided further, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes: Provided further, That the Secretary shall establish procedures regarding the disposition of intangible property which permits grant funds, or intangible assets acquired with funds authorized under section 680 of the Community Services Block Grant Act, as amended, to become the sole property of such grantees after a period of not more than 12 years after the end of the grant for purposes and uses consistent with the original grant: Provided further, That funds appropriated for section 680(a)(2) of the Community Services Block Grant Act, as amended, shall be available for financing construction and rehabilitation and loans or investments in private business enterprises owned by community development corporations: Provided further, That $89,978,000 shall be for activities authorized by the Runaway and Homeless Youth Act, notwithstanding the allocation requirements of section 388(a) of such Act, of which $40,505,000 is for the transitional living program: Provided further, That $34,772,000 is for a compassion capital fund to provide grants to charitable organizations to emulate model social service programs and to encourage research on the best practices of social service organizations: Provided further, That $15,000,000 shall be for activities authorized by the Help America Vote Act of 2002, of which $10,000,000 shall be for payments to States to promote disabled voter access, and of which $5,000,000 shall be for payments to States for disabled voters protection and advocacy systems.

PROMOTING SAFE AND STABLE FAMILIES

For carrying out section 436 of the Social Security Act, $305,000,000 and for section 437, $99,350,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities under title IV–E of the Social Security Act, $5,068,300,000.

For making payments to States or other non-Federal entities under title IV–E of the Act, for the first quarter of fiscal year 2005, $1,767,700,000.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under section 474 of title IV–E, for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, and section 398 of the Public Health Service Act, $1,360,193,000, of which $5,500,000 shall be available for activities regarding medication management, screening, and education to prevent incorrect medication and adverse drug reactions; and of which $2,842,000 shall remain available until September 30, 2006, for the White House Conference on Aging.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, and XX of the Public Health Service Act, and the United States-Mexico Border Health Commission Act, $342,808,000, together with $5,851,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund: Provided, That of the funds made available under this heading for carrying out title XX of the Public Health Service Act, $11,885,000 shall be for activities specified under section 2003(b)(2), of which $10,157,000 shall be for prevention service demonstration grants under section 510(b)(2) of title V of the Social Security Act, as amended, without application of the limitation of section 2010(c) of said title XX: Provided further, That of this amount, $50,000,000 is for minority AIDS prevention and treatment activities; and $15,000,000 shall be for an Information Technology Security and Innovation Fund for Department-wide activities involving cybersecurity, information technology security, and related innovation projects, and $5,000,000 is to assist Afghanistan in the development of maternal and child health clinics, consistent with section 103(a)(4)(H) of the Afghanistan Freedom Support Act of 2002: Provided further, That of this amount, $3,000,000 shall be made available to carry out section 340G of the Public Health Service Act (42 U.S.C. 256g) (in addition to other amounts appropriated under this title for such purpose): Provided further, That of this amount, sufficient funds shall be available for the Secretary of Health and Human Services, not later than 60 days after the last day of the fiscal year, to submit to Congress a report on the amount of acquisitions made by the Department of Health and Human Services during such fiscal year of articles, materials, or supplies that were manufactured outside the United States. Such report shall separately indicate the dollar value of any articles, materials, or supplies purchased by the Department of Health and Human Services that were manufactured outside the United States, an itemized list of all waivers under the Buy American Act (41 U.S.C. 10a et seq.) that were granted with respect to such articles, materials, or supplies, and a summary of total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States. The Secretary of Health and Human Services shall make the report publicly available by posting the report on an Internet website.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $39,497,000: Provided, That, of such amount, necessary sums are available for providing protective services to the Secretary and investigating non-payment of child support cases for which non-payment is a Federal offense under 18 U.S.C. 228.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $30,936,000, together with not to exceed $3,314,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act and title III of the Public Health Service Act, $23,499,000, which shall be available from amounts available under section 241 of the Public Health Service Act to carry out national health or human services research and evaluation activities: Provided, That the expenditure of any funds available under section 241 of the Public Health Service Act are subject to the requirements of section 205 of this Act.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan, for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55 and 56), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year. The following are definitions for the medical benefits of the Public Health Service Commissioned Officers that apply to 10 U.S.C. chapter 56, section 1116(c). The source of funds for the monthly accrual payments into the Department of Defense Medicare-Eligible Retiree Health Care Fund shall be

the Retirement Pay and Medical Benefits for Commissioned Officers account. For purposes of this Act, the term ''pay of members'' shall be construed to be synonymous with retirement payments to United States Public Health Service officers who are retired for age, disability, or length of service; payments to survivors of deceased officers; medical care to active duty and retired members and dependents and beneficiaries; and for payments to the Social Security Administration for military service credits; all of which payments are provided for by the Retirement Pay and Medical Benefits for Commissioned Officers account.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For expenses necessary to support activities related to countering potential biological, disease and chemical threats to civilian populations, $1,856,040,000: Provided, That this amount is distributed as follows: Centers for Disease Control and Prevention, $1,116,156,000; Office of the Secretary, $61,820,000; Health Resources and Services Administration, $578,064,000; and $100,000,000 shall be available until expended for activities to ensure a year-round influenza vaccine production capacity and the development and implementation of rapidly expandable production technologies: Provided further, That at the discretion of the Secretary, these amounts may be transferred between categories subject to normal reprogramming procedures: Provided further, That employees of the Centers for Disease Control and Prevention or the Public Health Service, both civilian and Commissioned Officers, detailed to States, municipalities or other organizations under authority of section 214 of the Public Health Service Act for purposes related to homeland security, shall be treated as non-Federal employees for reporting purposes only and shall not be included within any personnel ceiling applicable to the Agency, Service, or the Department of Health and Human Services during the period of detail or assignment.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $50,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399F(b) of the Public Health Service Act or section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103–43.

SEC. 204. None of the funds appropriated in this Act for the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level I.

SEC. 205. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

SEC. 206. Notwithstanding section 241(a) of the Public Health Service Act, such portion as the Secretary shall determine, but not more than 2.2 percent, of any amounts appropriated for programs authorized under said Act shall be made available for the evaluation (directly, or by grants or contracts) of the implementation and effectiveness of such programs.

(TRANSFER OF FUNDS)

SEC. 207. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Health and Human Services in this or any other Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: Provided, That an appropriation may be increased by up to an additional 2 percent subject to approval by the House and Senate Committees on Appropriations: Provided further, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 208. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes, centers, and divisions from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: Provided, That the Congress is promptly notified of the transfer.

SEC. 209. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of the National Institutes of Health and the Director of the Office of AIDS Research, shall be made available to the ''Office of AIDS Research'' account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

SEC. 210. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.

SEC. 211. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare+Choice program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: Provided, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity's enrollees): Provided further, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare+Choice organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.

SEC. 212. Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

SEC. 213. The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by striking ''1997, 1998, 1999, 2000, 2001, 2002, and 2003'' and inserting ''1997, 1998, 1999, 2000, 2001, 2002, 2003, and 2004''; and

(B) in subsection (e), by striking ''October 1, 2003'' each place it appears and inserting ''October 1, 2004'';

(C) in subsection (b)(1)—

(i) in subparagraph (A), by striking ''and'' at the end;

(ii) in subparagraph (B), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(C) one or more categories of aliens who are or were nationals and residents of the Islamic Republic or Iran who, as members of a religious minority in Iran, share common characteristics that identify them as targets of persecution in that state on account of race, religion, nationality, membership in a particular social group, or political opinion.''; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking ''September 30, 2003'' and inserting ''September 30, 2004''.

SEC. 214. (a) Except as provided by subsection (e) none of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x–26) if such State certifies to the Secretary of Health and Human Services by May 1, 2004 that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) The amount of funds to be committed by a State under subsection (a) shall be equal to 1 percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act.

(c) The State is to maintain State expenditures in fiscal year 2004 for tobacco prevention programs and for compliance activities at a level that is not less than the level of such expenditures maintained by the State for fiscal year 2003, and adding to that level the additional funds for tobacco compliance activities required under subsection (a). The State is to submit a report to the Secretary on all fiscal year 2003 State expenditures and all fiscal year 2004 obligations for tobacco prevention and compliance activities by program activity by July 31, 2004.

(d) The Secretary shall exercise discretion in enforcing the timing of the State obligation of the additional funds required by the certification described in subsection (a) as late as July 31, 2004.

(e) None of the funds appropriated by this Act may be used to withhold substance abuse funding pursuant to section 1926 from a territory that receives less than $1,000,000.

SEC. 215. In order for the Centers for Disease Control and Prevention to carry out international health activities, including HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad during fiscal year 2004, the Secretary of Health and Human Services—

(1) may exercise authority equivalent to that available to the Secretary of State in section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)). The Secretary of Health and Human Services shall consult with the Secretary of State and relevant Chief of Mission to ensure that the authority provided in this section is exercised in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) and other applicable statutes administered by the Department of State, and

(2) is authorized to provide such funds by advance or reimbursement to the Secretary of State as may be necessary to pay the costs of acquisition, lease, alteration, renovation, and management of facilities outside of the United States for the use of the Department of Health and Human Services. The Department of State shall cooperate fully with the Secretary of Health and Human Services to ensure that the Department of Health and Human Services has secure, safe, functional facilities that comply with applicable regulation governing location, setback, and

other facilities requirements and serve the purposes established by this Act. The Secretary of Health and Human Services is authorized, in consultation with the Secretary of State, through grant or cooperative agreement, to make available to public or nonprofit private institutions or agencies in participating foreign countries, funds to acquire, lease, alter, or renovate facilities in those countries as necessary to conduct programs of assistance for international health activities, including activities relating to HIV/AIDS and other infectious diseases, chronic and environmental diseases, and other health activities abroad.

SEC. 216. The Division of Federal Occupational Health may utilize personal services contracting to employ professional management/administrative and occupational health professionals.

SEC. 217. Notwithstanding section 409B(c) of the Public Health Service Act regarding a limitation on the number of such grants, funds appropriated in this Act may be expended by the Director of the National Institutes of Health to award Core Center Grants to encourage the development of innovative multidisciplinary research and provide training concerning Parkinson's disease. Each center funded under such grants shall be designated as a Morris K. Udall Center for Research on Parkinson's Disease.

SEC. 218. None of the funds appropriated in this or any other Act may be used to carry out or administer the Department of Health and Human Services Human Resources Consolidation plan.

SEC. 219. GAO STUDY AND REPORT ON THE PROPAGATION OF CONCIERGE CARE. (a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on concierge care (as defined in paragraph (2)) to determine the extent to which such care—

(A) is used by medicare beneficiaries (as defined in section 1802(b)(5)(A) of the Social Security Act (42 U.S.C. 1395a(b)(5)(A))); and

(B) has impacted upon the access of medicare beneficiaries (as so defined) to items and services for which reimbursement is provided under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) CONCIERGE CARE.—In this section, the term ''concierge care'' means an arrangement under which, as a prerequisite for the provision of a health care item or service to an individual, a physician, practitioner (as described in section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C))), or other individual—

(A) charges a membership fee or another incidental fee to an individual desiring to receive the health care item or service from such physician, practitioner, or other individual; or

(B) requires the individual desiring to receive the health care item or service from such physician, practitioner, or other individual to purchase an item or service.

(b) REPORT.—Not later than the date that is 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a)(1) together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.

SEC. 220. To demonstrate the appreciation that the Senate has for, and to further encourage, the efforts of the Director of the National Institutes of Health in implementing the Pediatric Research Initiative under section 409D of the Public Health Service Act, it is the sense of the Senate that—

(1) the Director should continue the Initiative and emphasize the importance of pediatric research, particularly translational research; and

(2) not later than January of 2004, the Director should continue to report to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Energy and Commerce of the House of Representatives, the Senate Committee on Appropriations and the House Committee on Appropriations on the status of the Pediatric Research Initiative, including—

(A) the extent of the total funds obligated to conduct or support pediatric research across the National Institutes of Health, including the specific support and research awards allocated by the Office of the Director through the Initiative;

(B) the activities of the cross-institute committee on pediatric research in assisting the Director in considering requests for new or expanded pediatric research to be funded through the Initiative;

(C) how the Director plans to budget dollars toward the Initiative for fiscal year 2004;

(D) the amount the Director has expended to implement the Initiative since the enactment of the Initiative;

(E) the status of any research conducted as a result of the Initiative;

(F) whether that research is translational research or clinical research;

(G) how the Initiative interfaces with the Off-Patent research fund of the National Institutes of Health; and

(H) any recommended modifications that Congress should consider in the authority or structure of the Initiative within the National Institutes of Health for the optimal operation and success of the Initiative.

SEC. 221. To provide funding for poison control centers under the Poison Control Enhancement and Awareness Act (42 U.S.C. 14801 et seq.), there are appropriated a total of $23,854,000, including amounts otherwise made available in this Act for such centers.

SEC. 222. In addition to any amounts otherwise appropriated under this Act under the heading of ADMINISTRATION ON AGING, there are appropriated an additional $1,000,000: Provided, That in addition to the amounts already made available to carry out the ombudsman program under chapter 2 of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058 et seq.), there are made available an additional $1,000,000.

SEC. 223. In addition to any amounts otherwise appropriated under this Act for programs and activities under the Nurse Reinvestment Act (Public Law 107–205) and for other nursing workforce development programs under title VIII of the Public Health Service Act (42 U.S.C. 296 et seq.), there are appropriated an additional $50,000,000 for such programs and activities.

SEC. 224. Not later than 90 days after the date of enactment of this Act, the Director of the National Institutes of Health shall submit to the appropriate committees of Congress a report that shall —

(1) contain the recommendations of the Director concerning the role of the National Institutes of Health in promoting the affordability of inventions and products developed with Federal funds; and

(2) specify whether any circumstances exist to prevent the Director from promoting the affordability of inventions and products developed with Federal funds.

SEC. 225. STUDIES CONCERNING MAMMOGRAPHY STANDARDS. (a) STUDY BY GAO.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the program established under the Mammography Quality Standards Act of 1992 (section 354 of the Public Health Service Act (42 U.S.C. 263b)) (referred to in this section as the ''MQSA'') to—

(A) evaluate the demonstration program regarding frequency of inspections authorized under section 354(g) of the Public Health Service Act (42 U.S.C. 263b(g)), including the effect of the program on compliance with the MQSA;

(B) evaluate the factors that contributed to the closing of the approximately 700 mammography facilities nationwide since 2001, whether those closings were due to consolidation or were a true reduction in mammography availability, explore the relationship between certified units and facility capacity, and evaluate capacity issues, and determine the effect these and other closings have had on the accessibility of mammography services, including for underserved populations, since the April 2002 General Accounting Office report on access to mammography; and

(C) evaluate the role of States in acting as accreditation bodies or certification bodies, or both, in addition to inspection agents under the MQSA, and in acting as accreditation bodies for facilities in other States and determine whether and how these roles affect the system of checks and balances within the MQSA.

(2) REPORT.—Not later than 16 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives a report on the study described in paragraph (1).

(b) STUDY BY THE INSTITUTE OF MEDICINE.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall enter into an agreement with the Institute of Medicine of the National Academy of Sciences for the conduct of a study and the making of recommendations regarding the following:

(A) Ways to improve physicians' interpretations of mammograms, including approaches that could be taken under the MQSA without negatively impacting access to quality mammography.

(B) What changes could be made in the MQSA to improve mammography quality, including additional regulatory requirements that would improve quality, as well as the reduction or modification of regulatory requirements that do not contribute to quality mammography, or are no longer necessary to ensure quality mammography. Such reduction or modification of regulatory requirements and improvements in the efficiency of the program are important to help eliminate disincentives to enter or remain in the field of mammography.

(C) Ways, including incentives, to ensure that sufficient numbers of adequately trained personnel at all levels are recruited and retained to provide quality mammography services.

(D)(i) How data currently collected under the MQSA could be used to improve the quality, interpretation of, and access to mammography.

(ii) Identification of new data points that could be collected to aid in the monitoring and assessment of mammography quality and access.

(E) Other approaches that would improve the quality of and access to mammography services, including approaches to improving provisions under the MQSA.

(F) Steps that should be taken to help make available safe and effective new screening and diagnostic devices and tests for breast cancer.

(2) REPORT.—Not later than 15 months after the date on which the agreement is entered into under paragraph (1), the Institute of Medicine shall complete the study described under such subsection and submit a report to the Secretary of Health and Human Services, the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate, and the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives.

(3) FUNDING.—Of the amounts appropriated under this title to the Office of the Secretary of Health and Human Services for general departmental management, $500,000 shall be made available to carry out the study under this subsection.

SEC. 226. (a) FINDINGS.—The Senate finds that—

(1) Native American populations have seen an alarming increase in sexually transmitted disease prevalence in recent years; and

(2) a screening, treatment, and education program, administered by tribal health organizations or local health care providers, on Native

American reservations with high rates of sexually transmitted diseases will help prevent a corresponding increase in the prevalence of HIV.

(b) GRANT PROGRAM.—From amounts appropriated under this title for the Centers for Disease Control and Prevention, there may be made available up to $1,000,000 to enable the Director of the Centers for Disease Control and Prevention to carry out competitive grant program to strengthen local capacity on Native American reservations to screen for and treat sexually transmitted diseases and to educate local populations about such diseases, the consequences thereof, and how the transmission of such diseases can be prevented.

SEC. 227. In addition to any amounts otherwise appropriated under this Act for the support of the improved newborn and child screening for heritable disorders program authorized under section 1109 of the Public Health Service Act (42 U.S.C. 300b–8), there may be appropriated up to an additional $2,000,000 to carry out such program.

SEC. 228. SUMMER HEALTH CAREER INTRODUCTORY PROGRAMS. (a) FINDINGS.—Congress finds that—

(1) the success of the health care system is dependent on qualified personnel;

(2) hospitals and health facilities across the United States have been deeply impacted by declines among nurses, pharmacists, radiology and laboratory technicians, and other workers;

(3) the health care workforce shortage is not a short term problem and such workforce shortages can be expected for many years; and

(4) most States are looking for ways to address such shortages.

(b) GRANTS.—The Secretary of Health and Human Services, acting through the Bureau of Health Professions of the Health Resources and Services Administration, may award not to exceed 5 grants for the establishment of summer health career introductory programs for middle and high school students.

(c) ELIGIBILITY.—To be eligible to receive a grant under subsection (b) an entity shall—

(1) be an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); and

(2) prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

(d) DURATION.—The term of a grant under subsection (b) shall not exceed 4 years.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2004 through 2007.

SEC. 229. Not later than 120 days after the date of enactment of this Act, the Director of the Centers for Disease Control and Prevention shall prepare a plan to comprehensively address blood safety and injection safety in Africa under the Global AIDS Program.

SEC. 230. Not later than May 1, 2004, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a report concerning the manner in which the Department of Health and Human Services expends Federal funds for research, patient care, and other activities relating to Hansen's Disease. The report shall include—

(1) the amounts provided for each research project;

(2) the amounts provided to each of the 12 treatment centers for each of research, patient care, and other activities;

(3) the per patient expenditure of patient care funds at each of the 12 treatment centers; and

(4) the mortality rates at each of the 12 treatment centers.

SEC. 231. In addition to any amounts otherwise appropriated under this Act to carry out activities under the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), there are appropriated—

(1) up to an additional $143,000 may be used to carry out activities under title I of such Act (child abuse State grants);

(2) up to an additional $212,000 may be used to carry out activities under title II of such Act (community-based resource centers); and

(3) up to an additional $2,100,000 may be used for child abuse discretionary grants under such Act.

SEC. 232. (a) FINDINGS.—The Senate finds that—

(1) a recent Aberdeen Area Indian Health Service infant mortality study identified protective and risk factors associated with Sudden Infant Death Syndrome (referred to in this section as ''SIDS'');

(2) several conclusions from the study suggest courses of action to reduce the incidence of SIDS among Native American and other high-incidence populations;

(3) the study noted that alcohol consumption by women of childbearing age (especially during pregnancy), maternal and environmental tobacco exposure during pregnancy, and pregnancy by women under the age of 20 increase the risk for SIDS;

(4) in 2000, for infants of African American mothers, the SIDS death rate was 2.4 times that for non-Hispanic white mothers;

(5) nationwide, SIDS rates for infants of Native American mothers were 2.6 times those of non-Hispanic white mothers; and

(6) the Office of Minority Health of the Department of Health and Human Services has the expertise to coordinate SIDS disparity reduction efforts across the Department of Health and Human Services.

(b) INCREASE IN FUNDING.—In addition to any amounts otherwise appropriate in this Act to carry out activities to reduce Sudden Infant Death Syndrome disparity rates, there may be appropriated up to an additional $2,000,000 to enable the Director of the Office of Minority Health of the Department of Health and Human Services to carry out a demonstration project, in coordination with the Administrator of the Health Resources and Services Administration, the Director of the National Institutes of Health, the Director of the Indian Health Services, the Administrator of the Center for Medicare & Medicaid Services, the Director of the Centers for Disease Control and Prevention, and the heads of other agencies within the Department of Health and Human Services (as appropriate), to reduce Sudden Infant Death Syndrome disparity rates, and to provide risk reduction education to African American and Native American populations in the United States, including efforts to reduce alcohol use by pregnant women, support for smoking cessation (maternal and secondhand) programs, and education of teenagers on the risk factors for Sudden Infant Death Syndrome associated with teenage pregnancy within African American and Native American communities.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that in carrying out the demonstration project under subsection (b), the Director of the Office of Minority Health is encouraged to—

(1) expand upon the similar pilot program for Native Americans that was funded by the Office of Minority Health; and

(2) coordinate with the Administrator of the Health Resources and Services Administration, the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, the Director of the Indian Health Services, the Administrator of the Center for Medicare & Medicaid Services, and the heads of other agencies within the Department of Health and Human Services (as appropriate) to support activities to reduce alcohol use by pregnant women, support smoking cessation (maternal and secondhand), and educate teenagers on the risk factors for SIDS associated with teenage pregnancy within the African American and Native American communities.

SEC. 233. There may be appropriated, up to $2,000,000 to fund programs on community automatic external defibrillators under section 312 of the Public Health Service Act (42 U.S.C. 244).

SEC. 234. From the amounts appropriated under the heading ''OFFICE OF THE SECRETARY, GENERAL DEPARTMENTAL MANAGEMENT'' there may be made available an additional $2,000,000 to the Health Resources and Services Administration for the purchase of automatic external defibrilators and the training of individuals in cardiac life support in rural areas.

SEC. 235. Notwithstanding any other provisions of law, funds made available under this heading may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102–408.

SEC. 236. DESIGNATION OF SENATOR PAUL D. WELLSTONE NIH MDCRC PROGRAM. (a) FINDINGS.—Congress finds the following:

(1) On December 18, 2001, Public Law 107–84, otherwise known as the Muscular Dystrophy Community Assistance, Research and Education Amendments of 2001, or the MD CARE Act, was signed into law to provide for research and education with respect to various forms of muscular dystrophy, including Dechenne, Becker, limb girdle, congenital, facioscapulohumeral, myotonic, oculopharyngeal, distal, and EmeryDreifuss muscular dystrophies.

(2) In response to the MD CARE Act of 2001, in September 2002, the National Institutes of Health (NIH) announced its intention to direct $22,500,000 over five years to its newly created Muscular Dystrophy Cooperative Research Centers (MDCRC) program.

(3) Senator Paul D. Wellstone was a driving force behind enactment of the MD CARE Act, which led to the establishment of the MDCRC program.

(b) DESIGNATION.—The NIH Muscular Dystrophy Cooperative Research Centers (MDCRC) program shall be known and designated as the ''Senator Paul D. Wellstone Muscular Dystrophy Cooperative Research Centers'', in honor of Senator Paul D. Wellstone who was deceased on October 25, 2002.

(c) REFERENCES.—Any reference in a law, regulation, document, paper, or other record of the United States to the NIH program of Muscular Dystrophy Cooperative Research Centers shall be deemed to be a reference to the ''Senator Paul D. Wellstone Muscular Dystrophy Cooperative Research Centers.

SEC. 237. (a) MOTHER-TO-CHILD HIV TRANSMISSION PREVENTION.—In addition to any amounts otherwise made available under this Act to carry out mother-to-child HIV transmission prevention activities, there shall be made available an additional $60,000,000 to carry out such activities and $1,000,000 for Non-Mother-to-Child activities.

(b) REDUCTION IN AMOUNTS.—Amounts made available under this Act for the administrative and related expenses for departmental management for the Department of Labor, the Department of Health and Human Services, the Department of Education, shall be reduced on a pro rata basis by $61,000,000.

SEC. 238. (a) AUTHORITY.—Notwithstanding any other provision of law, the Director of the National Institutes of Health may use funds available under section 402(i) of the Public Health Service Act (42 U.S.C. 282(i)) to enter into transactions (other than contracts, cooperative agreements, or grants) to carry out research in support of the NIH Roadmap Initiative of the Director.

(b) PEER REVIEW.—In entering into transactions under subsection (a), the Director of the National Institutes of Health may utilize such peer review procedures (including consultation with appropriate scientific experts) as the Director determines to be appropriate to obtain assessments of scientific and technical merit. Such procedures shall apply to such transactions in lieu of the peer review and advisory council review procedures that would otherwise be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494 of the Public Health Service Act (42 U.S.C. 241, 284(b)(1)(B), 284(b)(2), 284a(a)(3)(A), 289a, and 289c).

This title may be cited as the ''Department of Health and Human Services Appropriations Act, 2004''.

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965 (''ESEA'') and section 418A of the Higher Education Act of 1965, $14,103,356,000, of which $6,582,294,000 shall become available on July 1, 2004, and shall remain available through September 30, 2005, and of which $7,383,301,000 shall become available on October 1, 2004, and shall remain available through September 30, 2005, for academic year 2004–2005: Provided, That $7,107,282,000 shall be available for basic grants under section 1124: Provided further, That up to $3,500,000 of these funds shall be available to the Secretary of Education on October 1, 2003, to obtain annually updated educational-agency-level census poverty data from the Bureau of the Census: Provided further, That $1,365,031,000 shall be available for concentration grants under section 1124A: Provided further, That $1,670,239,000 shall be available for targeted grants under section 1125: Provided further, That $2,207,448,000 shall be available for education finance incentive grants under section 1125A: Provided further, That, notwithstanding any other provision of law, the Secretary shall use data described in sections 1124(a)(1)(B) and 1124(c)(1) of the ESEA that are available on July 1, 2003, to calculate grants for fiscal year 2004 under part A of title I of that Act: Provided further, That from the $8,842,000 available to carry out part E of title I, up to $1,000,000 shall be available to the Secretary of Education to provide technical assistance to State and local educational agencies concerning part A of title I.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, $1,193,226,000, of which $1,030,292,000 shall be for basic support payments under section 8003(b), $50,668,000 shall be for payments for children with disabilities under section 8003(d), $44,708,000 shall be for construction under section 8007 and shall remain available through September 30, 2005, $59,610,000 shall be for Federal property payments under section 8002, and $7,948,000, to remain available until expended, shall be for facilities maintenance under section 8008.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, part B of title IV, part A and subparts 6 and 9 of part D of title V, subpart 1 of part A and part B of title VI, and parts B and C of title VII of the Elementary and Secondary Education Act of 1965 (''ESEA''); the McKinney-Vento Homeless Assistance Act; and the Civil Rights Act of 1964, $5,731,453,000, of which $4,173,944,000 shall become available on July 1, 2004, and remain available through September 30, 2005, and of which $1,435,000,000 shall become available on October 1, 2004, and shall remain available through September 30, 2005, for academic year 2004–2005: Provided, That funds made available to carry out part B of title VII of the ESEA may be used for construction, renovation and modernization of any elementary school, secondary school, or structure related to an elementary school or secondary school, run by the Department of Education of the State of Hawaii, that serves a predominantly Native Hawaiian student body: Provided further, That funds made available to carry out part C of title VII of the ESEA may be used for construction: Provided further, That $390,000,000 shall be for subpart 1 of part A of title VI of the ESEA: Provided further, That no funds appropriated under this heading may be used to carry out section 5494 under the ESEA.

INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title VII, part A of the Elementary and Secondary Education Act of 1965, $121,573,000.

INNOVATION AND IMPROVEMENT

For carrying out activities authorized by part G of Title I, subpart 5 of part A and parts C and D of title II, and Parts B, C, and D of title V of the Elementary and Secondary Education Act of 1965 (''ESEA''), $774,133,000: Provided, That $9,935,000 shall be provided to the National Board for Professional Teaching Standards to carry out section 2151(c) of the ESEA: Provided further, That $165,877,000 shall be available to carry out part D of title V of the ESEA.

SAFE SCHOOLS AND CITIZENSHIP EDUCATION

For carrying out subpart 3 of part C of title II, part A of title IV, and subparts 2, 3 and 10 of part D of title V of the Elementary and Secondary Education Act of 1965 (''ESEA''), title VIII–D of the Higher Education Act of 1965, as amended, and Public Law 102–73, $818,547,000, of which $447,017,000 shall become available on July 1, 2004 and remain available through September 30, 2005: Provided, That of the amount available for subpart 2 of part A of title IV of the ESEA, $850,000 shall be used to continue the National Recognition Awards program under the same guidelines outlined by section 120(f) of Public Law 105–244: Provided further, That $422,017,000 shall be available for subpart 1 of part A of title IV and $213,880,000 shall be available for subpart 2 of part A of title IV: Provided further, That of the funds available to carry out subpart 3 of part C of title II, up to $11,922,000 may be used to carry out section 2345 and $2,980,000 shall be used by the Center for Civic Education to implement a comprehensive program to improve public knowledge, understanding, and support of the Congress and the state legislatures: Provided further, That $25,000,000 shall be for Youth Offender Grants, of which $5,000,000 shall be used in accordance with section 601 of Public Law 102–73 as that section was in effect prior to enactment of Public Law 105–220.

ENGLISH LANGUAGE ACQUISITION

For carrying out part A of title III of the ESEA, $665,000,000, of which $541,259,000 shall become available on July 1, 2004, and shall remain available through September 30, 2005.

SPECIAL EDUCATION

For carrying out parts B, C, and D of the Individuals with Disabilities Education Act, $11,027,464,000, of which $5,337,533,000 shall become available for obligation on July 1, 2004, and shall remain available through September 30, 2005, and of which $5,402,000,000 shall become available on October 1, 2004, and shall remain available through September 30, 2005, for academic year 2004–2005: Provided, That $11,400,000 shall be for Recording for the Blind and Dyslexic to support the development, production, and circulation of recorded educational materials: Provided further, That $1,500,000 shall be for the recipient of funds provided by Public Law 105–78 under section 687(b)(2)(G) of the Act to provide information on diagnosis, intervention, and teaching strategies for children with disabilities: Provided further, That the amount for section 611(c) of the Act shall be equal to the amount available for that section during fiscal year 2003, increased by the amount of inflation as specified in section 611(f)(1)(B)(ii) of the Act.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Assistive Technology Act of 1998, and the Helen Keller National Center Act, $3,004,360,000, of which $1,000,000 shall be used to improve the quality of applied orthotic and prosthetic research and help meet the demand for provider services: Provided, That the funds provided for title I of the Assistive Technology Act of 1998 (''the AT Act'') shall be allocated notwithstanding section 105(b)(1) of the AT Act: Provided further, That section 101(f) of the AT Act shall not limit the award of an extension grant to three years: Provided further, That no State or outlying area awarded funds under section 101 shall receive less than the amount received in fiscal year 2003.

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.) including the acquisition of equipment, $16,500,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $53,800,000, of which $367,000 shall be for construction and shall remain available until expended: Provided, That from the total amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $100,800,000: Provided, That from the total amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Technical Education Act of 1998, subparts 4 and 11 of part D of title V of the Elementary and Secondary Education Act of 1965, and the Adult Education and Family Literacy Act, $2,093,990,000, of which $1,274,943,000 shall become available on July 1, 2004 and shall remain available through September 30, 2005 and of which $791,000,000 shall become available on October 1, 2004 and shall remain available through September 30, 2005: Provided, That of the amount provided for Adult Education State Grants, $69,545,000 shall be made available for integrated English literacy and civics education services to immigrants and other limited English proficient populations: Provided further, That of the amount reserved for integrated English literacy and civics education, notwithstanding section 211 of the Adult Education and Family Literacy Act, 65 percent shall be allocated to States based on a State's absolute need as determined by calculating each State's share of a 10-year average of the Immigration and Naturalization Service data for immigrants admitted for legal permanent residence for the 10 most recent years, and 35 percent allocated to States that experienced growth as measured by the average of the 3 most recent years for which Immigration and Naturalization Service data for immigrants admitted for legal permanent residence are available, except that no State shall be allocated an amount less than $60,000: Provided further, That of the amounts made available for the Adult Education and Family Literacy Act, $9,223,000 shall be for national leadership activities under section 243 and $6,732,000 shall be for the National Institute for Literacy under section 242: Provided further, That $160,047,000 shall be available to support the activities authorized under subpart 4 of part D of title V of the Elementary and Secondary Education Act of 1965, of which up to 5 percent shall become available October 1, 2003, for evaluation, technical assistance, school networking, peer review of applications, and program outreach activities and of which not less than 95 percent shall become available on July 1, 2004, and remain available through September 30, 2005, for grants to local educational agencies: Provided further, That funds made available to local education agencies under this subpart shall be used only for activities related to establishing smaller learning communities in high schools.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3 and 4 of part A, part C and part E of title IV of the Higher Education Act of 1965, as amended, $14,174,115,000, which shall remain available through September 30, 2005.

The maximum Pell Grant for which a student shall be eligible during award year 2004–2005 shall be $4,050.

STUDENT AID ADMINISTRATION

For Federal administrative expenses (in addition to funds made available under Section 458), to carry out part D of title I; subparts 1, 3, and 4 of part A; and parts B, C, D, and E of title IV of the Higher Education Act of 1965, as amended, $104,703,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, section 121 and titles II, III, IV, V, VI, and VII of the Higher Education Act of 1965 (''HEA''), as amended, section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998, and the Mutual Educational and Cultural Exchange Act of 1961, $1,974,247,000, of which $2,000,000 for interest subsidies authorized by section 121 of the HEA shall remain available until expended: Provided, That notwithstanding any other provision of law or any regulation, the Secretary of Education shall not require the use of a restricted indirect cost rate for grants issued pursuant to section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998: Provided further, That $9,935,000, to remain available through September 30, 2005, shall be available to fund fellowships for academic year 2005–2006 under part A, subpart 1 of title VII of said Act, under the terms and conditions of part A, subpart 1: Provided further, That $994,000 is for data collection and evaluation activities for programs under the HEA, including such activities needed to comply with the Government Performance and Results Act of 1993: Provided further, That notwithstanding any other provision of law, funds made available in this Act to carry out title VI of the HEA and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 may be used to support visits and study in foreign countries by individuals who are participating in advanced foreign language training and international studies in areas that are vital to United States national security and who plan to apply their language skills and knowledge of these countries in the fields of government, the professions, or international development: Provided further, That up to 1 percent of the funds referred to in the preceding proviso may be used for program evaluation, national outreach, and information dissemination activities.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $238,440,000, of which not less than $3,573,000 shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98–480) and shall remain available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses authorized under section 121 of the Higher Education Act of 1965, $774,000 to carry out activities related to existing facility loans entered into under the Higher Education Act of 1965.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING PROGRAM ACCOUNT

The aggregate principal amount of outstanding bonds insured pursuant to section 344 of title III, part D of the Higher Education Act of 1965 shall not exceed $355,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title III, part D of the Higher Education Act of 1965, as amended, $210,000.

INSTITUTE OF EDUCATION SCIENCES

For carrying out activities authorized by Public Law 107–279, $452,956,000: Provided, That, of the amount appropriated, $144,090,000 shall be available for obligation through September 30, 2005: Provided further, That of the amount provided to carry out title I, parts B and D of Public Law 107–279, $24,362,000 shall be for the national research and development centers authorized under section 133(c): Provided further, That $4,968,000 shall be available to extend for one additional year the contract for the Eisenhower National Clearinghouse for Mathematics and Science Education authorized under section 2102(a)(2) of the Elementary and Secondary Education Act of 1965, prior to its amendment by the No Child Left Behind Act of 2001, Public Law 107–110.

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $409,863,000, of which $13,644,000, to remain available until expended, shall be for building alterations and related expenses for the relocation of Department staff to Potomac Center Plaza in Washington, D.C.: Provided, That of this amount, sufficient funds shall be available for the Secretary of Education, not later than 60 days after the last day of the fiscal year, to submit to Congress a report on the amount of acquisitions made by the Department of Education during such fiscal year of articles, materials, or supplies that were manufactured outside the United States. Such report shall separately indicate the dollar value of any articles, materials, or supplies purchased by the Department of Education that were manufactured outside the United States, an itemized list of all waivers under the Buy American Act (41 U.S.C. 10a et seq.) that were granted with respect to such articles, materials, or supplies, and a summary of total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States. The Secretary of Education shall make the report publicly available by posting the report on an Internet website.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $91,275,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $44,137,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: Provided, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 305. (a) The matter under the heading ''Title III—Department of Education, Education for the Disadvantaged'', in Public Law 108–7 (117 Stat. 326) is amended—

(1) by striking ''$4,651,199,000'' and inserting ''$6,895,199,000''; and

(2) by striking ''$9,027,301,000'' and inserting ''$6,783,301,000''.

(b) The additional fiscal year 2003 budget authority provided under subsection (a) shall not be subject to the rescission required by Division N, section 601, of Public Law 108–7.

(c) Subsections (a) and (b) shall become effective immediately upon enactment of this Act.

SEC. 306. None of the funds provided under this Act shall be used to implement or enforce the annual updates to the allowance for State and other taxes in the tables used in the Federal Needs Analysis Methodology to determine a student's expected family contribution for the award year 2004-2005 under part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.) published in the Federal Register on Friday, May 30, 2003 (68 Fed. Reg. 32473), to the extent that such implementation or enforcement of the updates will reduce the amount of Federal student financial assistance for which a student is eligible: Provided, That of the funds appropriated in this Act for the National Institutes of Health, $200,000,000 shall not be available for obligation until September 30, 2004.

SEC. 307. (a) ADDITIONAL FUNDING.—In addition to any amounts otherwise appropriated under this Act for grants to States under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), there are appropriated an additional $1,200,000,000 for such grants.

(b) CUSTOMS USER FEES.—Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''September 30, 2004''.

SEC. 308. In addition to any amounts that may be made available under this Act to carry out the Excellence in Economic Education Act of 2001 under subpart 13 of part D of title V of the Elementary and Secondary Education Act of 1965, there are appropriated, out of any money in the Treasury not otherwise appropriated, $2,000,000 to carry out the Excellence in Economic Education Act of 2001.

SEC. 309. For necessary expenses for the Underground Railroad Education and Cultural Program, there are appropriated $2,235,000.

SEC. 310. There are appropriated, out of any money in the Treasury not otherwise appropriated, to carry out section 208 of the Education Sciences Reform Act of 2002, $80,000,000. All amounts in this Act for management and administration at the Department of Education are reduced on a pro rata basis by an amount required to offset the $80,000,000 appropriation made by this section.

SEC. 311. For activities authorized by part H of title I of the Elementary and Secondary Education Act, there are hereby appropriated up to $5,000,000, which may be used to carry out such activities.

DANIEL PATRICK MOYNIHAN GLOBAL AFFAIRS INSTITUTE

SEC. 312. (a) DEFINITIONS.—In this section:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the Maxwell School of Citizenship and Public Affairs of the Syracuse University in Syracuse, New York, for the purpose of generating income for the support of the School and other purposes as described in subsection (d).

(2) SCHOOL.—The term ''School'' means the Maxwell School of Citizenship and Public Affairs of the Syracuse University in Syracuse, New York.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(4) UNIVERSITY.—The term ''University'' means the Syracuse University in Syracuse, New York.

(b) DANIEL PATRICK MOYNIHAN GLOBAL AFFAIRS INSTITUTE.—

(1) REDESIGNATION.—To be eligible for a grant under subsection (c), the University shall designate the global affairs institute within the Maxwell School of Citizenship and Public Affairs of the University as the ''Daniel Patrick Moynihan Global Affairs Institute''.

(2) REFERENCES.—Any reference in a law, map, regulation, paper, or other record to the global affairs institute within the Maxwell School of Citizenship and Public Affairs of the University, shall be deemed to be a reference to the Daniel Patrick Moynihan Global Affairs Institute.

(c) GRANT FOR ENDOWMENT FUND.—From amounts appropriated under subsection (f), the Secretary may award a grant to the University for the establishment of an endowment fund to support the Daniel Patrick Moynihan Global Affairs Institute.

(d) DUTIES.—Amounts received under a grant under subsection (c), shall be used to—

(1) carry on the public and intellectual tradition of Senator Daniel Patrick Moynihan;

(2) sustain all of the core activities of the School;

(3) fund the residencies of visiting scholars and international leaders;

(4) support scholarship, training, and practice in countries that are often the most impoverished economically, institutionally, and civically;

(5) support partnerships with governments and other relevant entities around the world to train government officials both at the School and in their home countries; and

(6) expand the facilities of the School.

(e) MISCELLANEOUS PROVISIONS RELATING TO THE ENDOWMENT FUND.—

(1) MANAGEMENT.—The endowment fund established under subsection (c) shall be managed in accordance with the standard endowment policies established by the University.

(2) USE OF INTEREST AND INVESTMENT INCOME.—Interest and other investment income earned from the endowment fund may be used to carry out the duties under subsection (d).

(3) DISTRIBUTION OF INTEREST AND INVESTMENT INCOME.—Funds derived from the interest and other investment income earned from the endowment fund shall be available for expenditure by the University for purposes consistent with subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $10,000,000 to remain available until expended.

SEC. 313. In addition to any amounts otherwise appropriated under this Act, there may be appropriated, out of any money in the Treasury not otherwise appropriated—

(1) an additional $4,000,000 to carry out title III of the Elementary and Secondary Education Act of 1965 (language instruction);

(2) up to $1,000,000 to carry out part A of title V of the Higher Education Act of 1965 (Hispanic-serving institutions);

(3) up to $500,000 to carry out part C of title I of the Elementary and Secondary Education Act of 1965 (migrant education);

(4) up to an additional $3,000,000 to carry out high school equivalency program activities under section 418A of the Higher Education Act of 1965 (HEP);

(5) up to an additional $500,000 to carry out college assistance migrant program activities under section 418A of the Higher Education Act of 1965 (CAMP); and

(6) up to an additional $1,000,000 to carry out subpart 16 of part D of title V of the Elementary and Secondary Education Act of 1965 (parental assistance and local family information centers).

This title may be cited as the ''Department of Education Appropriations Act, 2004''.

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $65,279,000, of which $1,983,000 shall remain available until expended for construction and renovation of the physical plants at the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $350,187,000: Provided, That none of the funds made available to the Corporation for National and Community Service in this Act for activities authorized by section 122 of Part C of Title I and Part E of Title II of the Domestic Volunteer Service Act of 1973 shall be used to provide stipends or other monetary incentives to volunteers or volunteer leaders whose incomes exceed 125 percent of the national poverty level.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2006, $400,000,000: Provided, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: Provided further, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: Provided further, That for fiscal year 2004, in addition to the amounts provided above, $55,000,000 shall be for costs related to digital program production, development, and distribution, associated with the transition of public broadcasting to digital broadcasting, to be awarded as determined by the Corporation in consultation with public radio and television licensees or permittees, or their designated representatives: Provided further, That for fiscal year 2004, in addition to the amounts provided above, $10,000,000 shall be for the costs associated with implementing the first phase of the next generation interconnection system.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. ch. 71), $43,385,000, including $1,500,000, to remain available through September 30, 2005, for activities authorized by the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a): Provided, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: Provided further, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: Provided further, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $7,774,000.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

For carrying out the Museum and Library Services Act of 1996, $243,889,000, to remain available until expended.

MEDICARE PAYMENT ADVISORY COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, $9,000,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended), $1,000,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $3,339,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $246,073,000: Provided, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $11,421,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $9,610,000.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $119,000,000, which shall include amounts becoming available in fiscal year 2004 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $119,000,000: Provided, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $150,000, to remain available through September 30, 2005, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $99,350,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $6,322,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: Provided, That none of the funds made available in any other paragraph of this Act may be transferred to the Office; used to carry out any such transfer; used to provide any office space, equipment, office supplies, communications facilities or services, maintenance services, or administrative services for the Office; used to pay any salary, benefit, or award for any personnel of the Office; used to pay any other operating expense of the Office; or used to reimburse the Office for any service provided, or expense incurred, by the Office: Provided further, That funds made available under the heading in this Act, or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, may be used for any audit, investigation, or review of the Medicare program.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $21,658,000.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $26,290,000,000, to remain available until expended: Provided, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 2005, $12,590,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $20,000 for official reception and representation expenses, not more than $8,410,000,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: Provided, That not less than $1,800,000 shall be for the Social Security Advisory Board: Provided further, That unobligated balances of funds provided under this paragraph at the end of fiscal year 2004 not needed for fiscal year 2004 shall remain available until expended to invest in the Social Security Administration information technology and telecommunications hardware and software infrastructure, including related equipment and non-payroll administrative expenses associated solely with this information technology and telecommunications infrastructure: Provided further, That reimbursement to the trust funds under this heading for expenditures for official time for employees of the Social Security Administration pursuant to section 7131 of title 5, United States Code, and for facilities or support services for labor organizations pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title shall be made by the Secretary of the Treasury, with interest, from amounts in the general fund not otherwise appropriated, as soon as possible after such expenditures are made: Provided further, That $107,000,000 shall not be available for obligation until September 30, 2004.

In addition, $120,000,000 to be derived from administration fees in excess of $5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93–66, which shall remain available until expended. To the extent that the amounts collected pursuant to such section 1616(d) or 212(b)(3) in fiscal year 2004 exceed $120,000,000, the amounts shall be available in fiscal year 2005 only to the extent provided in advance in appropriations Acts.

From funds previously appropriated for this purpose, any unobligated balances at the end of fiscal year 2003 shall be available to continue Federal-State partnerships which will evaluate means to promote Medicare buy-in programs targeted to elderly and disabled individuals under titles XVIII and XIX of the Social Security Act.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $20,863,000, together with not to exceed $61,597,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the ''Limitation on Administrative Expenses'', Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: Provided, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House and Senate.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $17,200,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: Provided, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are authorized to make available not to exceed $28,000 and $20,000, respectively, from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $5,000 from the funds available for ''Salaries and expenses, Federal Mediation and Conciliation Service''; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $5,000 from funds available for ''Salaries and expenses, National Mediation Board''.

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

SEC. 506. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 507. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to

State and local governments and recipients of Federal research grants, shall clearly state: (1) the percentage of the total costs of the program or project which will be financed with Federal money; (2) the dollar amount of Federal funds for the project or program; and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 508. (a) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for any abortion.

(b) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term ''health benefits coverage'' means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

SEC. 509. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).

SEC. 510. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term ''human embryo or embryos'' includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

SEC. 511. (a) None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

SEC. 512. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity if—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

SEC. 513. None of the funds made available in this Act may be used to promulgate or adopt any final standard under section 1173(b) of the Social Security Act (42 U.S.C. 1320d–2(b)) providing for, or providing for the assignment of, a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard.

SEC. 514. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 515. (a) IN GENERAL.—Amounts made available under this Act for the administrative and related expenses for departmental management for the Department of Labor, the Department of Health and Human Services, and the Department of Education shall be reduced on a pro rata basis by $52,190,000.

(b) LIMITATION.—The reduction required by subsection (a) shall not apply to the Food and Drug Administration and the Indian Health Service.

SEC. 516. In addition to any amounts otherwise appropriated under this Act for the Special Volunteers for Homeland Security program, there may be appropriated an additional $5,000,000 for such program.

This Act may be cited as the ''Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004''.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Democratic Leader, after consultation with the Ranking Member of the Senate Committee on Finance, pursuant to Public Law 106–170, announces the appointment of Andrew J. Imperato, of Maryland, to serve as a member of the Ticket to Work and Work Incentives Advisory Panel, vice Christine M. Griffin, of Massachusetts.

ORDERS FOR TUESDAY, SEPTEMBER 16, 2003

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Tuesday, September 16. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of calendar 269, S.J. Res. 17, the FCC resolution, with the time until 10:45 equally divided between the two leaders or their designees; provided that at 10:45 a.m. the Senate proceed to the vote on passage of the joint resolution, and that upon its disposition the Senate resume consideration of H.R. 2754, the energy and water appropriations bill.

I further ask consent that when the Senate resumes consideration of the House message on S. 3, the partial-birth abortion ban, there be 6 hours of debate equally divided remaining under the guidelines of the previous order.

In addition, I ask consent that the Senate recess from 12:30 p.m. until 2:15 p.m. tomorrow for the weekly party lunches.

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

PROGRAM

Ms. MURKOWSKI. Mr. President, for the information of Senators, tomorrow the Senate will resume debate on S.J. Res. 17, the FCC rule resolution. Under the previous order, there will be approximately one hour of debate and the Senate will vote on passage at 10:45 a.m. The vote on passage will be the first vote of the day. Following the disposition of S.J. Res. 17, the Senate will resume consideration of H.R. 2754, the energy and water appropriations bill. For the remainder of the day, the Senate will continue to work through amendments of the water and energy appropriations bill. It is the majority leader's expectation that we complete action on this bill prior to the end of the week. Therefore, Senators should expect votes throughout the day tomorrow in relation to amendments in the appropriations bill.

In addition, during tomorrow's session, the Senate will return to the consideration of the motion relating to the appointment of conferees to S. 3, the partial-birth abortion ban.

ADJOURNMENT UNTIL TOMORROW AT 9:30 A.M.

Ms. MURKOWSKI. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:34 p.m. adjourned until Tuesday, September 16, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 15, 2003:

DEPARTMENT OF STATE

H. DOUGLAS BARCLAY, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EL SALVADOR.

W. ROBERT PEARSON, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE DIRECTOR GENERAL OF THE FOREIGN SERVICE, VICE RUTH A. DAVIS.

RANDALL L. TOBIAS, OF INDIANA, TO BE COORDINATOR OF UNITED STATES GOVERNMENT ACTIVITIES TO COMBAT HIV/AIDS GLOBALLY, WITH THE RANK OF AMBASSADOR.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DAVID EISNER, OF MARYLAND, TO BE CHIEF EXECUTIVE OFFICER OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE, VICE LESLIE LENKOWSKY, RESIGNED.

NATIONAL MEDIATION BOARD

READ VAN DE WATER, OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2006, VICE FRANCIS J. DUGGAN, TERM EXPIRED.

DEPARTMENT OF THE INTERIOR

DAVID WAYNE ANDERSON, OF MINNESOTA, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE NEAL A. MCCALEB, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. WILLIAM L. SHELTON, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. WILLIAM E. WARD, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. FRANKLIN L. HAGENBECK, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. TIMOTHY J. KEATING, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. ADAM M. ROBINSON JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. ROBERT F. BURT, 0000