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## Senate

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. Steven D. Rice, First Lutheran Church, Miles City, MT.

### PRAYER

The guest chaplain offered the following prayer:

In quiet moments of this Senate Chamber, the footfalls and voices of patriots past can still be heard, O God.

This forum of liberty set upon a hill cannot be hid.

Grant that the clamor of today's business not drown out distant and hallowed echoes of our heritage. Rather, grant the wisdom of the ages be present in the work of this day, that the divine genius of liberty might continue to enlighten the path of these United States.

During times of conflict and crisis, give our Senators wisdom and courage; during hours of solitude, grant them serenity and peace.

So it is, upon the work of this day, upon our heritage of freedom, upon this Senate now in session, we invoke Your name, O Lord God.

Amen.

### PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore 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.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, today, we will have a 60-minute period of morn-

ing business, with the first half under the control of the majority and second half under the control of the minority.

Following that hour for statements, we will resume consideration of the Defense authorization bill. Under the order, we will vote on the pending amendments offered by Senators CRAPO and GRAHAM. Those amendments should be adopted by voice vote and will not require rollcalls.

Senator CANTWELL will then offer her alternative on nuclear waste, and there will be up to 4 hours for debate relative to that amendment. I hope we do not need all of that time and that some may be yielded back.

When debate is completed on the Cantwell amendment, we will proceed with four consecutive votes, first in relation to the nuclear waste amendment, to be followed by votes on the confirmation of three district judge nominations. Following those votes, we will continue consideration of the amendments to the Defense authorization bill.

There are a number of important scheduling commitments late this afternoon on both sides of the aisle. We will determine the voting schedule for the remainder of the day as we get closer to the scheduled vote series. Although we will not be voting in the evening, I expect we can continue our work and Members will remain available for other Defense amendments on the list.

Again, I will have more to say about the schedule this afternoon, as well as the schedule for tomorrow and Monday.

### THE ECONOMY

Mr. FRIST. Mr. President, I want to take a few moments and comment on our economy. It was just over a year ago that the Senate passed and the President signed into law \$350 billion in tax relief. That was the third largest tax cut in history. By so doing, we

brought the tax burden to the lowest level in 37 years. We cut taxes across the board for 136 million hard-working, taxpaying Americans. For America's families, we increased the child tax credit from \$600 to \$1,000 per child, and we made those rebate checks available immediately, and they were sent out immediately.

Combined with tax cuts of 2001, which were signed into law almost 3 years ago today, this year 111 million individuals and families will receive an average tax cut of over \$1,500.

If you are married, you are 1 of 49 million married couples who will have an average tax cut of \$2,600. For those families with children, you are 1 of the 43 million families with children who will receive an average tax cut of \$2,000.

We have 14 million elderly individuals who will see their taxes go down on average by nearly \$1,900. That is \$1,900 more that senior will be able to have to spend, to invest, or to use however they want.

If you are a small business owner, you are 1 of 25 million small business owners who will receive an average tax cut of \$3,000. In my home State of Tennessee, more than 2 million Tennesseans will have lower tax rates this year.

President Bush's tax cuts are working. Not only are the tax relief packages, the tax cuts putting more money back in workers' pockets, they are boosting the economy, and we are seeing the results today. Since we passed the tax cuts last year, over 1 million new jobs have been created. The unemployment rate has fallen to 5.6 percent, lower than the average unemployment rates for the past three decades. The number of working Americans has reached an all-time high. In particular, manufacturing employment has done especially well. It is at the highest level in almost 20 years.

Real gross domestic product grew at its fastest pace in more than 20 years.

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



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Real disposable personal income—meaning how much money families and individuals have—is up. Household wealth is at an all-time high. Home ownership is at a record high. Consumer confidence is up. The stock market has risen from 7,000 to 10,000. Business confidence is higher than it has been in 20 years, and business spending and investing is booming.

Four years ago, President Bush inherited an economy that was in recession. Now because of his firm fiscal and tax leadership, the economy is booming. American families feel better off today because they are better off today.

The optimism shows up in national polls. A Harris poll released this week finds a clear majority of Americans feel their situation has improved since the last administration left office. Over two-thirds expect their personal situation to improve over the next 5 years. African Americans and Hispanics are particularly hopeful. A remarkable 86 percent in each group expect their lives to improve in the next 5 years.

It is imperative we keep up the pace. We can only do that by making the tax cuts permanent. My constituents have written to me again and again pleading to preserve the tax cuts. Yet there are some who would like for those tax cuts to expire. Worse yet, others are calling for immediate repeal. Not only would that be the largest tax hike in history, it would cut short America's new economic recovery.

The tax cuts are working. We need more, not less. We need to keep America moving forward, and we need to keep passing appropriate legislation that stokes the fires of the world's largest and most dynamic economy.

I urge my colleagues to continue to support these progrowth, projob policies that create opportunity for every American. Everyone who wants a job should be able to find one.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time which has not been used is reserved.

#### MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the minority leader or his designee.

Who yields time? The Senator from Kentucky.

#### ECONOMIC RECOVERY

Mr. McCONNELL. Mr. President, this week marks the 1-year anniversary of the Jobs and Growth Act of 2003, a bill

signed into law on May 28 last year. And now, a year later, we see by every conceivable economic measure of prosperity and well-being the Bush recovery is roaring ahead.

The Bush recovery has American families on the right course. The Bush recovery has American businesses, services, manufacturing, and exports all moving ahead at full steam.

The Bush recovery has workers' income rising, their job opportunities expanding, and their take-home pay increasing. A record number of workers are working. The Bush recovery is broad, it is growing, it is substantial, and it is a record of achievement of which any President would be justly proud. But the remarkable aspect of the Bush recovery is not what it has obtained but what it has overcome.

Go back to January 2000, when President Bush was still Governor Bush. The Dow Jones industrial average peaked at 11,723. That was the peak in January of 2000. The Dow Jones industrial average peaked at 11,723. Two months later, it lost one-fifth of its total value. A couple of months later, in March of that year, Nasdaq peaked. But by the end of 2000, tech stocks had lost more than half of their value. By the fall of 2000, the economy had slipped into recession.

Again, this all occurred while President Bush was still Governor Bush of Texas.

President Bush took office with an economy already stalled, a stock market tanking, and 8 months later America suffered an unprecedented terrorist attack, on September 11. We are all aware of the toll of lives from that tragic day, but few appreciate the full effect on our freedom and on our prosperity. Planes were grounded for days, and new, expensive security measures were imposed. Business in America came to a screeching halt, each one collectively seeking to reassess the risk and the opportunity of all their endeavors, not only here but overseas. Average Americans took stock of the threats and warnings out there and acted cautiously for the sake of their loved ones.

As our freedom to act without fear was diminished, so, too, was the economic activity that is a reflection of that freedom. A new world of uncertainty was created by 9/11, and while many have completely forgotten the attacks even occurred, their full ramifications are felt today, not only militarily and politically but economically as well.

Despite all that, America is back and stronger than ever, and much of that strength can be traced back to the Jobs and Growth Act of 2003. By letting workers, families, and businesses keep more of their own money, that legislation, along with the President's 2001 tax relief, laid the foundation for economic growth and job creation, not only now but for years to come.

Mr. President, 111 million individuals and families will receive an average

tax cut of \$1,586; 49 million married couples will have an average tax cut of \$2,602; 43 million families with children will receive an average tax cut of \$2,090; 14 million elderly individuals will see their taxes fall on average by \$1,883, and 25 million small business owners will receive an average tax cut of \$3,001.

This tax relief has prompted the growth of a surging, vital economy. Since the President signed that bill, the stock market is up 18 percent, increasing America's capital base by more than \$2 trillion. Real business investment in equipment and software is up 14 percent annually, the fastest third-quarter increase since the late 1990s. More manufacturers have been reporting increased activities and new orders than any other time in the last 20 years, and real GDP grew at a 5.6-percent annual rate, the fastest in nearly 20 years.

As tax relief has prompted a surging economy, families have benefited in the last year. Real disposable personal income rose at an average annual rate of 3.9 percent, household wealth hit a record high of \$44 trillion, and home ownership has risen .4 percentage points to a record high of 68.6 percent.

With families stronger and businesses growing, the Bush recovery is building strong momentum in the jobs market. In just the last year, over 1 million new jobs have been created for America's workers. The unemployment rate fell from 6.1 percent to 5.6 percent. That is lower than the average unemployment rates in the 1970s, the 1980s, and the 1990s. If that were not enough, State unemployment rates fell in 47 out of 50 States.

America is headed in the right direction. Looking at this chart, since President Bush signed the Jobs and Growth Tax Relief Act last May, the 5.6-percent increase in GDP is the best in 20 years; 1.1 million new jobs since last May; 800,000 new jobs this calendar year alone; the stock market rebound, up 18 percent since the President signed the tax relief bill. Home ownership is up to 68.6 percent, an alltime high since the President signed the tax bill. Disposable income is up 3.9 percent—more take-home pay. All of this has occurred since President Bush signed the Jobs and Growth Tax Relief Act last May.

We have had an extraordinary period of economic growth. Some say the economy should be growing faster, but their solution is to lock up the brakes and whip a u-turn. That is what an agenda of more taxes, more regulation, and more Government spending would do.

Under President Bush's leadership, America is finally headed in the right direction. The economy is picking up steam, and families, businesses, and workers across America are reaping the benefits. This is not the time to turn backward.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The minority leader is recognized.

#### EDUCATION OF INDIAN CHILDREN

Mr. DASCHLE. I will use my leader time this morning.

This is the cover of a recent *Parade* magazine. The man in this photograph is the great-great-grandson of Sitting Bull, one of the most extraordinary leaders America has ever produced.

His name is Ron. His horse is Thunder. He is part of the new generation of American Indian leaders. He is a lawyer by training, but education is his life's work. He is president of the Sitting Bull College in Fort Yates, ND, on the Standing Rock Sioux Reservation, and chairman of the President's Board of Advisors on Tribal Colleges and Universities.

The subtitle of this article expresses a fundamental truth that Sitting Bull taught and that people I talk with throughout Indian Country still believe today: Education is the key to a better future for the American Indian people. Education, more than anything else, gives a person the power to determine his or her own destiny. It is the most effective tool there is to relieve the grinding poverty that exists today in too many tribal communities throughout America.

When Native Americans surrendered their lands more than a century and a quarter ago, the United States Government promised to provide the descendants of Sitting Bull and all Native Americans, free education, health care and other basic necessities of life, forever. That is one reason I am disturbed by the results of two new audits by the Interior Department's inspector general.

The first audit reveals that, over a 3-year period, the BIA's Office of Indian Education Programs used at least \$5 million from a contingency fund for non-emergency purposes, including staff retreats, bean bag chairs, televisions and puppets. This misuse of contingency funds shortchanged Indian schools of money they need for emergencies.

The second audit, which concerns the BIA school construction program, also documents numerous examples of poor management and lack of accountability. It found that Indian children are being forced to try to learn, and their teachers are trying to teach, in schools that put them at undue risk of injury because "no one in BIA ensures that school buildings are not occupied" until hazards are corrected. That is shameful.

This second report also found that 30 percent of the school construction and repair projects it reviewed failed to meet the BIA's own goal of completing design and construction within 3 years.

The IG made nine recommendations that it said could strengthen the BIA school construction program and in-

crease the program's benefits for Native Americans. Those nine recommendations were included in a draft copy of the report the IG gave to BIA officials for comment.

Incredibly, despite being given an extended deadline, Bureau officials failed to respond to the draft. As a result, when the report was released publicly, it noted that "all nine recommendations are considered unresolved."

I do not know why the BIA failed to even acknowledge those nine recommendations for improving the Indian school construction program; I do not know if it was arrogance, indifference, incompetence or simply a result of being overwhelmed. But I know that it is unacceptable.

The BIA operates or funds 187 schools in 23 States, including South Dakota. Most of these schools were built in the 1940s or 1950s. Many are decades older than that. Few are equipped to support computer labs or other sorts of modern equipment that are now considered essential in most school districts.

I have visited BIA schools where children had to place trash cans beneath the holes in the roofs to catch the rain. I have been to BIA schools in which cold winds whipped through broken windows. I visited a school, which has since been replaced, in which neither the furnace nor the bathroom plumbing worked. That is not keeping our promise to educate Indian children. That is a disgrace.

The Cheyenne Eagle Butte School and dormitories on the Cheyenne River Sioux Reservation in South Dakota were built by the BIA around 1960. The floor tiles in both the school and the dormitory contain asbestos, a known cause of lung cancer and emphysema.

To date, the BIA's remediation efforts consist of recommending that the school "keep the boiler room door shut" and keep the floors waxed so the tiles will not chip and flake.

Three years ago, the Cheyenne Eagle Butte School was first on the BIA's priority list for school replacement. Then the BIA changed its criteria, and the school dropped down on the list. Today, the tribe has no idea when the school will be replaced.

Several weeks ago, I spoke on this floor about the Crow Creek Tribal Schools in Stephan, SD.

Two years ago, Crow Creek's middle school was condemned and replaced with modular trailers. The elementary school and high school still need to be replaced. Throughout the high school, crumbling walls are supported by steel braces; one can see exposed electrical wires.

The Crow Creek Council has been lobbying for money to fix the schools on the reservation for 25 years. Recently, the Crow Creek school superintendent received this letter from the South Dakota state fire marshal. I have had it reprinted and enlarged here. I will quote:

[T]he buildings are dangerous and represent a threat to life.

The State fire marshal "strongly recommends discontinued use of both" the elementary and high schools.

Two weekends ago was graduation weekend at Crow Creek Tribal Schools. The school had originally planned to hold the graduation ceremony outside because the gym has been condemned—but it rained on graduation day. So 1,500 people—the graduates, their families and friends—crowded into a condemned gymnasium that threatened to fall down around them.

I ask you, what other group of children would we allow to be treated this way?

The BIA has committed to replace the Crow Creek gym—but it is unclear when. Tribal officials had thought students would be playing basketball in the new gym this fall, but the construction funds have once again been delayed.

In the last several months, Crow Creek schools have experienced a crisis of suicides among students. Mental health experts call such episodes "cluster suicides." Six young people on the Crow Creek Reservation have killed themselves in the last 6 months—and many more have tried. In April, there were 21 suicide attempts; the month before, 28. Last month, a 14-year-old girl tried to hang herself behind the elementary school. She was discovered and cut down just in time. The most recent suicide was a 19-year-old young man who had dropped out of school. Had he stayed, he would have graduated last month.

Clearly, the suicide crisis at Crow Creek schools is not caused only by crumbling schools. This is a complex crisis with very deep roots. It involves public health issues and myriad other issues.

But what message does it send to young people when they are forced to try to learn in a condemned building?

There are school buildings like the Crow Creek Tribal Schools throughout the BIA system. All told, the BIA school construction backlog is estimated at \$1 billion. At the current funding levels, it would take decades to get through that backlog.

In 2000, when he was running for President, then-Governor Bush met with tribal leaders in New Mexico and promised to invest \$1 billion to fix crumbling BIA schools. Yet, the President's proposed budget for next year cuts funding for Indian school replacement for the second year in a row. That is wrong.

America's commitment to build new schools for children in Iraq and Afghanistan is admirable, but it does not erase our treaty obligations to provide good schools for Indian children in this country.

The JOBS bill the Senate just passed last month includes a promising program that was first suggested by tribal educators in my State. The program would allow tribal governments to issue school construction bonds; the Federal Government would pay the interest and the principal on the bonds.

The BIA school construction bond program would increase by about half the number of BIA schools that are currently being replaced or repaired each year.

Yesterday evening, I met with two officials from the Porcupine school board on the Pine Ridge Sioux Reservation. Those two gentlemen are with us this morning.

The grade school in Porcupine is 40 years old and overcrowded. The foundation is unstable. The boiler is unreliable. There is no cafeteria; the children eat their meals in the hallways.

The Porcupine elementary school is number two on the BIA's school construction replacement list. School board officials say they have been told that construction on a new school could start in July—not this year, not next year, not the year after that, but in 2008—more than 4 years from now.

The new Indian school bonding program would enable us to replace and renovate more schools faster.

For the sake of the children at the Porcupine elementary school, and all the children in crumbling and inadequate BIA schools throughout America, Congress needs to get the JOBS bill—with the BIA school construction plan—to the President and get this important program up and running as soon as possible.

Once the law is signed, we are going to insist that the BIA report regularly to Congress on how the BIA school construction program is being implemented and managed. We expect progress and results. We will not tolerate the lack of accountability that is documented in the two recent audits of the BIA's Office of Indian Education Programs.

This chart says it so poetically and prophetically. More than a century ago it was said the first time. Sitting Bull implored representatives of the Federal Government:

Let us put our minds together and see what life we can make for our children.

In that same spirit, we must now put our minds together and hold our Government accountable to keep the promises it made in trusts and treaties and laws to Native Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

#### THE ECONOMY

Mr. COLEMAN. Madam President, I rise today to talk about continued progress for the American economy, especially back home in Minnesota.

I have been coming down to the Senate floor now from time to time to talk about how the policies of President Bush and a Republican majority, working across the aisle with some like-minded Democratic friends in the Congress, are putting America's economy back on track and Americans back to work.

I remember back in October when I came down to the floor and talked

about early signs of economic growth that would set the stage for the job creation we have been witnessing in the last 8 months. Right after I spoke, my friend the assistant Democratic leader challenged me a bit, questioning whether my prediction for a brighter economy were not a little premature.

As the saying goes, "There is nothing more horrible than the murder of beautiful theory by a brutal gang of facts."

What may have been a trickle of good economic news last October has cascaded into a steady stream of good news. Even that most persistent critics of the President's economic program must now concede. The economic engine of America is humming. Job growth is a reality.

Two weeks ago, I talked about a Minneapolis Star Tribune article appropriately entitled, "Minnesota Jobs Roar Ahead," which reported that Minnesota broke all kinds of jobs records in April when Minnesota experienced the largest one-month drop ever in its unemployment rate and more manufacturing jobs were created at a record pace as well.

Today, I want to talk a little about an article in my home town paper, the Saint Paul Pioneer Press, entitled "Factories on a Roll." The article highlights that U.S. Manufacturing activity expanded for the 12th consecutive month last month, and factories boosted employment to meet strong demand for their products.

This is true back home in Minnesota. A regional survey by Creighton University economists found that Minnesota's "Business Conditions Index" rose to a 10-year high.

Also, Minnesota enjoyed its best month-to-month gain in jobs in April since October of 1999. The progress of the last few months has led number of economists to describe Minnesota's economy as "spectacular" and "breathless," and indicates that employment opportunity in the manufacturing sector will continue to improve.

I stand by what I said in October. The President's commonsense tax relief has played the crucial role in helping the economy to rebound from the recession that began during the final months of the Clinton presidency.

More than 1.9 million Minnesota taxpayers saw their taxes decline this year under the President's tax relief. More than 1.2 million couples in Minnesota will benefit from the reduced marriage penalty and more than 475,000 couples and single parents will see an increase in their child tax credit.

I wonder if some folks on the other side of the aisle would still prefer I hold my tongue while we wait for more evidence. If so, I would suggest that perhaps "irrational exuberance" has given way to "unreasonable pessimism."

I would even go so far to say that one of the economy's chief risk factors today is those who continue to talk it down. And why? Could it be perhaps that for some, economic good news

might be political bad news? Much of the howling about the economy has fallen silent. But where is the consistency? If the President was to blame for the economy before, isn't he to be praised for its performance now? I can't wait to see how this one is spun.

The economy has overcome great obstacles and is firing on all cylinders in Minnesota and elsewhere. No, we have not died and gone to economic heaven; problems remain. There is good and bad in every economic period. But considering where we are and what we have come through, this is solid, broad-based and even historic progress.

I was optimistic last October. Why? Because this is what always happens when you give people control of more of their own paychecks.

Federal programs are not the engine of economic growth: Regular folks who save, invest and consume are. But that doesn't mean there aren't things we can do right now to help.

For the sake of working families across the country, we need to focus on maintaining that economic growth and jobs creation through a forward looking legislative agenda. We need to pass an energy bill, a highway bill, and important legal reforms that alone would create 3.5 million new, and good paying jobs.

We need to make permanent the President's tax code in enforcing this economic growth. We need to keep the economy going down the track it is on.

The optimist sees the light at the end of the tunnel. The pessimist assumes it is an oncoming train. With all the evidence in hand, it is time to doubt the doubters and call them to account.

Although we saw the signs last fall for the economic growth and jobs creation that was beginning to unfold, some folks had doubt. But, as President Franklin Roosevelt put it better than a half century ago, "The only limit to our realization of tomorrow will be our doubts of today. Let us move forward with strong and active faith." Hopefully this continued good news from Minnesota and across America will help the doubting Thomas's still among us.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. Madam President, I rise today to join with my colleagues in celebrating this anniversary. In 2001 and again in 2003, Congress had the wisdom to pass two bold tax cut plans. I firmly believe they were the key to turning around this economy.

When the President came to office, the economy was already taking a turn for the worse. Job growth was slowing down, the stock markets were moving in the wrong direction. A dose of strong medicine was needed. Our President came up with a bold plan for tax relief, to get more money out of Washington and put it back into the pockets of workers and the small business owners who earned it.

President Bush knows, as President Kennedy knew, and as President

Reagan knew, the best way to jumpstart the economy is to leave more money in the hands of the American people.

When people and businesses can keep more of their own money in their own pockets instead of having to send it to the "National Center for Income Redistribution on the Potomac," it follows they will spend more and they will invest more and they will expand their businesses more. When that happens, the result is new jobs and a growing economy. That is exactly what has happened.

I was proud to be a cosponsor of those tax relief plans which lowered the tax bills for 111 million taxpayers, including 25 million small business owners. Americans have been using this extra money to pay their bills, get the kids in new clothes, or start a saving plans for themselves. Small businesses are investing in new equipment and expanding their operations. Workers are opening their 401(k) statements to see the numbers are going up instead of down.

As a result, our economy is on the upswing. We have had 10 consecutive quarters of economic growth. In the last 3 quarters, the economy has been stronger than any 3 consecutive quarters in nearly 20 years. Jobs are coming back, too. More than 1.1 million jobs have been created since last August and more are on the way. Manufacturing activity is picking up, and the business community is more confident than ever that they feel this turnaround taking root.

President Bush has done an outstanding job shepherding our economy through these tough times. I have one wish as we celebrate this anniversary. I wish this Congress would take one more step with these tax cuts. I wish we would do what we should have done in the first place, make these tax cuts permanent.

I have asked this question before and I will ask it again: How can anyone, how can any business, make any long-range plans for a business or for a family with a "here today, gone tomorrow" tax cut, a tax policy that has a perishable date on it, like a quart of milk?

The fastest way to show our taxpayers we are serious about tax relief, the fastest way to ensure this economic growth continues, is to make the tax cuts permanent.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I compliment my colleague, Senator MILLER from Georgia, for his statement, but also for his courage last year in not only supporting this package but cosponsoring this package with me. Every once in a while we do something in Congress that makes a difference. Last year, Senator MILLER helped pass a budget that enabled the Senate to pass a tax bill.

The tax bill we passed we called the economic growth package 2003. It did a

lot of things. It accelerated some tax cuts that were already passed in 2001 that were being phased in very slowly. We accelerated those. We made the maximum tax rate 35 percent. It accelerated tax changes for families, moved tax credits for children from \$700 to \$1,000. It gave marriage penalty relief. It meant married couples would pay 15 percent on taxable income up to \$58,000. It expanded the 10-percent tax bracket. It cut capital gains tax rate from 20 percent to 15 percent. It cut the tax rate on corporate dividends. We tax the distribution of dividends from corporations higher in the United States than any other country in the world. It cut that tax by more than half. It cut it from ordinary rates to 15 percent.

It would not have happened if it were not for Senator MILLER. He cosponsored the bill. He made it possible. By passing a budget, we passed a bill. We passed it with the Vice President breaking a tie. The net result is we have had economic growth, very significant economic growth as a result of that tax bill, as a result of the budget we passed last year.

The proof is in the pudding. We have now seen the results. Both sides, Democrats and Republicans, said, We need to do something to stimulate the economy. We did. We passed the package. The President signed it a little over a year ago, May 28 of last year. Now we can look at the results. The results are outstanding. So we ought to acknowledge it.

We have had the most rapid expansion of gross domestic product in 20 years. The last 4 quarters averaged 4-point-some-odd percent: 3 percent, 8 percent, 4.1 percent, 4.5 percent—the highest in 20 years. That has happened since we passed our package a little over a year ago.

The results in the stock market have been dramatic. The Dow Jones industrial average, when we introduced this bill, I believe it was in February of last year, was less than 8,000. It is over 10,000 now—an increase of 27 percent from when we introduced the President's budget and introduced his bill. That is dramatic. I remember telling my colleagues, if we eliminate double taxation on dividends, we might have a Dow Jones industrial average above 10,000. That is the way we passed it in the Senate, but the way it came back from conference, we said the tax on dividends would be 15 percent. That is a big improvement over ordinary tax. Corporations have to pay 35 percent on their corporate profits. Then we pay individual tax of 15 percent. But as a result, we now have a Dow Jones industrial average that has risen 27 percent. The NASDAQ is actually up even more than that. It surged from about 1350 in March to today almost 2000. That is a 47-percent increase since February. That is very significant. That means the market cap has increased by trillions of dollars.

People ask, what does that mean? It means the value in your 401(k) funds

has risen from \$11 trillion to over 15 some trillion, an increase of about \$4.5 trillion. That is phenomenal growth, that is phenomenal wealth creation, due in large part to the tax bill we passed last year because we tax corporate profits differently, because we allowed corporations to have a bonus depreciation up to 50 percent.

We made tax changes and there are consequences to those changes we made, positive changes. There are positive changes on employment and the unemployment rate. The unemployment rate has declined dramatically from over 6.3 percent in June of last year. Keep in mind, we introduced this bill in February when the unemployment rate was about 5.9 percent. It went all the way up to 6.4 percent. And now, today, we are looking at an unemployment rate of about 5.6 percent—a very significant reduction in the unemployment rate. So that is positive.

Payroll growth has increased dramatically. That is usually a lagging indicator. The stock market moved up earlier, and now payrolls are starting to increase, with over 1.1 million jobs in the last 8 months alone. You can see the growth trend is very positive. We had a decline in jobs for some time. We were experiencing significant job losses. We said: We need to do something to stimulate the economy. We did. We introduced the tax cut bill in February. We passed the bill in late May. Now you can see it is really starting to take off. We have had very significant job growth as a result of that.

Even in manufacturing—if you look at the trend in manufacturing over the last 40 years, it has been on a decline. Because of some of the changes we implemented—primarily the bonus depreciation, and, again, a change in the way we tax dividend distribution—you are now seeing investments in manufacturing plants and facilities. Investments are up in manufacturing, and investments in companies, dramatically. Now we are seeing growth in manufacturing output, which has been significant. We have had very significant manufacturing output.

We are also seeing, for the first time in a long time, actual growth in manufacturing employment. I used to be a manufacturer. That is good news. That is reversing a trend that has been on the books and, frankly, in progress for a long time.

The point I am making is a year ago we passed a bill. The bill was a big change in tax policy, a big change I think that has had very positive economic results. Senator MILLER said: Well, there is one thing we should do. This bill was passed, and it was passed under reconciliation, which means, by law or definition, it had to be for a set period of time. It sunsets. We need to make it permanent. We want these growth trends to continue. We want the growth in the number of jobs to continue. We want to see manufacturing continue to increase. We want to see GDP continue to increase.

Some people have said: Well, no, we want to take away some of those tax cuts. We want to take away some of the tax cuts for the upper 1 or 2 percent. I will tell you, that will not work. I was one of the architects of that plan. I was the principal sponsor, with Senator MILLER, to cut taxes on capital gains and dividends. If you try to do that and say, "We will leave the rate at 15 percent for everybody in America except for the upper 1 or 2 percent," that will not work.

To tell everybody in America, "Your capital gains rate is going to be 15 percent, unless you make over \$200,000, and your rate is going to be 25 percent higher," that is a real disincentive. Or to tell corporations, "We are going to tax proceeds on corporate dividends at 15 percent, and, oh, if you have income over \$200,000, we are going to tax yours at 35 percent"—and under some proposals it would be much higher than that; they want to increase maximum rates maybe well beyond 39.6 percent—that is distorted, and it will undermine the whole idea of saying: Wait a minute; let's not tax corporate dividends twice.

If you tax some corporate dividends at 39.6 percent on the corporate side, and have a corporate rate of 35 percent on top of it, you are taxing corporate dividend distributions of 75 percent plus, and you are discouraging people from making investments in corporations and distributing those proceeds to their owners. Therefore, it would be very counterproductive.

So those who are making those recommendations have not thought them through. I do not think they will work. Or if they did work, it would be very counterproductive, and you would see GDP declining; you would see jobs declining, and you would see a very stalled or stagnated economy.

I think we can be proud of the fact we passed the tax bill last year. The President signed it, and it has had a positive impact. Those are the facts, just the facts. I compliment my colleagues, and particularly Senator MILLER, who made it happen.

Madam President, I yield the floor.

Mr. REID. Madam President, how much time is left on the majority side?

The PRESIDING OFFICER. There is 2 minutes remaining on the majority side.

Mr. REID. We will wait until their time expires.

Madam President, how much time is remaining on the majority side?

The PRESIDING OFFICER. There is 10 seconds.

The Senator from Nevada.

#### BUDGET DEFICITS

Mr. REID. Madam President, I am going to yield in a minute to my friend, the distinguished Senator from New Jersey. But I would hope everyone who has heard all these speeches understands the country has a deep problem with these huge deficits. The largest

deficit in the history of the world, the history of our country, was last year. This year we will exceed that.

I hope everyone understands there is spending going on like a bunch of drunken sailors here, and the spending is being paid for with borrowed money.

Madam President, I yield 15 minutes to my distinguished friend from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

#### ECONOMIC DISTRIBUTION

Mr. CORZINE. Madam President, I thank my distinguished colleague from Nevada. I very much appreciate him pointing out one of the great flaws in the discussion I am hearing on the floor. It seems we only want to focus on a very short period of time and a very limited measurement or metric on how well the economy is doing.

I have been on the floor over the last 6 or 8 weeks trying to address issues on the budget, taxes, and growth in our economy. I feel very strongly that we need to have this debate. I am glad it is happening because the American people, I think, actually understand what is happening in their pocketbook and their own sense of where we are in the economy. It is a lot different than this tsunami of good news that is being quoted and cited.

People like to talk about statistics. We need to deal with what is actually going on in people's lives. That is why a whole series of us have come down and asked that question Ronald Reagan asked in the 1980 Presidential campaign: Are you better off than you were 4 years ago?

Remember, 4 years ago, we had come through a period of creating 22.5 million jobs. This is an administration that has overseen the loss of 1.8 million jobs. So we have had the loss of 1.8 million jobs, after creating 22.5 million jobs, when we saw real income growing every single year. Now we are asked to say: Wow, isn't it wonderful we have seen such a change in the last 2 or 3 or 4 months? And at what cost has that come?

As the Senator from Nevada said, we have the largest deficits in the history of mankind. You can always spend yourself into economic growth. Maybe that is what we are doing, but it is coming at a huge cost to this generation and future generations.

But that is not what I wanted to talk about today. I want to talk about who is better off than they were 4 years ago. There is a clear, commonsensical view among people, at least in the State of New Jersey, whom I live with every day, that things are not so well in their home, in their bank accounts, in their financial condition.

I will go through some of the data. Are they better off? We have had flat wages for the last 3 and a half years. To be absolutely accurate, average weekly earnings have grown 1 percent over 4 years. College tuition costs, on the

other hand, are up 28 percent at the same time; up 13 percent in New Jersey last year at State schools. Gas prices are over \$2 a gallon, up 34 percent in a 4-year period. Family health care premiums are up 36 percent. These are expenses people have to pay every day out of their budgets.

Some cite macrostatistics such as the GDP is growing. What is happening is, individual average weekly earnings are up 1 percent. Health care costs are up 36 percent. Gas prices are over \$2 a gallon, and there has been a 28-percent increase in college tuition. It is off the charts.

State and local taxes in almost every State in the country have gone up in the last 4 years. In New Jersey, the average property tax has gone up 7 percent each year because the Federal Government is not picking up its responsibilities, such as Leave No Child Behind, and with other mandates we have put on them for which we then don't provide the money. Now we are hearing we are going to be cutting back on some of that.

There is a case for middle-class Americans to say things are not so great. Average weekly earnings are up 1 percent. We have everything else in our budget going off the charts.

It is possible, though, when we look at this picture of middle-class America getting squeezed, that there are people who are actually doing well in this world. That is what I want to talk about because there are some people who are better off than they were 4 years ago. It comes from the concept that there is a ladder in America. People like to get on that ladder and climb up and have great opportunity. This is a country that has aspirations that are a part of people's lives.

But we seemingly want to make sure the people at the top of the ladder are doing really well and we are squeezing the folks at the bottom. Average weekly earnings, as I said, had relatively flat growth. But HMO profits are up 50 percent. There is a correlation between that 38-percent increase in family health premiums to HMO profits. I used to be a CEO so I can talk about this with some knowledge. Compensation for people who are leading corporations is up 61 percent during the same period—one percent or zero-percent average weekly earnings growth for middle-class Americans, while CEO compensation is up 61 percent.

To give a little perspective, back in 1980 the average CEO made 31 times the lowest average worker in a corporation. Today it is over 500 times. It grew 61 percent last year. Somebody is better off, aren't they?

It strikes me that the numbers are working. Somebody is getting it and somebody is not. As I said, it is most visible when you compare HMO profits versus what is going on with health care costs for average Americans. It is tough to argue that things are a lot better when we are seeing growth in

HMO profits and growth in CEO compensation, and you wonder who is better off than they were 4 years ago.

Another way to look at this is to focus on the oil companies. Are they better off or not? In New Jersey, we have the average cost of gasoline at \$2.04 cents a gallon. We see over \$40-a-barrel oil. We could think about supply and demand conditions and maybe tap into the Strategic Oil Reserve, but that is a story for another day.

The fact is, middle-class Americans are paying the freight, \$2.04 a gallon, and somebody is benefiting from that. Are the people paying the \$2.04 better off or are the oil companies that have seen their profits soar as the price of a barrel of oil has gone up enormously right in front of our eyes? British Petroleum's earnings are up 165 percent, year over year; Chevron-Texaco, 294 percent; Conoco only got 44 percent; and Exxon is up 125 percent.

Thirty-four percent was the increase in the cost of gasoline for Americans. That is middle-class folks going in, pulling up to the gas pump, putting it in, paying for it. That is coming out of their pocket. Remember, those are the people who are getting a 1-percent increase in weekly earnings. And Chevron-Texaco has a 294-percent increase in profitability.

I am not against profitability. We want people to be profitable. But there needs to be some balance in how the economic pie is actually working for folks in America. It is very troubling that some are huge winners and other people are getting the scraps, with a zero-percent to 1-percent increase in real weekly earnings.

There is another group besides HMOs and CEOs and oil companies. There is the issue of those who actually despoil our environment. It sort of goes at the oil company topic. Instead of debating how we are going to get the price of oil down, House Republicans are now insisting on giving oil companies immunity in cases where they have contaminated ground water with MTBE. In New Jersey, there is a serious problem because we have MTBE all over the State, and it is increasingly thought to cause all kinds of health problems. We are proposing to give a break to the oil companies—the ones making 294 percent higher profits this year than they did last year—a \$29 billion break in damages in 43 States around the country.

Who is better off today than they were 4 years ago? Is it the oil companies or the people potentially exposed to MTBE? By the way, I could go on to "polluter pays" taxes; who is paying, who is not paying, for clean air. You could go through a whole series of environmental applications and ask, who is winning, who is losing.

This is not about class warfare. This is about who is winning and who is losing: a 294-percent profit increase, or are we actually going to deal with MTBE? Are we going to have the resources to clean it up? Or are we going to take the

\$29 billion in damages and lay it on the shoulders of working Americans? Are we going to pass it along?

Let me talk about another issue. This gets at some of the tax discussion I hear so much about as being so beneficial to everyone in the world. You could talk about where the tax breaks go. Those making \$1 million or more are getting \$123,000. Those in the top 1 percent are getting about a \$34,000 tax break, almost \$35,000. If you do the analysis, the middle 20 percent of Americans is getting about \$647. That is the average.

Anybody can talk about statistics. They can pick it out different ways. They can mush all this together. They can put the 7 footer with the 5'4" person and come with an average height that sounds as if you are 6'2". But the fact is, so much of the tax break is actually going to the people who make \$1 million or more, the top 1 percent, and very little is going to middle-class Americans.

But that fits. We are only getting a 1-percent increase in mean weekly earnings to the middle class. We are creating tax breaks that primarily go to those who are already doing well. Again, the aspiration of Americans to try to work their way up the ladder is perfectly acceptable. That is the American dream. I know a little bit about it because I know how it happened in my life. But when you get the ladder down and you put it up, why roll it down?

That is what we are doing here. We are giving tax breaks to people who could always use them. Everybody could always use a tax break. But how are we going to fund Leave No Child Behind? How are we going to deal with making sure special education is properly funded? When are we going to get it that we need to make sure we share the benefits in this society? This makes almost no sense.

It is not an issue of class warfare. It is how do we make sure every American has an opportunity to have access to the American dream.

It is incredible to hear some of the discussions that go on. By the way, I want to take this one step further. One of the reasons this number is so high and this is so low is so much of that income comes in the form of capital—capital gains, dividends—and people with capital gains and dividends are paying 15 percent. But if you are working and you are up in the \$40,000, \$50,000, \$60,000 area, you are paying 28 percent; your marginal rate is significantly higher.

We are charging more for working people's earnings than we are for capital. I don't think that is right. I don't think it is right that we turn around and allow situations where somebody pays a 15-percent marginal rate against some kind of income—i.e., capital income—and we charge much higher rates for the poor guy who has to go to work every day. Why are we advantaging capital over wages? It makes no sense and we end up with a distribution like this.

Again, there is nothing wrong with getting good returns on capital or with people working their way up the ladder and being successful. But we have a lot of choices in this country, and we are making them so that these guys up here are ending up with most of the benefits—unless you are one of those oil companies that get an MTBE break and huge growth in profits. But the wages are not growing. The cost of living is going up, as is health care, college tuition, and State and local taxes, and there is so much need that I don't understand why we are turning around and skewing everything the way we have.

That is why I think it is fair to ask who is better off in 2004 versus 2000. Is it the people who were at the top of that chart, the top of the ladder or is it the people in the middle of the ladder, who are aspiring to get up the ladder? Who is benefiting from this \$400 billion or \$450 billion budget deficit? I think it is a very hard case to make.

As the chief economist from Merrill Lynch said, "We've had a redistribution of income [in this country] to the corporate sector." It is through this capital gains distribution of dividends and cutting of the marginal tax rates. It is very clear that somebody is winning, but somebody is getting a little less of that break. I think it is very hard to answer the question "who is better off today" without going back through those HMOs, CEOs, oil companies, and a lot of the folks who are gaining their income from capital as opposed to wages.

I believe that is a tough way to argue to the American people that things are going really well in the economy. I think we have an answer to the question. We have seen someone do better, and it is those who have had that redistribution to them through the tax system. That is something we need to debate on the Senate floor, we need to debate it among the American people, and we need to come to a conclusion about who really deserves to have the fair benefits as we go forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, I direct a question to my friend from New Jersey. Would my friend agree that these huge deficits that are piling up at unprecedented rates are also, long term, very damaging to our economy?

Mr. CORZINE. The Senator from Nevada asks a particularly appropriate question. Anytime the Federal Government is competing for money in the capital markets, instead of us having that money go into the private sector, instead of being invested in the kinds of growth you see in Nevada or what we hope will happen in New Jersey, it undermines the economic health of the country, and we have fewer jobs, wages are less, and you get a negative cycle. It is absolutely dangerous to the longrun health of this country.

Mr. REID. Would the Senator also agree that during the last 3 years of



the Clinton administration, we were actually spending less money as a Federal Government than we were taking in—meaning we were paying down the debt? Was that not a good sign for the economy, to the rest of the world, and to our own taxpayers?

Mr. CORZINE. The Senator from Nevada is leading the witness because at that point in time we were in the process of creating 22.5 million jobs over that 4 years—10 million in the last sector. People would earn money and spend money, and it would multiply through the economic system. We were creating wealth in the greatest single period of time, when the Federal Government was running from the pulling down of capital and stayed out of the capital markets and put money where it was most efficient.

What we are doing right now is setting up a dynamic that will reverse that. We are going to see less investment over a period of time because the Federal Government has taken up all the dough and it is going to show lower growth in jobs, lower creation of wealth, and nobody will argue that the longrun deficits at the level we are running them now make any sense for this country. I don't think anybody would argue that—with the kinds of policies we have now, our taxes are about 15.5 percent of GDP. They were about 18 percent when this administration came in. But we have grown spending under this administration and the Congress, led by the other side of the aisle, up to about 21 percent. President Clinton's administration cut that to about 18 percent—a little lower, because we were running surpluses. The track we are on is absolutely a potion for disaster.

Mr. REID. Madam President, everybody within the sound of my voice should understand that the distinguished Senator from New Jersey is a person who understands the business world. Before coming to the Senate, he was one of the Nation's leading economic advisers, a person who had been so distinguished in the economic world that he was known all over the United States and in many parts of the world. When the Senator from New Jersey speaks about aspects of our economy, people should really listen.

#### THE HIGHWAY BILL

Mr. REID. Madam President, today many people in the Chamber came to work extremely early. The reason is they wanted to avoid being stuck in traffic. They got up early in the morning. They came to work earlier than they were required to come to work because they were afraid of being late for work because of the traffic jams in the Washington, DC, area. You may say, well, Washington is a unique place. But it is the same in Las Vegas, Reno, or anyplace else in our country. We have traffic jams, highway problems, too few mass transit systems, and those we do have need renovation and replenishment.

To mention a road in Las Vegas or here on the capital beltway as being a place to stay away from during rush hour, certainly everybody understands that. Is there going to be an accident in the morning? Maybe there was an accident. Maybe it is just routine congestion that creates difficult problems. People sit, losing precious time they could be spending with their families or getting to work and getting things done. But they are stuck in traffic.

As the Senator from New Jersey and I have talked about on the floor of the Senate a lot of times, the price of gasoline is tremendous. You sit there with your car idling, wasting precious fuel. In Nevada, there are places now where you are paying \$2.70 a gallon for gasoline. People are locked in these traffic jams that are unbelievably difficult. They keep us away from our families and our work, and that also adds to the stress of the individual involved.

But while Americans are stuck in traffic all over America, a bill to get America moving again is stuck in Congress. The highway bill is stuck in Congress. Why? Where is it stuck? It is across this great Capitol in the House of Representatives. They have refused to appoint conferees so that we can go to conference.

We were able to work out an arrangement in the Senate where we appointed very good conferees. The Republicans have 11 and the Democrats have 10. They are anxious to go to work and do something about the comprehensive 6-year surface transportation bill on which we have to work.

The House passed a version. The Senate passed a version. We like ours better, but they are both bills on which we need to work out the differences.

During the Memorial Day recess, staffs held bicameral meetings to begin a dialog between the two bodies. But because the House has not appointed conferees, these meetings mostly dealt with procedural matters. In effect, we did not do much.

I cannot imagine why the House is taking so much time to appoint conferees. We are losing weeks of valuable time. Before we can get to the meat of this bill and sit down with members of the conference to take votes on issues, staffs have to spend weeks going over this very complicated bill. It is a 6-year bill. It is a bill of hundreds of pages dealing with problems we have with our highways and problems we have with our transit systems all over America. We need to have something done yesterday. We need to meet this country's growing transportation needs which are improving safety and relieving congestion.

In 2003, the last year for which we have statistics, more than 43,000 people in America lost their lives on our roads, the highest number of fatalities since 1990. In addition to the personal tragedy associated with these accidents, they cost an estimated \$137 billion each year in property losses, productivity, and medical costs. There is

not an amount you can put on the loss of a life. In addition, we have a situation where we talk about 43,000 people—more than 43,000 people—being killed, but hundreds of thousands of people are injured. People become paralyzed. People lose eyes. I have visited a facility in Las Vegas where they deal with head trauma. The vast majority of people in that facility are the result of automobile accidents.

This year, Americans will lose more than 3.6 billion hours to traffic congestion. That is 3.6 billion hours they will not be able to spend with their families, their friends, or at work. The cost of wasted fuel will be about \$70 billion.

The bipartisan Senate bill—and it was bipartisan, led by the distinguished chairman of the committee, Senator INHOFE, and the ranking member, Senator JEFFORDS—this bipartisan Senate bill invests \$318 billion over 6 years, allowing States to improve safety and reduce congestion on roads.

Even this big bill is only an effort to keep a level playing field. We do not make any advancements, as we probably should, but at least it allows us to tread water in most places to keep from drowning with the problems we have with traffic in our country. The \$318 billion represents an investment in our transportation infrastructure, protects our economy and quality of life, and it creates hundreds of thousands of jobs. Why the President would pick this vehicle to flex his muscles is something I do not understand. There have been other issues that have come out of this Congress that maybe he should have taken a look at, but certainly not the highway bill. It creates hundreds of thousands of jobs.

We need to move forward on this legislation. I think we need to let everyone know that the House of Representatives is the cause of our not moving forward on this bill. If the House appointed conferees today, we might be able to complete this conference by the end of the Congress, but it is going to be a close call. There is so much work to do, and we need the House to work with us, not against us.

There are some reports that the chairman of the full committee in the House—and I have not talked with him; he is my friend—does not want a bill; that he is so disappointed with what has happened with the White House that he just says: I don't want a bill.

I hope that is wrong. I am confident the Members of the Senate and the House can work out the differences on this legislation, and we will do it with the number that will be appropriate to take care of the needs of this country. I think \$318 billion is a good figure. If the President vetoes the bill, it will just be overridden. I have spoken with the leadership in both the House and the Senate, and they acknowledge that would happen. But please let the Members vote to do this.

Again, all the Senators who have come to me and asked what is happening to the highway bill, I say we



have done everything we can in the Senate. It is now up to the House to appoint conferees. Once that is done, we will move as quickly as possible to solve the differences we have with the House of Representatives and move forward on this bill.

I yield my time back and urge we move to the legislation. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENSIGN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2400 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2400) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

Pending:

Graham of South Carolina amendment No. 3170, to provide for the treatment by the Department of Energy of waste material.

Crapo amendment No. 3226 (to amendment No. 3170), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. It is my understanding, under the order that is before the Senate, the first order of business would be two voice votes on two amendments pending. Is that right?

The PRESIDING OFFICER. Two amendments were to be disposed of.

Mr. REID. Mr. President, if I could take a minute.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. In our conversations before the Senate was called back into session, the Senator from Idaho indicated he would like to speak for 5 minutes prior to those two voice votes and that time would be credited against the 2 hours the majority has on the underlying Cantwell amendment. I understand he is going to make that request.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, I ask unanimous consent that I be allowed 5 minutes taken out of our side of the time that is allocated during this morning's debate to discuss an issue and make a unanimous consent request.

Mr. REID. Mr. President, if I could be heard, reserving the right to object, it is my further understanding this would have no bearing on our voting in 5 minutes on the two amendments. Is that right?

Mr. CRAPO. That is correct, Mr. President.

The PRESIDING OFFICER. Is there objection?

Ms. CANTWELL. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Idaho.

Mr. CRAPO. Mr. President, I therefore ask unanimous consent that it be made in order that I be allowed to amend my amendment in the form of amendments that are at the desk at this time. The purpose of this request is that there has been some question raised in regard to the South Carolina language, as to whether it creates any precedential value in regard to other States which are dealing with radioactive materials and the handling of them. We do not believe there is such a precedential effect and we believe it is very clear there is not, but because some have raised that question, we would like to simply amend the legislation that is before us today to make it perfectly clear there is no precedential effect of this language on any State other than South Carolina.

For that reason, I ask unanimous consent that I be allowed to amend my own amendment, which is at the desk, in the form of an amendment which we have presented to the other side.

Mr. HOLLINGS. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. I ask for regular order.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Has the 5 minutes been used that the Senator requested for debate?

The PRESIDING OFFICER. There was an objection to the Senator's 5-minute request.

Mr. REID. Regular order.

Mr. CRAIG. I ask to speak for up to 2 minutes.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to amendment No. 3226.

The amendment (No. 3226) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3170, as amended.

The amendment (No. 3170) was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. It is now my understanding the Cantwell amendment will be reported. It has not been reported yet, is that true?

The PRESIDING OFFICER. Under the previous order, the Senator from Washington, Ms. CANTWELL, is recognized to offer her amendment.

AMENDMENT NO. 3261

Ms. CANTWELL. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Ms. CANTWELL], for herself, Mr. HOLLINGS, Mrs. MURRAY, Mrs. CLINTON, Mrs. FEINSTEIN, Mr. LAUTENBERG, and Mr. SCHUMER, proposes an amendment numbered 3261.

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

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

The amendment is as follows:

(Purpose: To ensure adequate funding for, and the continuation of activities related to, the treatment by the Department of Energy of high level radioactive waste)

Beginning on page 384, strike line 3 and all that follows through page 391, line 7, and insert the following:

#### SEC. 3117. ANNUAL REPORT ON EXPENDITURES FOR SAFEGUARDS AND SECURITY.

(a) ANNUAL REPORT REQUIRED.—Subtitle C of title XLVII of the Atomic Energy Defense Act (50 U.S.C. 2771 et seq.) is amended by adding at the end the following new section: “SEC. 4732. ANNUAL REPORT ON EXPENDITURES FOR SAFEGUARDS AND SECURITY.

“The Secretary of Energy shall submit to Congress each year, in the budget justification materials submitted to Congress in support of the budget of the President for the fiscal year beginning in such year (as submitted under section 1105(a) of title 31, United States Code), the following:

“(1) A detailed description and accounting of the proposed obligations and expenditures by the Department of Energy for safeguards and security in carrying out programs necessary for the national security for the fiscal year covered by such budget, including any technologies on safeguards and security proposed to be deployed or implemented during such fiscal year.

“(2) With respect to the fiscal year ending in the year before the year in which such budget is submitted, a detailed description and accounting of—

“(A) the policy on safeguards and security, including any modifications in such policy adopted or implemented during such fiscal year;

“(B) any initiatives on safeguards and security in effect or implemented during such fiscal year;

“(C) the amount obligated and expended for safeguards and security during such fiscal year, set forth by total amount, by amount per program, and by amount per facility; and

“(D) the technologies on safeguards and security deployed or implemented during such fiscal year.”.

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 4731 the following new item:

“Sec. 4732. Annual report on expenditures for safeguards and security.”.

#### SEC. 3118. AUTHORITY TO CONSOLIDATE COUNTERINTELLIGENCE OFFICES OF DEPARTMENT OF ENERGY AND NATIONAL NUCLEAR SECURITY ADMINISTRATION WITHIN NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORITY.—The Secretary of Energy may consolidate the counterintelligence programs and functions referred to in subsection (b) within the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration and provide for their discharge by that Office.

(b) COVERED PROGRAMS AND FUNCTIONS.—The programs and functions referred to in this subsection are as follows:

(1) The functions and programs of the Office of Counterintelligence of the Department of Energy under section 215 of the Department of Energy Organization Act (42 U.S.C. 7144b).

(2) The functions and programs of the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration under section 3232 of the National Nuclear Security Administration Act (50 U.S.C. 2422), including the counterintelligence programs under section 3233 of that Act (50 U.S.C. 2423).

(c) ESTABLISHMENT OF POLICY.—The Secretary shall have the responsibility to establish policy for the discharge of the counterintelligence programs and functions consolidated within the National Nuclear Security Administration under subsection (a) as provided for under section 213 of the Department of Energy Organization Act (42 U.S.C. 7144).

(d) PRESERVATION OF COUNTERINTELLIGENCE CAPABILITY.—In consolidating counterintelligence programs and functions within the National Nuclear Security Administration under subsection (a), the Secretary shall ensure that the counterintelligence capabilities of the Department of Energy and the National Nuclear Security Administration are in no way degraded or compromised.

(e) REPORT ON EXERCISE OF AUTHORITY.—In the event the Secretary exercises the authority in subsection (a), the Secretary shall submit to the congressional defense committees a report on the exercise of the authority. The report shall include—

(1) a description of the manner in which the counterintelligence programs and functions referred to in subsection (b) shall be consolidated within the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration and discharged by that Office;

(2) a notice of the date on which that Office shall commence the discharge of such programs and functions, as so consolidated; and

(3) a proposal for such legislative action as the Secretary considers appropriate to effectuate the discharge of such programs and functions, as so consolidated, by that Office.

(f) DEADLINE FOR EXERCISE OF AUTHORITY.—The authority in subsection (a) may be exercised, if at all, not later than one year after the date of the enactment of this Act.

**SEC. 3119. ON-SITE TREATMENT AND STORAGE OF WASTES FROM REPROCESSING ACTIVITIES AND RELATED WASTE.**

(a) Notwithstanding any other provision of law the Department of Energy shall continue all activities related to the storage, retrieval, treatment, and separation of tank wastes currently managed as high level radioactive waste in accordance with treatment and closure plans approved by the state in which the activities are taking place as part of a program to clean up and dispose of waste from reprocessing spent nuclear fuel at the sites referred to in subsection (c).

(b) TOf the amount authorized to be appropriated by section 3102(a)(1) for defense site acceleration completion, \$350,000,000 shall be available for the activities to be undertaken pursuant to subsection (a)."

(c) SITES.—The sites referred to in this subsection are as follows:

(1) The Idaho National Engineering and Environmental Laboratory, Idaho.

(2) The Savannah River Site, Aiken, South Carolina.

(3) The Hanford Site, Richland, Washington.

The PRESIDING OFFICER. Under the previous order, there will be 4

hours of debate equally divided on the amendment.

The Senator from Idaho.

Mr. CRAIG. Mr. President, I will take but a few moments because the Senator from Washington is on the floor to debate her amendment. It is an important and serious amendment she brings, but what she has refused to allow Idaho to do this morning, by objecting to the unanimous consent request of Senator CRAPO, is to deny Idaho and Washington the right to assure that the legislation that was passed is not precedent setting to the agreements Idaho and Washington now have.

In 1995, Idaho's Governor Phil Batt, with my assistance, negotiated a milestone agreement with the Department of Energy on the cleanup and removal of nuclear waste in Idaho. After that agreement was in place, I teamed with the then-Senator, now Governor, Dirk Kempthorne, to codify that agreement into law as a provision in an annual Department of Defense authorization. What Senator GRAHAM of South Carolina has done Idaho did in 1995. That became the basis for Idaho to operate and in large part then for Washington to proceed to begin the cleanup of a very serious problem the State of Washington has at Hanford.

Certainly, the Senator from Washington and I, and my colleague from Idaho, recognize the complexity and the seriousness of this problem. That is not in dispute. When DOE then asked to change and modify some of those relationships, a judge said, no, you cannot do that without a rulemaking process. DOE has determined to go ahead with that, but up until then they have said, their attorneys have said and the attorneys at OMB have said, you do not have a clear path forward to cleanup. Idaho disagrees and Washington disagrees.

At the same time, DOE does not plan to spend the money, denying us the cleanup we expect and we believe is under the milestone agreement crafted by Idaho, accepted by DOE, and accepted by this Senate in 1995.

What the Senator from Idaho tried to do, and the Senator from Washington refused to allow him to do, which is very frustrating to understand, is to assure any action taken today that South Carolina would want to take, that their Governor, their attorney general and their environmental agencies want to take, is no way precedent setting against the court agreement or against the Idaho relationship and agreement Governor Batt crafted and that the State of Washington has.

Is that confusing to anyone? Well, it should not be. There are fairly clear lines out there. I do not understand why we are not allowed to clarify that at this moment. If we cannot, then we will clarify it in other ways over the course of the action on this bill.

There are a variety of vehicles we can take because it is paramount that we, as we think we have, assure our

State agreement is in place, and most importantly that DOE can move forward in this fiscal year to spend some \$97 million in cleanup they are now saying they cannot do because the advice from their attorneys and the advice from OMB is not to spend; they do not have a clear path forward.

We believe the legislation offered by Senator CRAPO offers that clear path forward, and clearly that is the direction we want to go, to assure Idaho's agreement, to assure Washington is on firm ground but, most importantly that we do not lose 12 or 14 months of cleanup and that the \$97 million slated to head to Idaho drifts off and is spent somewhere else, along with the cleanup money for Washington being spent somewhere else.

We want it on the ground at Hanford. We want it on the ground at the INEEL in Idaho Falls doing what DOE and Idaho and Washington are proceeding to do. At the same time, I cannot, nor will I, step in front of a State that has worked its way through its process and believes it is on safe ground to move forward with its cleanup.

There are some five tanks in South Carolina to be cleaned up. Others are being cleaned up now. I am sure South Carolina wants that process to go forward. We all know in a rulemaking process, and the vetting that goes forward in a rulemaking process, we may well be 24 months away from that kind of a decision once the rule is made, once it is tested, once it is aired in the public and, I am quite confident, once two or three lawsuits are filed against it. Idaho does not have that kind of time, nor does the State of Washington, nor does the State of South Carolina. We want cleanup. We want cleanup now. And we want it to meet the standards under the Nuclear Waste Policy Act. We believe what we are doing offers that, profoundly.

Now we are here to debate what the Senator from Washington and I believe is a disagreement between the two of us. I don't disagree with all of her bill. I certainly support parts of it. But what I do disagree with is that the State of Washington or Idaho or South Carolina or any one of the sovereign 50 States of our Nation cannot sit down with a Federal agency, under Federal law, and craft an agreement that gets them to the appropriate cleanup, acceptable by the environmental community in South Carolina, by their Governor, by their attorney general. That is exactly what Idaho did in 1995, exactly what Idaho's Senators, myself and then-Senator Dirk Kempthorne, brought to this Senate floor and brought to the Defense authorization bill—and this Senate passed it.

Why should we deny or refuse those kinds of State relationships? Does the Federal Government in all instances totally dominate as long as the State is within the construct of the law, the Federal law that governs nuclear waste, because that is within the sole jurisdiction of the Federal Government. We all understand that. I don't

think so. I think South Carolina did what they felt they needed to do. DOE agrees with them. Now, by action, a voice vote of this Senate, the Senate agrees with them. Let's affirm that, protect the State of Washington and protect the State of Idaho, make sure their agreements are what we want them to be, and move forward. The Idaho Governor and the Idaho congressional delegation stand united in that position and in that opinion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington. The Senator from Washington controls the time.

Ms. CANTWELL. Mr. President, I am going to start this debate on the Cantwell amendment, which is the pending amendment before us, and take 15 minutes or so, if the Chair will give me recognition of that time being up. Then, depending on how we organize the debate, I would like to defer to Senator HOLLINGS of South Carolina because this impacts him.

We are here today to talk about whether we as a body want to change the Nuclear Waste Policy Act and redefine high-level waste as something other than waste that should be taken out of tanks in Savannah River, out of Washington State Hanford tanks to be stored in a permanent repository, or whether we are going to leave some of that in the tanks in the ground and have ground water continue to be contaminated.

What my colleagues on the other side of the aisle have done is put into the Defense authorization bill a change to nuclear waste policy. It is a change in 30 years of science and policy in this country that says that spent nuclear fuel from reactors is highly radioactive, high-level waste, and should be reprocessed into glassified logs, vitrified logs, and taken to a permanent storage site.

DOE is now trying to say some of that we can leave in the tanks. We don't know how much. We would like to just say it is generally up to our discretion and leave some of that in the tanks and thereby not be clear with the Congress about what level. That is a change to the Nuclear Waste Policy Act. The Nuclear Waste Policy Act in 1982 set the standard. If my colleagues want to have a debate about changing the Nuclear Waste Policy Act, this Senator is more than willing to have that debate, have the proper hearings, have the proper process, and have the debate.

The actual jurisdiction for that is the Energy Committee, and that is what the Parliamentarian has ruled, that the DOD authorization bill through the Senate Armed Services Committee was not the appropriate authority for changing the Nuclear Waste Policy Act, the language that conflicts with that within the underlying Graham amendment that we just modified—the underlying bill language which was just modified by the Graham amendment.

Why are we in this predicament? Why are the American people waking up on this day finding out that a national debate is about to ensue about changing the definition of high-level waste? And that affects every State in this country. If you are going to allow one State and the DOE to negotiate and change the definition of high-level waste, why not just change the definition of transuranic waste or other kinds of waste and then, obviously, have that definition apply to States on transportation issues, on storage issues, and many other issues?

Let's review where we are and why I am so concerned, because it impacts Washington State. The Hanford Reservation in Washington State has 50 million gallons of highly radioactive nuclear waste that is already leaking into the ground water. You can see the Hanford Reservation site here, and the Columbia River. Imagine my concern about tanks leaking into the ground and the fact that leakage contaminates ground water, and that affects the Columbia River, a major tributary through the Northwest. It affects the vitality of our economy in many ways—in fishing, in tourism, in energy generation. No one in the region wants to believe that somehow radionuclides are now in the Columbia River—which, in fact, they are—and that it is going to grow to an amount where we cannot protect humans, fish, and safe drinking water. But that is where we are heading if we don't clean up this nuclear waste.

What does it really look like at Hanford today? I point out to my colleagues, because the Hanford site, which is on the map here—you can see this is the entire Hanford site. This is the picture showing the Columbia River. This red spot here is the contaminated ground water that is already leaking into the ground from tanks at Hanford. It is an 80-square-mile area. That is a plume of various chemicals that have already leaked out of the tank at Hanford. Similar leakage is happening at Savannah river. How this is going to be cleaned up given that the leakage is already starting to affect the Columbia River is a major issue for the Northwest.

So we don't take lightly the fact that DOE has now snuck into the Defense authorization bill a change in the Nuclear Waste Policy Act that would reclassify this waste and say some of it is low level and we can simply grout it. By that they mean they can pour cement and sand on top of it and say that it is now fixed.

I ask the question of my colleagues, If DOE and the State of South Carolina had the authority to make a decision on this and work together, why don't they just do it? If they are not trying to change existing law, why don't they just come together and make an agreement on cleanup? They are not because they are trying to change existing law. They are trying to change the definition of what is high-level waste. They

are trying to do that without having the proper hearings, without going through the proper committees of jurisdiction, without giving people enough time and enough notice on this issue.

We could continue this debate for many days and not clearly give the American people the insight to 30 years of history of nuclear waste policy. But let's look at the various definitions of nuclear waste because it is an immense framework, that 50 years of disposal law, and what is high-level waste and its definition. It is under the Nuclear Waste Policy Act. What is spent nuclear fuel? It is a definition under the Nuclear Waste Policy Act. That is what this underlying bill tries to change, the Nuclear Waste Policy Act definition of "nuclear high-level waste" and how spent nuclear fuel can be treated. That is being done without a full debate and hearings in the proper committees of jurisdiction. What DOE and South Carolina are trying to do is change that definition so they can leave some of that storage in the tanks.

My colleagues would like to say this does not set a precedent. I can tell you that is not the way it is being viewed around the country. It certainly is setting a precedent. In fact, the Minneapolis Star Tribune said this provision:

... would also set a troubling precedent for waste handling in other states. ... If shortcuts can be taken at Savannah River, why not at Prairie Island?

In their site? Why not Idaho, in their facility? Why not as you deal with transuranic waste in New Mexico, in Arizona, or in other States? Because if you are going to give States and DOE the ability to just negotiate definitions and change them, why are we stopping here with tank waste?

Why aren't we considering other things? This is an issue that needs the full attention of this Congress. It needs the full attention not only of the Members who come from States where we have ground water leaking and contamination. Members should realize this vote is about changing a Federal policy that has been 30 years on the books without the debate and without the science. This is an inappropriate time to be changing this policy.

What about the waste we have in these States? One report I will read for some of my colleagues before I turn it over to the Senator from South Carolina who wants to make a few points about this, the ground water contamination at Savannah River is just as serious as it is in Washington State. Yes, they have fewer tanks than we do in Washington State, but it is some of the most contaminated waste that exists.

I am very concerned that we actually do something to clean up the ground water. This report entitled "Nuclear Dumps By The Riverside: Threats to the Savannah River from Radioactive Contamination at the Savannah River Site," which was done in March of this

year, says that the contamination in the ground water and surface water often greatly exceeded safe drinking water limits in both radioactive and nonradioactive toxic materials. This material threatens the Savannah River and possibly other resources in the region and comes from the radioactive hazardous waste being dumped in trenches, contaminated soil, and from the high-level waste tanks that are not being retrieved.

This is a report saying it is leaking into the ground water at Savannah River, that it is causing an impact; it is contaminating that ground water; it is causing pollution in the Savannah River. I find that very much a concern.

In Washington State, along the Columbia River, this stretch of the Columbia River has one of the largest bedding grounds for salmon in our State. Now those fish are being contaminated in a similar way if we do not come up with an effective cleanup plan.

What is the tritium and drinking water standard at Savannah River? Water that is tritium-tainted is far more dangerous to children and developing fetuses than to adults. Recent research indicates the current safe drinking water standards for tritium are not adequate to protect developing fetuses to the level comparable for that of non-pregnant adults.

What are we saying to people at Savannah River? Do not go fishing in the Savannah River? Do not provide some sort of safety for consumers who are depending on that?

The report goes on and talks about subsistence fishing in the Savannah River. We have many tribes in the Northwest that fish out of the Columbia River, too. We are not going to protect them because the level of contamination that is already in the water now is starting to show very dangerous signs for both ground water standards and subsistence fishing?

We need to do our job and clean this up. For 30 years the policy has been to take the waste out of the tanks, move it, classify it, and put it in a permanent storage. We are changing that with very little debate in the Senate today.

Obviously, I urge my colleagues to support the Cantwell amendment which would strike this reclassification and say to DOE: Here is the cleanup money for the States of Washington, Idaho, and for Georgia, and the money should be spent on this cleanup effort.

It continues the process of cleaning up the tanks that have been classified as high-level waste, and it makes the cleanup process continue to move forward.

We took the language from Governor Kempthorne. Governor Kempthorne said to many people, including my colleagues from Idaho, that he had concern with the current underlying bill. In fact, Governor Kempthorne, like our Governor in Washington, has had to deal with this in a major way. This is what he said about the legislation:

[It would be a huge step backward, reinforcing public fears about our nation walking away from nuclear cleanup obligations.

I ask unanimous consent to have printed an article from the Idaho Statesman in which former Governors Cecil Andrus and Phil Batt said the same thing, that to adopt this legislation could jeopardize the full implementation and agreement.

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

[From the Idaho Statesman, June 3, 2004]

FORMER GOVERNORS RAISE CONCERN ABOUT  
DOE BILL ON NUCLEAR WASTE

Two former Idaho governors urged Idaho's senators Wednesday to defend a 1995 nuclear waste agreement as they vote today on two Department of Energy issues.

Former Gov. Cecil Andrus and Phil Batt raised concerns about an amendment to the \$450 billion annual defense budget bill, which would allow DOE to leave some radioactive waste in the ground in South Carolina.

Critics say the bill threatens the agreement Batt negotiated for removal of nuclear waste from the Idaho National Engineering and Environmental Laboratory. Idaho's two Republican senators say it doesn't.

"We caution our congressmen not to adopt legislation which would in any way alter or jeopardize the full implementation of the agreement," Andrus and Batt said in a joint statement.

Idaho's Republican U.S. Sens. Mike Crapo and Larry Craig say they agree with Batt and Andrus, but believe the bill doesn't threaten Batt's agreement. They say a second amendment they sponsor, which also is up for a vote today, would restore \$95 million to the budget to ensure DOE keeps its commitment to Idaho.

"We are working overtime now, not only to honor those commitments, but to secure the necessary monies to allow the cleanup to continue at the INEEL," Craig said.

Craig and Crapo find themselves at odds with Idaho Gov. Dirk Kempthorne and Idaho's two Republican U.S. Reps. Mike Simpson and C.L. "Butch" Otter, who oppose the plan to reclassify South Carolina's nuclear waste. They argue that passing the bill sets a precedent threatening to undercut an Idaho victory in federal court last year that stopped DOE from reclassifying waste sludge in buried tanks from high-level to low-level waste.

"This legislation would be a huge step backward, reinforcing public fears about our nation walking away from nuclear cleanup obligations," Kempthorne said recently.

Crapo disagrees. DOE had tried to get he and Craig and Washington senators to sign on to the reclassified definition of waste, which would allow the government to clean up Cold-War era sites like the INEEL at far lower costs. But they refused.

They agreed, however, with Republican Sen. Lindsey O. Graham of South Carolina, that states ought to be able to negotiate separate waste deals that would reclassify the waste differently than elsewhere, Crapo said.

"Each state has different needs and circumstances," Crapo said.

Democratic Sen. Maria Cantwell of Washington has introduced an amendment that would pull Graham's agreement out of the defense bill. She has criticized Graham, Crapo and Craig for proposing the reclassification in South Carolina without a public hearing and national debate.

"If somebody thinks this is an issue that affects the state of Washington, or affects just Idaho, or affects South Carolina—it

doesn't," she said. "There are bodies of water, with the potential of nuclear waste in them, that flow through many parts of our country."

Crapo said he and Craig are willing to strengthen the language in Graham's amendment to ensure it doesn't threaten Idaho, if necessary. Under the 1995 agreement, the federal government is required to remove specific nuclear waste at the INEEL to certain specifications and under deadlines, or face monetary penalties.

If DOE doesn't respect the deal, shipment of spent nuclear fuels to the INEEL from Navy reactors would have to stop.

"All I'm saying is leave our agreement alone," Batt said.

Ms. CANTWELL. Obviously, we want to move forward with the language that Kempthorne's office and others in our State of Washington and others say to DOE, to move ahead on your cleanup plans under the current law, which says that hazardous nuclear fuel, spent nuclear fuel, needs to be taken out of tanks, glassified, and put into a permanent repository. That is what we have been working toward.

This is not a debate we should be having in one afternoon on the Senate floor. It is far more complex than that. This Senator certainly did not want to have this complex debate on the Senate floor. This Senator wanted this policy to go through the normal channels for discussion.

This Senator did not fill the amendment tree last week with a process in which this Senator had to object just to get a vote. So now we are having a debate which gets a time limit on my amendment. But this Senator was not the person who set this process in motion. I will stand here and debate the policy that is before the Senate.

Mr. ALLARD. Will the Senator yield? Ms. CANTWELL. I yield.

Mr. ALLARD. We did have a committee hearing on February 25, 2004. We had the committee hearing and Mr. Roberson testified in front of that committee. On March 23, 2004, there was a committee hearing on the very same issue. Those two previous committees were within my subcommittee on Armed Services. On March 31, 2004, Senator DOMENICI in his committee had this debate. It has been going on in the Environment and Public Works Committee back to 2000. We have testimony from there. There has already been a lot of discussion about this subject and the proper way of disposing it.

This is the same kind of procedure we have used in Colorado to clean up Rocky Flats where we have had an expedited procedure. The people of Colorado are delighted because now we have closure and we have it ahead of time and under budget, so far. Hopefully, we can get this to apply to other areas.

Ms. CANTWELL. Does the Senator have a question? I don't know that I heard the question, but let me say the underlying Graham language was never debated by the Energy Committee. The underlying Graham language was never seen prior to the Energy Committee—before this bill came out of the SASC Committee. In fact, the ranking member of the Energy Committee sent a

letter saying that this SASC Committee did not have jurisdiction over this issue.

So the Graham language in this bill has not been before the Energy Committee regarding its exact language and the impact of that language.

Now, broad concepts about whether DOE has the right to reclassify waste, yes, have been a big subject of debate. In fact, that is why I believe the courts basically said the Department of Energy does not have jurisdiction over this issue and that they have to change the Nuclear Waste Policy Act if they want to have this authority.

Mr. ALLARD. If the Senator will yield, I would like to clarify that it was not the Energy Committee, it was the Appropriations Energy and Water Development Subcommittee. Make that clear for the RECORD.

The PRESIDING OFFICER. The Senator has used her 15 minutes.

Ms. CANTWELL. I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Washington, Senator CANTWELL, and my colleague from Michigan, Senator LEVIN. They have been carrying the ball for a national policy particularly as it affects my State of South Carolina.

The truth is, I just heard that the Appropriations Energy and Water Development Subcommittee, upon which I serve, had hearings about Savannah River. I had never heard of the hearings. I know they did not have hearings in the Armed Services Committee and they did not consider it in the Armed Services Committee.

Now, right to the distinguished request made by my wonderful colleague from Idaho, they seem to think there is sort of a States rights.

Mr. ALLARD. Will the Senator yield?

Mr. HOLLINGS. I will get through my thought and I will yield.

They seem to think there is sort of a States rights to high-level radioactive nuclear waste. I can tell you, I have the distinction of standing at the desk of John C. Calhoun, the grandfather of States rights. But there are no States rights when it comes to high-level radioactive waste.

I am having a hard time getting a logical grasp to this particular problem because I want to be super cautious and understanding of my colleague, Senator GRAHAM. He is a wonderful Senator. He and I work together on everything, but we differ on this one. It is not a political difference; it is a matter of policy.

I have been involved with nuclear policy over some 50 years. Forty-nine years ago, as Lieutenant Governor of the State of South Carolina, I was chairman of the Regional Advisory Council on Nuclear Energy. It was a compact of some 17 States. We were talking about the high-level radioactivity waste. At that particular time we were cautioned by the experts in nuclear fission that the Savannah

River was not a place for permanent storage, whatever, in that we had the Tuscaloosa aquifer, which is the water supply going into the Savannah River that now furnishes Savannah, Augusta, and other cities along that river their water supply.

Otherwise, it is on the very edge of an earthquake fault. The earthquake fault comes right through from Calhoun County to Orangeburg County over to Aiken County. I had hearings about the San Andreas earthquake fault out in California in the Commerce Committee some 30 years ago. I know how dangerous this is.

We are all familiar about the dangerous nature of trying to store high-level radioactive waste in the Savannah River site. We were told at that time: Don't worry they will only be there for 2 years. And now, as I stand on the Senate floor, the 2 years has become 4, the 4 has become 8, the 8 has become 16, the 16 has become 32; and now it is almost 50-some years and we are still dealing with this problem.

It is a complex problem, but it has been dealt with nationally with the Atomic Energy Act of 1954 and the Nuclear Waste Policy Act of 1982. They ascribed to the Department of Energy the administration of high-level radioactive waste.

Along came the State of Kentucky, along with this so-called scheme that is afoot—the Kentucky case against the United States—and Kentucky tried to redefine high-level radioactive waste.

In the Kentucky decision, under the exclusionary clause, the court found they could not do that; that is, States were only relegated to solid waste, not radioactive or high-level waste.

So under that particular decision, citing, of course, the Resource Conservation and Recovery Act of 1976, they said the States could, yes, deal with the solid waste but not with the high-level radioactive waste. And we had subscribed. That is what is confusing to this Senator and the Senators from Idaho and California and the State of Washington and everywhere else, because under that exclusionary clause of the 1954 Act, you cannot just come around with a little State amendment, and try to redefine high-level radioactive waste for the other 49 States or the other 48 States.

That is why, if it were able to be handled just at the State level, the Senators from Idaho or the Senators from Georgia or the Senators from South Carolina could handle it on their own. It would just be handled on their own. That is the dilemma we are in. Because my distinguished colleague has not only put in what the New York Times has called a stealth amendment, with no hearings and no consideration whatsoever, and gone around to his colleagues, obviously, over on the other side of the aisle, because he has been looking for assistance from Georgia and Idaho and Washington and all the other States that could be affected, and

he said: Now this only affects my State. My Governor is for it and I am for it. I have talked to the Energy Department, and this is how to get moving and accelerate the removal of this waste. And what I am interested in is the removal of this waste.

Well, I am interested in the removal of the waste just as expeditiously and as safely as possibly can be done. Let me emphasize—and it will show in an affidavit by David E. Wilson, the Assistant Bureau Chief for Land and Waste Management of the Department of Health and Environmental Control of South Carolina. I ask unanimous consent to have printed in the RECORD the entire affidavit.

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

CASE NO. CV-01-413-S-BLW—AFFIDAVIT OF DAVID E. WILSON, JR., P.E.

Carlisle Roberts, Jr., General Counsel; Samuel L. Finklea, III, Chief Counsel for Environmental Quality Control, Office of General Counsel, SC Department of Health and Environmental Control, Columbia, SC.

United States District Court for the District of Idaho, Natural Resources Defense Council, Inc.; Snake River Alliance, Petitioners, vs. Spencer Abraham, Secretary, Department of Energy; United States of America, Respondents.

David E. Wilson, Jr., P.E., being duly sworn upon oath deposes and says:

1. The U.S. Department of Energy (DOE) owns the Savannah River Site (SRS) located in South Carolina.

2. Reprocessing of nuclear fuel at the Savannah River Site (SRS), reprocessing occurred at the F and H-Area Chemical Separations Facilities, otherwise known as the F and H-Area Canyons.

3. Each facility used different suites of chemicals to derive preferred radioactive isotopes, including, but not limited to plutonium, uranium, and neptunium.

4. Although different suits of chemicals were used in reprocessing, the general process was the same; irradiated nuclear fuel and targets were first dissolved in corrosive chemicals, then other chemicals were added to separate the preferred radioactive isotopes from the fission and activation products in the fuel and targets.

5. The preferred isotopes were then used for weapons manufacture and other uses, and the separated fission and activation products, along with the chemicals they were suspended in (first and second cycle raffinate streams), were disposed of in underground tanks.

6. During the course of reprocessing at SRS, approximately 37 million gallons of liquid wastes were generated containing approximately 426 million curies of radioactivity.

7. The waste placed in these tanks over the years have settled and precipitated out solid materials in a layer of sludge at the bottom of the tanks.

8. There are 3 million gallons of this sludge (8% of the volume) containing 226 million curies of radioactivity (55% of the curies).

9. The material above the sludge layer consists of concentrated supernate liquids and post-evaporation salt cake.

10. There are approximately 34 million gallons (92% of the volume) of supernate and salt cake containing 200 million curies of radioactivity (45% of the curies).

11. The reprocessing wastes were placed in 51 underground tanks at SRS, ranging in size from 750,000 gallons to over 1,300,000 gallons.

12. Twenty-four (24) of the 51 tanks are constructed of carbon steel inside concrete containment vaults and do not have fully secondary containment.

13. The remainder of the tanks have full secondary containment.

14. All 24 tanks that do not have full secondary containment tanks are well beyond their design lives and 9 of the 24 have had known leaks to their secondary containment.

15. Two of these tanks have been closed through a process approved by the State of South Carolina.

16. To date, the Defense Waste Processing Facility (DWPF) has treated approximately one million gallons of liquid waste containing 30 million curies radioactivity.

Further your affiant sayeth naught. David E. Wilson, Jr., P.E.

March 24, 2003, Columbia, SC.

SWORN TO before me this 24th day of March, 2003.

Notary Public for South Carolina.

My commission expires 12/5/05.

Mr. HOLLINGS. Let me just state at the outset that South Carolina has 70 percent of all of the Nation's defense-related radioactivity. Under section 8 of Mr. WILSON's affidavit, there are 3 million gallons of this sludge containing 226 million curies of radioactivity, 55 percent of the curies. That is over half of the radioactivity. You are not dealing with just little remains and harmless sludge that we can pour sand over and then seal with concrete.

Incidentally, it is not going to leak from the top. The only thing that leaks from the top is the Ship of State. That is the White House. We all know that. These containers ship and leak from the bottom. We have three types of containers: the one single wall, the second type is the single wall with a saucer underneath, and then they made the double wall.

We have found, from a recent report by the Alliance for Nuclear Accountability, the type 1s and 2s have leak sites. The third type tank has small amounts of ground water that have leaked into the tanks, and so forth.

So we are dealing with fire, and we are dealing with it on a national basis. Heaven knows, I have worked with it on an international basis.

In earlier years, they had a plane that, unfortunately, let go of a hydrogen bomb into the Mediterranean. If anybody wants to travel to the Cote d'Azur or the Mediterranean, all they have to do is come to Aiken, SC, because they loaded up the marsh and the sand all where this bomb had been dropped in the Mediterranean, put it in 55-gallon drums, brought it across the harbor there at Charleston, carried it up and buried it in Aiken, SC.

I have worked with the 5-year compacts, and that is why I was astounded and aghast at this idea that somehow this is a little problem for South Carolina and it would be easily handled. It is not that easily handled.

This is what the amendment says, and this is, I think, the intent of the distinguished colleague from South Carolina, because we have to sign off on it.

Well, under the Kentucky case, there is not any signoff on it. Now, of course,

the Department of Energy—and they are all friendly with the distinguished Secretary Abraham. But I do not trust them—not honest-wise. I know Senator Abraham is as honest as the day is long, but I do not trust his disposition with respect to nuclear. In fact, I had to stand on the floor when he was trying to abolish the Department of Commerce and Energy. President Bush's Secretary of Energy wanted to abolish his Department before he became Secretary.

This particular amendment has been put on the Armed Services bill, without hearings, without us knowing anything about it, and certainly without the Attorney General knowing about it. I called two members of the South Carolina Department of Health and Environmental Control, and they did not know anything about it.

They were appalled and aghast. It says:

Notwithstanding any other provision of Law with respect to materials stored at a Department of Energy site at which activities are regulated by the State—

“At which activities are regulated by the State.” Now, that goes to that 1976 act, which says that the States under that particular provision regulate solid waste but not radioactive. That is why we have had this difference. One lawyer would say, reading that: Why, it starts off “at which activities are regulated by the State,” and that could only relate to solid waste, not radioactive waste. It doesn't amend the Nuclear Waste Policy Act of 1954 which exclusively relegates to the Congress and to all 50 States the designation of high-level waste.

But then he goes on to add this language:

High level radioactive waste does not include radioactive material resulting from the reprocessing of spent nuclear fuel that the Secretary of Energy determines is in deep geological repository and has, to the maximum extent practical, in accordance been removed.

And you get into these fancy words “to the maximum extent practical.” Now, why do I say what I do? On the one hand, you know what the intent is. The intent of Senator GRAHAM of South Carolina is the same intent of Senator HOLLINGS of South Carolina: to protect South Carolina from this high-level radioactive waste. But that doesn't happen that way because of the Kentucky case and everything else of that kind.

You can go and read the Kentucky decision. I don't want to take up all of the time. In other words, it isn't the intent. And if I was seated as a judge on a court saying, well, let's try to find out what the congressional intent was, the congressional intent was not to redefine high-level radioactive waste; it was just to allow an agreement with the State of South Carolina and the Department of Energy to work out how to remove that sludge. But it didn't go to the basic law. That would be one argument.

Another argument would say: Wait a minute; with the State of South Caro-

lina, we can do whatever we want, and we could give permission to the Department of Energy, the right to reclassify high-level radioactive waste.

So you have this duplicity in this particular amendment, particularly as you see how it is drawn. Section D of the amendment says: Defined in this section, the term “State” means the State of South Carolina.

So all you have to do is run around to the colleagues and work the amendment and legislation in the same way. I don't fault my colleague, but I think he is making a grievous error in the sense that he is saying this just applies to the State of South Carolina, and we can protect the State.

The Governor of South Carolina, Mark Sanford, has been strong on the environment. I knew he wouldn't approve it. Now I have his letter purportedly approving it.

I ask unanimous consent to print the letter in the RECORD.

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

STATE OF SOUTH CAROLINA,  
Columbia, SC, May 20, 2004.

Hon. LINDSEY O. GRAHAM,  
United States Senate,  
Washington, DC.

DEAR SENATOR GRAHAM: I am writing to support Section 3116, Defense Site Acceleration Completion, in the FY 2005 Department of Defense Authorization bill, S. 2400. More specifically, this section of the bill will allow for an accelerated clean up of the Savannah River Site in South Carolina.

This Administration is concerned about the prospect of long-term storage of radioactive waste in aging tanks at the Savannah River Site. Under the current Nuclear Waste Policy Act, the cleanup process could leave the waste in those storage tanks for an additional 30 years.

However, the amendment allows the U.S. Department of Energy, working with the South Carolina Department of Health and Environmental Control, to move more quickly to clean up the Savannah River Site. In fact, the estimated cleanup time will be reduced by 23 years, at a savings of \$16 billion to the taxpayers.

Most important is ensuring that the State of South Carolina will be able to retain an oversight role in the cleanup process. According to analysis by the South Carolina Department of Health and Environmental Control, the state's environmental regulatory agency, the clean up process will still require an equal partnership with the State.

As you move through the legislative process, we urge you and your colleagues to retain two very important goals for South Carolina: 1. allow for a more accelerated clean up process, and 2. provide strong language to protect the State's sovereignty within the process of accelerated cleanup.

Thank you for your leadership in the United States. I look forward to working with you on this and many other matters of importance to our State.

Sincerely,

MARK SANFORD,  
Governor.

Mr. HOLLINGS. This is on May 20. He addresses it to Senator GRAHAM and says: I am writing about this section to allow an accelerated cleanup. The administration is concerned—he is talking about the prospect of long-term



storage at Savannah River. However, the amendment allows the Department of Energy, working with the State of South Carolina Department of Health and Environmental Control, to move more quickly to clean up the Savannah River site.

He doesn't say to reclassify high-level waste. And in fact, the estimated cleanup time will be reduced. Here is the key paragraph of this particular letter:

Most important is ensuring that the State of South Carolina will be able to retain an oversight to the cleanup process.

No. Under the exclusionary clause, there is no oversight by the State of South Carolina, the State of Idaho, the State of Colorado, the State of Michigan, the State of Washington. There is no oversight to that particular provision because you have the categorical law under the Nuclear Waste Policy Act where the Congress alone defines it and not by agreement between the health and environmental department of a particular State and the U.S. Department of Energy.

So you can see that the Governor thinks he has something. But then he cancels it out. It reminds me when we had the reorganization of our insurance department. The Capital Life Insurance Company was reorganizing and looking for a slogan. And the winning slogan was by Sam B. King. He said: Fritz, do you know what the new slogan is? Capital Life will surely pay if the small print on the back don't take it away.

So you have a similar kind of situation here in this amendment and in this letter and in this understanding and this intent. You have to go to congressional intent. He says: It ensures that the State of South Carolina will be able to retain an oversight. You don't retain an oversight over the exclusionary clause of the definition of high-level waste by an agreement between a DEHC department and the Department of Energy. Come on. That is exactly what we have in play here.

The House of Representatives over on the congressional side, they considered this and said: Wait a minute; if we are going to redefine high-level radioactive waste in America, let's go to the National Academy of Sciences and get an expert. Don't listen to Senator HOLLINGS or Senator GRAHAM or any other Senators or any other Secretary that is trying to save money because they have been engaged in this over the years. Let's go to the National Academy of Sciences. Let's have hearings. Let's get the expert opinion. And if there is a redefinition of high-level radioactive waste, we will have it. But let's not do it this way.

I have many an authority here with respect to it, but the most recent authority is the State itself. You can get a letter from the Governor, but here is the amicus brief in the National Resources Defense Council v. Spencer Abraham whereby in Idaho they have already lost the case. The council brought it in the State of Idaho. The

State of Idaho joined with them and everything else like that, and they lost at the district level.

Then on appeal, we have a brief signed by Samuel L. Finklea, the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC, dated 23 March. So as of March 23, the State of South Carolina on appeal said: No way; we are with Idaho. We are with the decision. We are not redefining high-level radioactive waste.

And yet you have the State of South Carolina's Governor writing this letter but saying, provided further that the State has a sign-off, which legally it can't. You can't designate to the State under the exclusionary clause one State sign off to the thing. That is what has caused the confusion here and the misunderstanding between the particular colleagues.

I am going to cut it short because I know everybody wants to move today. I think I have made our position clear. I have letters here. I ask unanimous consent that letters and citations from the South Carolina Wildlife Federation, the Sierra Club, and various other organizations that I will enumerate be printed in the RECORD.

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

SOUTH CAROLINA  
WILDLIFE FEDERATION,  
Columbia, SC, June 2, 2004.

Senator FRITZ HOLLINGS,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR HOLLINGS: Today I am writing you because we at the South Carolina Wildlife Federation are concerned and appalled at the effort to reclassify certain categories of nuclear waste at the Savannah River Site (SRS). Merely changing the name of the waste from high-level with the wave of a magic wand does not make the risk to the environment any less. On the contrary, it means that an unnecessary and unacceptable risk will be inflicted upon the citizens and wildlife of South Carolina, Georgia and the country as a whole.

The South Carolina Wildlife Federation opposes the proposed changes to the Defense Authorization bill to reclassify these high-level wastes as "incidental" thereby lowering the standard for cleanup.

The 1982 Nuclear Waste Policy Act is specific in its policy regarding the disposal of nuclear waste as it clearly states for this waste to be buried deep underground in a repository chosen for disposal of this waste. The Department of Energy (DOE) has made several attempts in the past to shirk its responsibility and the courts have soundly rejected its reclassification attempts.

Failing to clean up the tanks and remove the waste can lead to serious long-lasting pollution of the Savannah River and the groundwater resources of South Carolina, resources that provide water for drinking, industry, and agriculture. The Savannah River is also an extremely important recreational resource for boating and fishing, and it provides critical wildlife habitat for diverse fishery, waterfowl and other species.

Thank you for once again coming to the rescue of the environment through your copponsorship of the Cantwell-Hollings Amendment to the Defense Authorization Bill, S. 2400. Your amendment would remove the re-

classification language from the Defense Authorization bill. We fully support you in this effort.

Such an important change in the nuclear waste storage policy should only be given serious consideration in a stand-alone bill where it can be put forth for full debate in the light of day, not bottled onto a spending bill. Thank you.

Sincerely yours,

ANGELA VINEY,  
Executive Director.

SIERRA CLUB  
SOUTH CAROLINA CHAPTER,  
Columbia, SC, June 2, 2004.

Re: S. 2400 Defense Authorization

Senator ERNEST HOLLINGS,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR HOLLINGS: The South Carolina Chapter of the Sierra Club thanks you for the Cantwell-Hollings Amendment to S. 2400, the Defense Authorization Bill.

Senator Lindsay Graham has decided that the best way to eliminate an environmental hazard is to redefine it. We find this unacceptable.

When Department of Energy Secretary Abraham visited the Savannah River Site (SRS) recently he named SRS a national laboratory specializing in nuclear waste cleanup. For a moment we rejoiced in thinking that both the environment and economic development would benefit simultaneously.

That thought did not last long. Senator Graham said we do not need to make every effort to clean-up highly radioactive waste. According to him it can be abandoned on the site permanently with an amendment to the Defense Authorization Bill.

Congress is needlessly debating whether to lower our standards for protecting our water supplies from radioactive waste leaking from nuclear weapons production sites. We appreciate you being on the right side of this issue.

The SRS complex houses approximately 37 million gallons of high-level radioactive waste, much of it in the form of liquid sludge. That is enough radioactive waste to fill every bathtub in Richland, Lexington and Aiken counties in South Carolina.

When SRS was built in the 1950's, the plan was to move out the waste from nuclear weapons production within 10 years. The deadly waste is still there 50 years later. If Graham's amendment passes, South Carolina will be stuck with it forever.

This dangerous waste is stored in old tanks that have been known to leak. The tanks sit in the water table in one of the largest and most important watersheds in the Southeast. The Savannah River and the entire watershed serve agriculture, industry, fishing, and recreational activities. Failing to clean up the tanks will lead to a serious and long-lasting pollution threat that is detrimental to the entire nation.

Graham proposes mixing the radioactive sludge with grout and using the tanks as permanent waste depositories. This action was declared illegal by a federal judge in Idaho. That is why Graham has introduced his amendments, to make what is now illegal, legal.

Before jumping into this risky method of waste storage, most studies need to be done on the potential for water supply contamination by waste leaching out of the grout. This method of storing the waste may actually make it more difficult to retrieve it in the event of a leak.

State Attorney General Henry McMaster has filed an amicus brief on behalf of South Carolina agreeing with the National Resources Defense Council, the environmental



group that initiated the lawsuit, that the waste not remain in its current location.

Another concern about Senator Graham's provision is that it would allow DOE sole discretion in deciding what constitutes high-level radioactive waste in South Carolina, severely limiting the state's voice on such matters. The state would no longer be the final say on what defines high-level waste in our own backyard and the state would have limited or no power to halt DOE from abandoning this highly radioactive waste. So much for "states rights" and "checks and balances."

The Sierra Club urges the deletion of sections 3116 and 3119 of the Defense Authorization Act. Please do not allow the abandonment of high-level radioactive waste at SRS.

Again, Senator Fritz Hollings, thank you for standing up for South Carolina and safeguarding the welfare of our future generations by opposing the Graham amendment.

Sincerely,

DELL ISHAM,  
SC Chapter Director,  
Sierra Club.

Mr. HOLLINGS. The South Carolina Wildlife Federation; South Carolina Sierra Club; South Carolina Coastal Conservation League; Carolina Peace Resource Center; Environmentalists, Inc.; the mayor of Savannah; Action For a Clean Environment; Atlanta Women's Action for a New Direction; Center for Environmental Justice; Coosa River Basin Initiative; Georgia Conservation Voters; Georgia Peace and Justice Coalition; Physicians for Social Responsibility in Atlanta; Southern Alliance for Clean Energy; Alliance for Nuclear Accountability; National Council of Churches; Sierra Club; National Resources Defense Council; Public Citizen; Episcopal Church; United Methodist Church; American Rivers; League of Conservation Voters; Church Women United; GreenPeace; a number of Native American tribes; and the Idaho Conservation League.

Incidentally, Mr. President, this particular editorial that appeared timely this morning, "Shortcut on Nuclear Waste," in the New York Times, outlines the particular problem. It emphasizes why we don't have States' rights with respect to high-level radioactive waste. We are playing with fire here on the Armed Services bill. This is a stealth amendment with no hearings and no consideration. I know my State as well as anybody. In the majority of the State, everybody is against this.

I ask unanimous consent that the New York Times editorial be printed in the RECORD at this point.

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

#### SHORTCUT ON NUCLEAR WASTE

The Senate may consider today whether to allow the Energy Department to reclassify certain nuclear wastes at a weapons plant in South Carolina so they can be disposed of faster and cheaper than if the department complied with current law. Although many senators may be tempted to skim over this issue as a matter of parochial concern to South Carolina, they need to consider this matter carefully lest they set a terrible precedent. The Energy Department has a notoriously poor record in handling environmental issues. It should not be granted such

unbridled power to define its waste problems away with the stroke of a pen.

The Savannah River site in South Carolina has accumulated a huge inventory of radioactive wastes left over from weapons production, some 37 million gallons held in 51 underground tanks. Under the 1982 Nuclear Waste Policy Act, virtually all of this material is deemed high-level waste, which must be disposed of in a deep repository like the one being built at Yucca Mountain in Nevada.

For some years now, the Energy Department has been hoping to separate its wastes into two streams, reserving deep burial for only the part with high radioactivity. In the case of the South Carolina site, the department is prepared to pump most of the waste out of the tanks for disposal through deep burial. But it wants to leave a hard-to-remove residue of sludge in the tanks and bury it under grout.

Officials estimate that this approach could save \$16 billion and trim 23 years from the lengthy cleanup process. But those plans were stymied when a federal judge in Idaho concluded that the scheme violated the waste-policy act.

Now Senator Lindsey Graham, Republican of South Carolina, has inserted language in a defense authorization bill that would achieve the same end. It would allow the department to reclassify the wastes in South Carolina in a way that would allow the disposal of some material on the site. Mr. Graham notes that the state's governor and its health and environmental regulators have signed off on the plan, and he says the decisions on how to handle each tank will be made collaboratively by federal and state officials.

Senator Graham's language is potentially a highly significant change in nuclear waste policy, yet it was inserted into a broad military authorization bill behind closed doors, without the benefit of hearings or open discussion. This is unacceptable, given that few areas could have more potential impact on public health for thousands of years into the future.

The Energy Department is largely empowered to set its own waste disposal policies, with only minimal oversight from the Nuclear Regulatory Commission. Before allowing the department to reclassify its waste products, the Senate should follow the lead of the House and call for an in-depth study of the approach by the National Academy of Sciences. The decision should not be left to an agency that is desperate to get past a staggeringly difficult waste disposal problem.

Mr. HOLLINGS. Mr. President, I yield the floor and thank my distinguished colleague from Washington for her leadership, and also Senator LEVIN for alerting me to this particular danger. This is a highly dangerous matter. We should not be running around with a little legislative rider on the Armed Services bill on a single State exception, even if it were legal. I don't think it is legal. But even if it were legal, it would all of a sudden indirectly, and without other States being involved, redefine high-level radioactive waste. We don't want to do that. This is no way to legislate, and no way to treat this highly dangerous element.

I thank the Chair.

The PRESIDING OFFICER (Mr. CRAPO). Who yields time?

The Senator from Colorado is recognized.

Mr. ALLARD. In a moment, I will call on the junior Senator from South Carolina.

First of all, I want to clarify this for the RECORD. We have had three hearings this year on this very issue. Prior to this year, we have had a number of hearings dealing with the disposal of nuclear waste. I know for a fact the Environment and Public Works Committee had a hearing in 2000 on the disposal of nuclear waste.

On February 25, 2004, the Strategic Forces Subcommittee of the Armed Services Committee held a hearing on the development of an energy environmental management program, and a key witness was Jesse Roberson, and we talked about this very issue.

On March 23, 2004, in the Armed Services Committee hearing we had on the Department of Energy programs, a key witness in that particular hearing was Secretary Spencer Abraham.

On March 31, 2004, at the Appropriations Energy and Water Subcommittee hearing on environmental management, a key witness was Jesse Roberson.

Having clarified that for the RECORD, I yield 10 minutes to the junior Senator from South Carolina.

The PRESIDING OFFICER. The junior Senator from South Carolina is recognized.

Mr. GRAHAM of South Carolina. Mr. President, in terms of my senior Senator, who I respect greatly, there is no doubt in my mind that he loves his State. Secondly, this is not about who loves South Carolina. We have a policy disagreement about what is best for our State. That happens on occasion in politics. Senator HOLLINGS has been more than gracious in terms of helping me adjust to the Senate and coming to my office, and I publicly acknowledge that. I regret that we differ, but we do.

I assure my colleagues that I just did not wake up one day, as the junior Senator from South Carolina, sneaking around everybody to come up with an amendment that would change the whole national policy on nuclear waste for the heck of it. I didn't do that. I have been in Congress now for 10 years and in the Senate for a little over a year and a half. In the House, I represented the Savannah River site, our State's largest employer. It is the facility that was intricately involved in winning the cold war. We have over 50 tanks full of high-level liquid waste.

The Clinton administration and myself had a bumpy road. I think it is fair to say I did not agree with the Clinton administration a lot, but one thing that we did find common ground about in the 1997 timeframe and I think Senator ALLARD probably remembers this—is that the Clinton administration came up with a new way of looking at high-level waste, how you characterize it.

There was a hearing about this in 2000 in the Senate before I got here. During the Clinton administration, the policy was—and before the Clinton administration—that if the material started out life as high-level liquid waste, no matter what happened in the

intervening time or whatever characterization it had after being treated, it would have to be considered high-level waste—defense material, high-level waste. The Clinton administration said that is not very logical. What we need to do is look at the characterization of the waste at the end, not where it came from. There was a hearing in May of 2000 about that concept. I supported that concept then and I support it now.

In all due deference to my senior Senator, there is nothing in this amendment that changes the definition of high-level nuclear waste. The way you look at high-level nuclear waste and the way you characterize it was changed in the Clinton administration in a logical way. We have cleaned up two tanks. That has been lost in this debate. There are 50-plus tanks of high-level liquid waste. Two of them have been dried up and cleaned up. The procedures to clean up those tanks have worked. That has been several years ago. This amendment allows more money to be put on the table to clean up the rest of the tanks.

Here is what we have been able to do. We have been able to strike an agreement between the environmental regulators in South Carolina and the Department of Energy defining what "clean" is in terms of those tanks. All of the liquid waste will be taken out. There will be about an inch and a quarter of material left in the bottom of the tank, like the other two tanks that have already been closed. There will be a process to treat that inch and a quarter. The NRC has been consulted and has blessed this project, saying what is left in the bottom of the tank after it is treated is waste incidental to deposit.

About people and their opinions regarding what is best for the safety of my State, my senior Senator has been an advocate for my State for a very long time. I respect him. I can assure you I share his concerns about what is best for the environment of this region.

I have some letters I would like to introduce. I have a letter from the Governor of South Carolina that I think he has already introduced. Last week, when we talked about this, Senator HOLLINGS said he cannot believe the Governor would support this. He has been a great environmentalist.

Mark Sanford, our Governor, does have a very good environmental record, depending on what scorecard you want to look at. But Mark comes from the coast. I think most people would say he has been environmentally sensitive.

The letter that Senator HOLLINGS read, please do not misunderstand at all, this is an absolute total endorsement of this amendment by our Governor. I am not the type of Senator who would not tell our Governor what we are doing. The Governor was given the language a long time ago.

On April 27, we had a delegation meeting about this language. I have been shopping this language around for weeks. We have been talking about how

to clean up Idaho, Washington, and South Carolina for years. We have had hearings in Senator ALLARD's committee about this very topic, where DOE came in and talked about the plan to clean up these tanks and talked about the two tanks that had already been cleaned up.

There have been negotiations going on between Idaho, Washington, and South Carolina, independent of each other, with the DOE to try to find a common ground in those States as to how to clean up this high-level liquid waste.

To my colleague in Washington, who truly is a friend, and I am sorry we got so off stripped on this, we will get over it and work together for the common good when this is over.

On January 26, 2004, Congressman HASTINGS, Senator MURRAY, and Senator CANTWELL sent a letter to Governor Locke and Secretary Abraham and asked them to work together to resolve the ongoing dispute over waste classification. They did a very good thing in that regard. I ask unanimous consent to print that letter in the RECORD.

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

CONGRESS OF THE UNITED STATES,  
Washington, DC, January 26, 2004.

Hon. GARY LOCKE,  
Governor, State of Washington,  
Olympia, WA.

Hon. SPENCER ABRAHAM,  
Secretary, Department of Energy,  
Washington, DC.

DEAR GOVERNOR LOCKE AND SECRETARY ABRAHAM: We have become increasingly concerned about the lack of an agreement between the State of Washington and the Department of Energy to resolve the ongoing dispute pertaining to the classification of High Level Waste.

Our primary and overriding concern is the safe and timely cleanup of the Hanford site. We know that we share this goal with both the State of Washington and the United States Department of Energy.

We are calling on you to take the initiative to establish immediate high level discussions between the State of Washington and the Department of Energy to resolve this issue. We would like to see a commitment to continue the dialogue until such time as a mutually acceptable agreement can be reached.

We know the parties have legitimate disagreements. We would ask that such conversations take place without preconditions being set, which could serve to hinder successful negotiations.

The stakes are incredibly high and the price of failure is the continued exposure of the people and the environment to unnecessary risks, by potentially slowing the pace of cleanup activities.

We know you share our commitment to making our communities safe. We ask for your leadership to create momentum for a successful resolution of this issue.

In the past when seemingly intractable problems have faced cleanup obstacles, they have been solved by your common commitment to rise above the obstacles to reach shared objectives. We are confident that

working together this outcome can be reached.

Sincerely,  
Congressman DOC HASTINGS,  
Senator PATTY MURRAY,  
Senator MARIA CANTWELL.

Mr. GRAHAM of South Carolina. Mr. President, the letter was an effort by the legislative delegation in the State of Washington to get the DOE to come up with some classification system for Hanford.

Our distinguished Presiding Officer from the State of Idaho has been working for months now for his State to see if they could come up with a classification system for the State of Idaho. In February 2004, the Governor of Washington indicated he would designate someone to enter into discussion on behalf of the State of Washington. Governor Locke's chief of staff called the Deputy Secretary to indicate he was the Governor's designee to hold discussions with the Department of Energy. Shortly thereafter, the Department of Energy shared draft language with the State of Washington.

What has been going on here for a very long time is a collaborative process between the three States and the Department of Energy to remediate the environment when it comes to high-level waste in a manner acceptable to the State. That is the process. That has always been the process, and that must be the process.

But here is what we do not want to do as we negotiate individually. We do not want to, as my senior Senator said, have a State have the ability to define high-level waste because it is a national concern and a national issue. So we have been jealously guarding that concept. This amendment does not give the State of South Carolina the ability to define high-level waste because we would have 50 different versions. What it does do is it requires a collaborative process. We have already closed two tanks, and before those two tanks could be closed, South Carolina had to issue a permit saying: Yes, they are able to be closed. This amendment gives the State of South Carolina permitting authority over tank closure. That is exactly what Washington and Idaho are trying to pursue.

Governor Locke has been working with DOE. The difference is South Carolina has gotten there, and to my friend from Washington, there will come a day—soon, I hope—where you can negotiate classification of waste with DOE satisfactory to Washington. And there will come a day when the Governor of Washington, whoever that may be, will say: That is a good deal. And the regulators in the State will say: That is a good classification with which we can live.

The truth is, if that day ever arrives, because of the way the Nuclear Waste Policy Act is written, you are going to need legislative language to bless that agreement.

Washington has a severe problem with tank leakage. I want to tell my

friends from Washington, if that day arrives to where you can find a standard acceptable to your State—

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. GRAHAM of South Carolina. I ask for 5 more minutes.

Mr. ALLARD. I yield an additional 5 minutes.

Mr. GRAHAM of South Carolina. If that day ever arrives, the Senator from Washington is going to come to this body, and I am going to help her. I say the same to my friend from Idaho. That day has arrived in South Carolina. We have vetted this proposal with everybody I know.

I ask unanimous consent that a letter from the Speaker of the South Carolina House, David Wilkins, be printed in the RECORD.

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

SOUTH CAROLINA  
HOUSE OF REPRESENTATIVES,  
Columbia, SC, May 27, 2004.

Hon. LINDSEY GRAHAM,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR GRAHAM: It has come to my attention that you have included language in the FY 2005 Department of Defense Authorization bill, S. 2400, which would allow for accelerated cleanup of the Savannah River Site. I write today to express my support of Section 3116.

I understand that the South Carolina Department of Health and Environmental Control has worked with you since August of last year to craft legislation that gives South Carolina "a seat at the table" when determining what radioactive materials will remain in South Carolina. I support that goal and the expedited cleanup of the radioactive waste tanks at the Savannah River Site.

South Carolina and the Department of Energy have had a good working relationship over the years. It is my sincere hope that your legislation will allow this partnership to continue in a mutually beneficial way which cleans up SRS more expeditiously and in a fiscally prudent manner.

I concur with Governor Sanford. This language will allow for a more accelerated cleanup process and will help protect the State's sovereignty with respect to the accelerated cleanup.

Thank you for your service to the State. I look forward to working with you on this and other issues of importance to the State and Nation.

Sincerely,

DAVID H. WILKINS,  
Speaker of the House.

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent that a letter from the deputy commissioner of the South Carolina Environmental Quality Control, Robert King, Jr., be printed in the RECORD.

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

SOUTH CAROLINA DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL CON-  
TROL,

Columbia, SC, May 18, 2004.

Hon. LINDSEY O. GRAHAM,  
U.S. Senate, Washington, DC.

Re: Sec. 3116. Defense Site Acceleration Completion

DEAR SENATOR GRAHAM: The Department has reviewed the above referenced language

proposed to be added to the S. 2400 National Defense Authorization Act for FY 2005. As you are aware, the Department considers the storage of high-level radioactive waste in aging tanks at the Savannah River Site to be the single most potentially hazardous condition to the environment and people of South Carolina. In fact, the Department has worked closely with the Department of Energy (DOE) to safely close two of the original fifty-one storage tanks.

It is the Department's position that the above referenced language will provide a process to close the remaining storage tanks in a similar manner. This will include removing highly radioactive radionuclides to the maximum extent possible and will also provide for public participation in the decision-making process.

As always, alternative language could be developed; however, this proposed language allows DOE to move forward with the important task of removing the high-level radioactive waste from the storage tanks while providing a decision-making framework in which the State is included.

If you have any questions or need any further information, please have your staff contact David Wilson at (803) 896-4004.

Sincerely,

ROBERT W. KING, JR.,  
Deputy Commissioner, Environmental  
Quality Control.

Mr. GRAHAM of South Carolina. Mr. President, this letter to me says that the agreement they have achieved with DOE is environmentally sound for South Carolina; we would like to move forward with tank cleanup. Here is why this is so important to my State: It will allow \$88 million to be put on the table. It will allow these tanks, now that we have reached an agreement to become dry and safe and secure and closed up, to be closed 23 years ahead of schedule. I invite everybody in this body to come to Aiken, SC, and the surrounding community to enjoy golf, leisure, and fishing. I will take you fishing in the Savannah River, if you would like to go.

I do not want 23 years to go by and the chance of the tanks leaking to grow. I do not want the problem that Washington has. I want Washington to be able to fix their problem, and I will help the State of Washington. But I have a chance to do something in my State that we have not had a chance to do in 10 years. The origin of this being done started in the Clinton administration, and we are building on what happened then.

This amendment is focused only on the agreement in South Carolina. Senator CRAPO, Senator CRAIG, and Senator ALEXANDER have an amendment to make it absolutely certain. I think it already is, but I am not here to put any other State in a bad situation. I am not here to make Washington do what we are doing in South Carolina or to prejudice Idaho at all. I am just simply asking this body to listen to the people who are responsible for the ground water who tell me this is a good agreement, it will help my State if we move forward on it, and it will save \$16 billion, for whatever that is worth.

The attorney general of South Carolina was mentioned by my distin-

guished senior Senator. I have a letter from him supporting this agreement. I ask unanimous consent to print this letter in the RECORD.

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

THE STATE OF SOUTH CAROLINA,  
OFFICE OF THE ATTORNEY GENERAL,  
May 18, 2004.

Re: Sec. 3116. Defense Site Acceleration Completion

Hon. LINDSEY GRAHAM,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR GRAHAM: It is my understanding that the South Carolina Department of Health and Environmental Control supports your proposed amendment to be added to the S. 2400 National Defense Authorization Act for FY 2005.

DHEC considers the storage of high-level radioactive waste in aging tanks at the Savannah River Site to be potentially the most hazardous environmental situation in South Carolina. Your proposed amendment allows federal authorities to remove this radioactive hazardous waste, while ensuring that the State is statutorily included in the process, with ultimate "veto" power on removal decisions.

Please allow this letter to serve as my official statement of support for your amendment.

Thank you for all that you do on behalf of South Carolina and its grateful citizens.

Yours very truly,

HENRY MCMASTER.

Mr. GRAHAM of South Carolina. Mr. President, when we talk about people with agendas, there are all kinds of political agendas when one talks about nuclear programs. That is just politics, and that is the strength of America. There is nothing wrong with that.

I have a letter from the Aiken County, SC, legislative delegation—Democrat and Republican house members and senators—who say please approve this agreement because it will clean up these tanks ahead of schedule, and it will be a good thing for our community. The difference between them and the New York Times, which is a great paper, is they live there. The Savannah River site is located in Aiken, SC.

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

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

AIKEN COUNTY,  
LEGISLATIVE DELEGATION,  
Aiken, South Carolina, May 25, 2004.

Hon. LINDSEY O. GRAHAM,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR GRAHAM: We are writing to support Section 3116, Defense Site Acceleration Completion, in S. 2400. As we understand it, this section of the bill will allow The Savannah River Site to accelerate cleanup of the Site's remaining waste tanks in a manner consistent with the way Tanks 17 and 20 were closed in the late 1990s.

We believe that your language will allow the establishment of environmentally prudent regulations regarding tank waste that will allow the Department of Energy, in conjunction with the South Carolina Department of Health and Environmental Control, to move more quickly to clean up the Savannah River Site.

We especially appreciate your efforts to work with the State to ensure the State of South Carolina will have a seat at the table when determining the ultimate disposition of any materials left in the state. We concur with Governor Sanford that according to analysis by the South Carolina Department of Health and Environmental Control, the cleanup process envisioned by Section 3116 will provide "a decision making framework in which the State is included."

We appreciate your efforts on behalf of the Aiken Community to get this cleanup done expeditiously and your continued efforts to do it in a way that decreases the impact on the taxpayers of this nation.

Senator W. Greg Ryberg, Senator Thomas L. Moore, Senator Nikki Setzler, Representative Robert S. Perry, Jr., Representative Donald C. Smith, Representative William "Bill" Clyburn, Representative J. Roland Smith, Representative James "Jim" Stewart, Jr., Representative Ken Clark.

Mr. GRAHAM of South Carolina. Mr. President, I have another letter from the mayor of Aiken, Fred Cavanaugh, who worked at this site, supporting this agreement. In addition, I have a letter from Ronnie Young, the chairman of the Aiken County Council, where the council endorses this amendment.

I have a letter from the Chamber of Commerce, the people who have to make a living. I can assure you the Aiken County Chamber of Commerce believes this will not poison the area. It will do absolutely the opposite. It will make it more attractive.

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:

CITY OF AIKEN, SC,  
May 26, 2004.

Hon. LINDSEY GRAHAM,  
Russell Senate Building,  
Washington, DC.

DEAR SENATOR GRAHAM: I want to thank you for the positive work you are doing on behalf of the citizens of our country, South Carolina and closer to home, Aiken County. More precisely, thank you for seeking a resolution to the questions related to the definition of—radioactive waste incidental to reprocessing (WIR). As we know, radioactive waste stored in underground tanks is the greatest potential risk to public health and the environment at the Savannah River Site (SRS), and unless resolved, the WIR lawsuit and related issues will stop these critical activities. Your amendment to the Senate Armed Services Committee Authorization Bill will allow for the continued removal and disposition of the waste in a safe manner, and we believe it is critical that it be enacted into law.

Your amendment allows SRS to continue to remove waste and close tanks to the same standards and with the same diligence as in the past. It has the endorsement of SC/DHEC and the Governor of South Carolina. Under your amendment SC/DHEC will continue to oversee and approve all SRS waste removal and disposal activities thus assuring continued protection to the public and environment.

Conversely, without your amendment, activities to remove and dispose of high level radioactive waste will be stopped and wastes will remain in the less safe liquid form in fifty year old underground tanks. Instead of completing waste removal by 2018, wastes

will remain in the old tanks. Equally critical will be the loss of trained and skilled SRS workers because this critical work will stop. I support your amendment as being in the best interest of the citizens of South Carolina who are interested in the safe removal and disposition of high level radioactive wastes. Please convey my position on this important matter to your colleagues in Congress.

Sincerely,

FRED B. CAVANAUGH,  
Mayor.

AIKEN COUNTY COUNCIL,  
Aiken, SC, May 25, 2004.

Hon. LINDSEY O. GRAHAM,  
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: This letter comes as confirmation of my support of Section 3116, Defense Site Acceleration Completion in the FY 2005 Department of Defense Authorization Bill, S. 2400. This bill will allow for an accelerated clean up of the Savannah River Site.

Aiken County is very concerned with the storage of high level radioactive waste in aging tanks at the Savannah River Site. Under the present Nuclear Waste-Policy Act, the cleanup could leave the waste in the aging storage tanks for approximately 30 additional years. This possibly is the most potentially hazardous condition to the people and environment of South Carolina.

However, with the acceptance of Section 3116, Defense Site Acceleration Completion, the Department of Energy and the South Carolina Department of Health and Environmental Control will be able to move much more quickly to cleanup the Savannah River Site, with an estimated savings of \$16 billion to the taxpayers.

During the cleanup, it is of major importance to the citizens of South Carolina that we are allowed to retain an oversight role in the cleanup process.

I urge you and your fellow statesmen to allow for the accelerated cleanup process at the Savannah River Site and to provide a decision making framework in which the State of South Carolina is included.

If you have additional questions or need other information, please contact me at (803) 642-1690.

Sincerely,

RONNIE YOUNG,  
Chairman, Aiken County Council.

GREATER AIKEN CHAMBER OF COMMERCE,  
May 25, 2004.

Hon. LINDSEY GRAHAM,  
Russell Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: Let me begin by saying thank you for your efforts in seeking a resolution to the uncertainties related to the definition of radioactive waste incidental to reprocessing (WIR). Radioactive waste stored in underground tanks is the greatest potential risk to public health and the environment of the Savannah River Site, and unless resolved, the WIR lawsuit and related issues will stop those critical activities. Your amendment to the Senate Armed Services Committee authorization bill will allow for the continued removal and disposition of waste in a safe manner.

SRS has safely removed radioactive wastes from underground tanks for almost ten years and has permanently closed two tanks. These efforts were permitted by the South Carolina Department of Health and Environmental Control (SC/DHEC) with the oversight of the U.S. Environmental Protection Agency. The Nuclear Regulatory Commission has reviewed the SRS program and stated that it is comparable to commercial requirements and standards.

The Chamber supports your amendment as being in the best interest of those citizens in Aiken and South Carolina who are interested in the safe removal and disposition of high-level radioactive wastes.

Without your amendment, activities to remove and dispose of high level radioactive wastes will be stopped and wastes will remain in the less safe liquid form in fifty-year old underground tanks. Instead of completing waste removal by 2018, wastes will remain in tanks for a significantly longer period of time. Additionally, the SRS cannot afford to lose these highly trained and skilled employees.

In closing, the Greater Aiken Chamber of Commerce, representing 900 businesses and 40,000 employees within the region believes that it is critical that your amendment be enacted into law. Again, thank you for your continued support of the greater Aiken region.

Signature,

CHARLES WEISS,  
President & CEO.

Mr. GRAHAM of South Carolina. Mr. President, I have letters from the mayor of Jackson, SC, which is down site; the Aiken Electric Cooperative; the Economic Development Partnership from Aiken; the Nuclear Regulatory Commission has blessed this project saying that what is left in the tank is waste incidental to reprocessing; the Defense Nuclear Facilities Safety Board has looked at this amendment; the North Augusta Chamber of Commerce, a community on the other side of the site; and the SRS Retiree Association, people who worked their whole lives out there supporting this.

Mr. President, quickly, we will have more time to talk. This is a big deal to my State. Similar efforts are ongoing in other States, and I hope they get there. I am not going to do anything to prejudice their ability to get there on their terms. I am simply asking that the deal struck between the environmental regulators and our Governor in South Carolina be approved so that we can clean up the rest of these tanks, the 49 remaining, in an economically and environmentally sound fashion.

That is all this has ever been about. The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Who yields time?

The Senator from Colorado.

Mr. ALLARD. I yield 6 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I thank Chairman ALLARD for yielding to me at this time.

I rise today in opposition to the amendment by the Senator from Washington, but I do so by first saying that this is an extremely complex issue. I happened to be presiding one night when the Senator from Washington stood up and talked about her amendment. I respect very much the issues she has delineated. She has done a very good job of articulating the complexity of this issue and why it needs to be thought through so carefully before we vote, as we are going to do today.

After carefully reviewing the facts, I am convinced the language adopted in

the Armed Services Committee related to disposal of nuclear waste at the Savannah River Site is prudent and that this language should not be struck.

The Savannah River site is located in Aiken, SC, right on the South Carolina-Georgia border. About half the folks who work at the Savannah River site live in my State. Operations and the treatment of waste at the Savannah River Site affect my State, as well as South Carolina, because if there is any polluting, if there is any leakage, it will go into the Savannah River which is on the border of South Carolina and Georgia.

Current provisions of the Nuclear Waste Policy Act in the fiscal year 2005 funding for the Savannah River Site restrain and preclude planned risk reduction activities in the treatment and disposition of radioactive waste. Section 3116 is extremely important to the Department of Energy's environmental remediation and cleanup efforts at the Savannah River Site. It will resolve both the nuclear waste policy and funding issues and allow these risk-reduction activities to continue.

This provision will allow the cleanup of these materials 23 years earlier and at an estimated cost savings of \$16 billion. Regardless of the cost savings, it is imperative that the cleanup of the Savannah River Site be completed at the earliest date possible.

The Savannah River Site is currently home to 49 tanks containing 35 million gallons of radioactive material that is divided into three types of waste: liquid, sludge, and sediment. Section 3116 will allow South Carolina and the Department of Energy to execute the agreement that has been reached on how best to treat this tank waste.

In 1997, the Savannah River Site became the first site in the Department of Energy complex to close a high-level waste tank. The language in the bill was worked out with great care between the State of South Carolina, State environmental regulators, Senators on both sides of the aisle, and the Department of Energy.

I quote from a letter sent to the Secretary of Energy from the Defense Nuclear Facility Safety Board in relation to section 3116 of the Defense bill, the section this amendment will strike.

The letter states:

The Board believes that disposal of wastes as contemplated in Section 3116 can be accomplished safely and should enable efficient disposition of the radioactive waste.

It is true that an Idaho district court struck down the DOE rule which set procedures for nuclear waste disposal across the board. However, the court struck down this rule based not on the content of the rule but because they thought the rule exceeded DOE's jurisdiction. I agree DOE should not have unilateral ability to determine nuclear waste disposal policy. However, I believe the procedures DOE has implemented at the Savannah River Site are sound and that these procedures should be allowed to continue while the ques-

tion of who has the authority to set cleanup standards and policies is resolved. In fact, the procedures which section 3116 would allow have been in place since the early 1980s.

I would also like to note, in response to those who believe the low-yield sludge should be removed in the tanks at the Savannah River Site and other facilities, that the process of removing that sludge would increase the risk to workers by sevenfold and significantly increase the risk to the environment based on the risk of extracting the tanks and transporting the additional fuel thousands of miles across country, significantly increasing the exposure to the population at large.

Section 3116 in the underlying bill will prevent substantial delays, the accompanying health and safety risks, and increases in the expense of removing and disposing of this material, a delay in expense not driven by public health and safety considerations but, in fact, contrary to public health and safety.

Without clarifying the law, the delay would likely create more serious health and safety risks to workers and members of the public by leaving the waste in tanks longer and risking leaks to ground water. Delays in increased costs will require DOE to divert resources from other efforts across the complex in a manner that would significantly distort the Department's cleanup and other priorities. There is less risk to the workers, the environment, and the communities by removing the waste from the tanks, extracting the high-level waste from the other types of waste for appropriate disposal, and stabilizing any small amount of low-level waste residues in place in the tanks using a cement grout.

Physicists, not lawyers, should determine if radioactive waste is high- or low-level waste. The physical characteristics, not the source, of radioactive waste should determine if it is high-level or low-level waste.

I hope my colleagues will join me in opposing this amendment by supporting an expeditious and safe cleanup of the nuclear waste at the Savannah River site.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Washington.

Ms. CANTWELL. Mr. President, I will yield to the Senator from New Mexico, the ranking member of the Energy Committee, to give a statement, but before that I want to enter into the record a couple of documents and make a statement.

First, I have great respect for the junior Senator from South Carolina and his work on so many issues. He did a great service for many men and women in this country by leading a battle in getting health care coverage for the National Guard. There is a large percentage in our State serving in the National Guard in both Iraq and Afghanistan, and I know my State thanks him on this.

On this issue, we certainly disagree. I think it is a change in strategy, or at least a deal that has been cut behind closed doors, because I do view it as a change to the Nuclear Waste Policy Act. That is the way my State views it. That is the way 20 newspapers across the country view it. That is the legal opinion of staff, that it is a change to the definition of what is high-level waste.

I point out that South Carolina, up until the Senator's amendment, has been pretty consistent. I have an August 12, 2003, letter sent to the Secretary of Energy from the State of South Carolina, signed by the State of South Carolina saying DOE already has the tools it needs to address this issue; that it does not need to use a sledge hammer to get the job done, and goes ahead and says they should use the current definition of the law.

Also in March 2004, a couple of months ago, South Carolina said DOE cannot ignore Congress's intent by simply calling high-level waste by a different name. And later, South Carolina goes on to say this poses a threat to the citizens' health and natural resources.

So I find it very interesting that the State of South Carolina filed those documents in court, sent letters to the Secretary of Energy making those statements, and now all of a sudden South Carolina has changed its position. I don't know if they were saying they didn't believe in their case and that is why they wanted to spend the State's legal time and money filing it. I don't know if they have their cabinet officials signing letters to the Secretary of Energy that they don't believe. But I think actually the issue is the State of South Carolina has been pretty consistent. In fact, the House Members, when this issue was before the House of Representatives, said let's not put any language in changing the definition of what is high-level waste. If there needs to be a study, we are willing to study it. That is what the members of the South Carolina delegation voted on. So I think they have been pretty consistent.

While my colleague, the junior Member from South Carolina, is trying to move ahead on nuclear waste cleanup, I think we have a disagreement among ourselves and with what South Carolina's position has been consistently for several years now, and that is that DOE has the authority. What DOE wants to do is leave waste behind. They don't have the authority to do that, nor does science think that is a prudent way to deal with this issue.

I ask unanimous consent to have that material printed in the RECORD, Mr. President.

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

## SUMMARY OF ARGUMENT

NATURAL RESOURCES DEFENSE COUNCIL, ET AL.  
VERSUS SPENCER ABRAHAM, SECRETARY, DEPARTMENT OF ENERGY, ET AL.

In the late 1970s and early 1980s, Congress recognized that spent nuclear fuel and radioactive waste generated as a result of the reprocessing of spent nuclear fuel pose a grave, long-term threat to public health and the environment. As a consequence of this threat, Congress enacted the NHPA to ensure that this waste is permanently isolated in a deep geologic repository. In both the NHPA and the Atomic Energy Act (AEA), Congress defined "high-level radioactive waste" to require DOE to consider first, the source of the waste and second, the concentration of fission products in solidified wastes. The definition follows: "(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including the liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and (B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation." 42 U.S.C. 10101(12). The AEA incorporates this definition by reference. 42 U.S.C. 2014(dd).

By using the same definition in the NHPA and AEA, Congress made plain its intent to include spent nuclear fuel reprocessing waste resulting from defense activities within the scope of the HLW disposal scheme that Congress established in the NHPA. Congress clearly intended that the definition of HLW would apply to both commercial and defense waste and that HLW from both sources would be permanently isolated. This intent becomes even clearer when reading this definition in the context of Congress's reasons for enacting the NHPA, to wit, permanently isolating radioactive waste because of the long-term danger it poses to human health and the environment.

The evaluation method of DOE Order 435.1, however, establishes a system for reclassifying high-level radioactive waste that provides DOE unlimited discretion to determine whether a large volume of highly radioactive waste stored in or near our states is required to be disposed of in a deep geologic repository. Such unfettered discretion is not provided for in the NHPA or AEA and this Court should affirm the District Court's decision invalidating DOE's attempt, through Order 435.1, to ignore the criteria in these statutes.

AUGUST 12, 2003.

Hon. SPENCER ABRAHAM,  
U.S. Department of Energy,  
Washington, DC.

DEAR SECRETARY ABRAHAM: The Department of Energy and states affected by DOE facilities face technical, political, and fiscal challenges as we decide how to treat and dispose of high-level waste created by Cold War-era reprocessing. It will take our combined efforts to devise and implement responsible, effective policies that protect human health and the environment as well as respect taxpayer dollars.

We write to express concern with DOE's current strategy for addressing this key issue. DOE's recent proposal to reopen the Nuclear Waste Policy Act runs counter to our mutual interests.

Fortunately for our shared high-level waste challenge, reasonable solutions exist within the current law without undermining public trust in DOE's efforts to properly manage nuclear waste. DOE already has the tools it needs to address this issue by making internal policy changes; it doesn't need a sledgehammer to do the job.

DOE's recent statements to Congress appear to exaggerate the impacts of the recent judicial decision on high-level waste classification. The federal court decision only confirmed long-standing national policy, which requires disposal of high-level waste in a geologic repository while allowing properly treated, less radioactive wastes to be disposed elsewhere.

The court's ruling allows DOE to proceed with retrieval and treatment of liquid waste from tanks at Hanford, Savannah River and INEEL. If the wastes in question are not highly radioactive following treatment, DOE has the ability now to develop a classification strategy to qualify these wastes for management, including disposal, outside a high-level waste repository. What the court rejected was giving DOE free rein to override national policy as expressed in the Nuclear Waste Policy Act.

The States of Idaho, Oregon, South Carolina and Washington participated in the lawsuit, not as parties, but as friends of the court to protect our interests in safe, cost-effective, timely cleanup and responsible use of repository capacity. As you may know, last November the states made a concrete proposal to resolve these issues outside of litigation, outlined, the legal and practical risks associated with continuing to litigate this matter, and offered to enter into mediation with the parties. DOE rejected our efforts and choose to litigate instead.

Today we renew our offer to work with DOE to develop a waste classification strategy that ensures protective, cost-effective, and timely disposal of the nation's defense high-level radioactive waste in a manner consistent with the court's opinion.

We urge you to reconsider your strategy and to work with the states on a reasonable solution within the framework of existing law. By doing so, we can do the job right without jeopardizing progress on repository development, slowing down cleanup or undermining public trust in our efforts.

C. STEPHEN ALLRED,  
Director, State of  
Idaho Department of  
Environmental  
Quality.

TOM FITZSIMMONS,  
Director, State of  
Washington Department  
of Ecology.

R. LEWIS SHAW,  
Deputy Commissioner,  
South Carolina Department  
of Health and Environmental  
Control.

MICHAEL W. GRAINEY,  
Director, State of Oregon  
Department of  
Energy.

Ms. CANTWELL. I yield 20 minutes to the Senator from New Mexico who, as the ranking member from the Energy Committee, knows of our efforts to try to get the Senate Armed Services Committee not to deal with this issue since they didn't have jurisdiction over it. He sent a letter to the committee urging them on that and has had a great deal of history on this issue.

I yield the floor to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 20 minutes.

Mr. BINGAMAN. I thank the Senator from Washington for yielding me time to speak to her amendment to strike

section 3116 and follow-on sections. Section 3116 is labeled the Defense Site Acceleration Completion. That is the name of the section. That is a fair characterization of what the provision intends to do. It does propose to hasten the day when the Department of Energy can declare its work complete.

In my view, it does not accelerate in any way the cleanup of DOE defense sites. It does accelerate the date that DOE can declare its responsibility completed. In fact, to the contrary, the provision allows the Department of Energy to abandon its commitment to clean out these sites and to walk away from them while there are substantial amounts of high-level radioactive waste still in the ground.

Section 3116 is not a model of clarity. I am told the provision no longer applies to DOE sites in Washington State, Idaho, and in New York as it once did. It now only applies to high-level radioactive waste tanks at Savannah River, S.C. There is not specific language in the provision saying that, but I am certainly willing to accept the intent of the provision.

The obvious question is, what is in the Savannah River tanks? From 1953 until the end of the cold war, the Department of Energy at Savannah River has made plutonium for our nuclear weapons. It did so by irradiating uranium fuel in five nuclear reactors on that site and it then reprocessed the spent fuel to separate the plutonium from the highly radioactive waste products. The waste material consists of a mixture of highly toxic, hazardous chemicals used in the chemical separation process—a mixture of that along with a wide variety of highly radioactive fission products and transuranic elements, formed during the nuclear reaction. Some of these fission products emit intense amounts of radiation over a short period of time. Others emit less intense amounts of radiation over a much longer period of time. Both pose a serious danger to the public health and to the environment.

The short-lived radionuclides remain dangerous for hundreds of years. The long-lived ones remain dangerous for thousands of years.

The Department of Energy has been storing this mixture in 51 steel tanks at Savannah River. The tanks each hold on average about a million gallons of waste. In other words, each is about the size of our Capitol dome. I repeat, we have 51 of those tanks, each about the size of the Capitol dome, located at Savannah River. The waste in the Savannah River tanks is, by definition, high-level radioactive waste. We have been using that term in our laws now for over 30 years. Different laws have worded the definition differently, but they have all said essentially the same thing, and that is that high-level radioactive waste is the material that results from reprocessing spent fuel, and that includes both the liquid waste produced directly in reprocessing and any solid material that settles out of the liquid or is derived from it.



There are two important legal consequences that flow from this tank waste being defined as high-level radioactive waste. The first legal consequence is that its disposal is subjected to licensing and regulation by the Nuclear Regulatory Commission. That is required under the Energy Reorganization Act of 1974, which was signed into law by President Ford.

The second legal consequence is the waste must be buried in a deep geological repository, rather than being left where it is. This is a requirement we put into law in the Nuclear Waste Policy Act of 1982 which was signed into law by President Reagan.

The Department of Energy has begun removing the liquid waste from the tanks at Savannah River and turning it into glass logs and storing the glass logs until they can be buried in a geological repository which is expected to be built at Yucca Mountain. Removing all of the sludge that has settled to the bottom of these tanks clearly is going to prove difficult and expensive. So to sidestep that requirement, the Department of Energy would like to reclassify the waste as something other than high-level radioactive waste and leave it where it is.

Years ago the Department of Energy adopted an administrative order asserting that they had the authority to do that. Last fall a Federal judge in Idaho held the order was unlawful.

The Department is now asking Congress to change the law and to give the Department of Energy the power the court said the Department did not have. Section 3116 would do that, so far as the Savannah River tanks are concerned. The language of 3116 is very clear. It says notwithstanding all of the laws that say Savannah River wastes are high-level radioactive wastes, the Secretary of Energy, in his discretion or her discretion, can decide they are not high-level radioactive wastes.

The Secretary's discretion would not be entirely without limits. Section 3116 imposes three tests that have to be met for the Secretary to exercise this discretion, but on close examination those tests impose very few restrictions on the Secretary. Let me talk a minute about each of these three tests.

The first test is that the material "does not require permanent isolation in a deep geologic repository." As I said before, the high-level radioactive waste is made up of both intensely radioactive short-lived radionuclides and less intensely radioactive long-lived radionuclides. The first step speaks to the second group of less intensely radioactive long-lived radionuclides. The need for permanent isolation correlates with the length of time the material remains radioactive. According to the Department of Energy, over 99 percent of the radioactivity now present in the high-level waste tanks is from short-lived radionuclides. These will remain dangerous for several hundred years. But because they will decay to safe lev-

els sometime before the end of this millennium, they do not, according to the Department of Energy, require permanent isolation in the deep geologic repository.

The first test in section 3116 may look like a serious hurdle, but according to the Department of Energy, 99 percent of the radioactivity in the tanks passes that test.

The second test is no better. It requires the secretary to determine that "highly radioactive radionuclides have been removed to the maximum extent possible." The second test speaks to the first proof of radionuclides, intensely radioactive, short-lived ones which DOE believe make up 99 percent of the radioactivity in the tanks.

The second test is no test at all. It does not require DOE to reduce the highly radioactive short-lived radionuclides to meet a public health and safety standard based on the maximum safe dose to the public or a maximum concentration level. It simply says do what can be done "to the maximum extent practicable."

That means, as the court said last summer, "if DOE determines that it is too expensive or too difficult to remove short-lived radionuclides from the waste, DOE is free to say the waste is no longer high-level radioactive waste, even though it will remain dangerous for centuries."

The third test is the most illusory of the three. At first glance it appears to subject the disposal of the tank wastes to State regulation. If the third test is meant to do that, it marks a major departure in the law. The courts have consistently held that the Atomic Energy Act preempts the States from regulating nuclear waste disposal. The third test confers no authority on the State to regulate nuclear waste disposal. It clearly states that South Carolina's Regulatory Authority must be "conferred on the State outside this Act." So far as I am aware, there is no Federal law that gives South Carolina or any other State the authority to regulate the disposal of high-level radioactive defense waste.

The only agency with authority to regulate the disposal of high-level radioactive waste is the Nuclear Regulatory Commission. The NRC has had that authority for 30 years. Section 3116 strips it of that authority, limits its role to one of "consultation" and "review" of criteria.

My conclusion is that section 3116 is a very troubling provision. It deregulates the disposal of the Savannah River tank waste in all but name. It is essentially the legislative equivalent of the "Mission Accomplished" banner we saw on the aircraft carrier that allowed the Department of Energy to declare its work was done and to walk away from its obligations.

Section 3116 also sets a terrible precedent, in my view. If we agree to give DOE this authority at Savannah River in this bill this year, why not give the same authority with regard to

Hanford next year and with regard to the Idaho National Engineering and Environmental Laboratory next year? And with regard to West Valley Demonstration Plant the year after that?

Enactment of section 3116 may also toll the death knell from the Civilian Nuclear Waste Program that we have had in place for many years. That program is already in serious jeopardy. It is years behind schedule. It is likely to be grossly underfunded this year. It is beset by lawsuits and serious technical challenges. Shipping nuclear waste on the public highways and railways will be extremely unpopular. Section 3116 sends the message that we do not need a deep geologic repository for Savannah River tank waste, that it is safe to leave those wastes where they are.

The obvious question is, If it is safe to leave high-level waste in the Savannah River tanks, why not leave those same kinds of wastes at Hanford and at the Idaho laboratory? If it is safe to leave defense wastes where they are, why not leave commercial powerplant wastes where they are, as well?

For all these reasons, I urge my colleagues to vote for Senator CANTWELL's amendment and to strike section 3116 from the bill.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ALLARD. I yield myself 5 minutes.

I reiterate for the record this was a collaborative approach between the State of South Carolina and the Department of Energy. They sat down for hours and they looked at wherever jurisdiction was and said: We have a common goal. We would like to remove this waste as soon as possible. So they have worked out an agreement.

That is what this amendment is all about that Senator GRAHAM is talking about. It is good science. We have a lot of support out there. In fact, in an Environment and Public Works hearing in the year 2000, my colleague from South Carolina mentioned that particular hearing where they talked about the disposal of nuclear waste. The Natural Resources Defense Council actually said the regulation of radioactive waste should be based on its hazardous characteristics and not when it was generated.

That is what has been proposed by the Department of Energy. The Nuclear Regulatory Commission had this to say about what the Department of Energy is trying to do with the work:

In all cases, the NRC staff found that DOE's proposed methodology and conclusions met the appropriate WIR criteria and therefore met the performance objectives and dose limits that would apply to near-surface low-level waste disposal and would protect public health and safety.

This was out of the letter sent May 18, 2004, to the Chair of the Committee on Environment and Public Works, JAMES INHOFE.

I have another letter from the Defense Nuclear Facilities Safety Board.



When it comes to safety, they are strong advocates for safety. One sentence illustrates what this letter is all about, dated May 14, 2004:

The Board believes that disposal of waste as contemplated in Section 3116 can be accomplished safely and should enable efficient disposition of the radioactive waste.

This is the agreement, again, worked out between South Carolina and the Department of Energy.

I yield back my time.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. How much time remains?

The PRESIDING OFFICER. There is 61 minutes for the Senator from Washington and 86 minutes 41 seconds for Senator ALLARD.

Ms. CANTWELL. Mr. President, I yield 10 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Mr. President, I am strongly in support of the Cantwell-Hollings amendment. To me, this debate is about process, policy, and precedent. In my view, the provision in the underlying bill that the Cantwell amendment replaces fails all three tests.

As my colleagues have explained, the reason we are in the Senate debating this issue is that the Armed Services Committee added language to the Department of Defense authorization bill, giving the Department of Energy broad new authority to reclassify nuclear waste so it can be left in place rather than disposed of according to the best technical know-how.

Along with the Presiding Officer, I am privileged to serve on the Armed Services Committee. I consider it a great honor and responsibility. However, I simply do not think we should be including a shift in nuclear waste cleanup policy in the DOD bill. Any major change to the Nuclear Waste Policy Act, which is what the underlying language represents, should be considered by the committees of jurisdiction, the Energy Committee and the Environment and Public Works Committee. Any major change in the Nuclear Waste Policy Act should be considered in open hearings where a range of views can be expressed.

Instead, a major change was made to this essential policy of our Nation in a closed markup of the Armed Services Committee. The committees of jurisdiction were not consulted about the language in the bill. We have had no hearings about this language yet here we are on the Senate floor debating it. Even some of my friends on the other side of the aisle who are supporting it have cloaked their support in lukewarm language because it is not all clear what the full implications of these changes would be.

A few years ago, the Department of Energy decided to change the definition of high-level waste by its own fiat, notwithstanding years of precedent and statutory language to the contrary.

Now, I do not have enough technical knowledge—I do not even dream of understanding all that would go into making a decision about how to define high-level nuclear waste—but people were concerned about that decision by the Department of Energy, and so they sued over the change.

When the Department of Energy lost in court, a suit on which my State of New York filed an amicus brief, in support of overturning the Department of Energy change, then, obviously, the Department of Energy chose a different route.

They first tried it on the Energy bill. But because of other conflicts over the Energy bill, they were not successful. So then they came back with the Department of Defense bill. Unfortunately, this was a closed process, and many people who would otherwise have an opinion were not able to participate.

I think this is not in the best interests of making policy on such an important issue. It may very well be that an open policy process—with hearings with the committees of jurisdiction being involved—would lead to the State of South Carolina having different options than other States. I could understand that. But that is not how this has come before us.

Certainly, on behalf of the State of New York, they are very much opposed to the underlying language in the DOD authorization. I want to express the State's opposition.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Gov. George Pataki, dated May 6, 2004, addressed to Senator LEVIN, as well as an editorial from the Buffalo News dated May 10, 2004.

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

STATE OF NEW YORK,  
Albany, NY, May 6, 2004.

Hon. CARL LEVIN,  
Ranking Member, Armed Services Committee,  
Washington, DC.

DEAR SENATOR LEVIN: I urge you to oppose language proposed by the Department of Energy (DOE) in the FY05 Department of Defense Authorization Act that could allow DOE to reclassify high level radioactive waste contained in underground tanks at several DOE sites across the country, including the former spent nuclear fuel reprocessing facility at West Valley, New York. In July 2003, a federal district court ruled that DOE's order permitting such reclassification violates the Nuclear Waste Policy Act. DOE has appealed that decision to the United States Circuit Court of Appeals, and the appeal remains pending. New York and the States of Washington, Oregon, Nevada, and South Carolina filed an amicus brief in that case opposing DOE's position that it has the authority to reclassify high level radioactive waste in order to shirk its responsibility to safely remove it.

The reclassification of high level radioactive waste would allow DOE to leave the high level waste in the ground where the tanks are located, instead of shipping the high level waste to a federal repository, as required under the Nuclear Waste Policy Act. This reclassification would be particularly egregious at West Valley, where DOE is proposing to close underground storage

tanks containing thousands of gallons of radioactive material, and then leave it to New York State to monitor and maintain the closed tanks to protect the groundwater for thousands of years.

While I am in favor of expediting the cleanup of radioactive waste, speed should not come at the expense of completing cleanups essential to protecting public health and safety. It is my understanding that there is sufficient work for DOE to do at all of the sites in question, including West Valley, while DOE works with the states, tribes, and public health and environmental advocates to develop final cleanup solutions that are acceptable to all parties.

Very truly yours,

GEORGE E. PATAKI,  
Governor.

[From the Buffalo News, May 10, 2004]

DANGEROUS GAMES—FEDERAL EFFORT TO BURY NUCLEAR WASTES AT WEST VALLEY IS UNCONSCIONABLE

The federal Department of Energy is trying to use administrative sleight of hand to avoid its responsibility in the cleanup of nuclear waste at West Valley and several other states.

This contemptible effort involves downgrading the threat of nuclear waste, thereby allowing the government to bury that dangerous material at West Valley and other sites instead of shipping it to a permanent repository as called for in a 1982 law.

Fortunately, New York Sens. Charles E. Schumer and Hillard Rodham Clinton recognized this downgrading for what it was, a threat to West Valley and surrounding areas from the possibility of future leakage of this radioactive material. After they protested the legislation, Sen. Lindsey Graham, a Republican from South Carolina who introduced the bill that would have allowed the DOE to downgrade the threat of nuclear wastes, altered his bill. It now will apply only to the waste remediation project at Savannah River, S.C.

But that doesn't remove the danger. The House, essentially led by Republican Majority Leader Tom DeLay, still has to consider the DOE legislation. That cannot be a comforting thought to residents living near West Valley.

The department argues that the wastes should be classified as "high-level" based only on how they originated, not what they are. But what they are is still bad, still radioactive and still a federal responsibility.

Decades of expensive cleanup progress have improved safety at West Valley, but the work is far from over. The radioactive liquid wastes from a nuclear fuels reprocessing effort have been solidified into safer glass logs, which were supposed to be stored elsewhere. But the anticipated long-term storage facility at Yucca Flats is years from completion. Tanks and residual wastes still remain at West Valley, and an underground plume of water is contaminated with radioactive strontium. Covering wastes with concrete won't help that.

The 600,000 gallons of West Valley wastes have their counterpart in nuclear weapons production wastes at other sites—53 million gallons at Hanford on the Washington-Oregon border, 34 million gallons at Savannah River near Aiken, S.C., and 900,000 gallons at the Idaho National Engineering and Environmental Laboratory.

West Valley is the only site where the state shares the cost of cleanup.

Those costs may run into the tens of billions of dollars over decades, but the mess remains a federal issue. At West Valley, the risk includes not only the site's land but water drainage that flows into Buttermilk

Creek, Cattaraugus Creek and Lake Erie. Trace amounts of that radioactivity have been tracked as far as Buffalo.

The DOE also is threatening to withhold \$350 million in cleanup money from military-related cleanup efforts unless it gets a change in the definition of what constitutes high-level waste. That bit of weaseling does the department no credit. These sites were created by the federal government, and the federal government should not be allowed to walk away from them.

Acceptable cleanup at West Valley involves removal of all wastes and dismantling and removal of the contaminated structures that were used to process and store them. The government cannot be allowed to escape that responsibility through administrative trickery.

If the federal government truly could end a problem by renaming it, we'd already be at "mission accomplished" in Iraq.

Mrs. CLINTON. I am concerned how this is being portrayed, and I am sure it is meant to be a fix for a specific situation in South Carolina, but it is setting a precedent. That is what we do around here. We set precedents. It is hard to imagine that the Department of Energy would be satisfied only taking their new definition to one State. It would be South Carolina first, but then what would be next?

In particular, I am concerned about western New York where we have a site known as West Valley. Through the West Valley Act, the Federal Government and the State of New York agreed, decades ago, to partner to reprocess commercial nuclear waste. In many respects, this project has been a success, but in the last several years the site has been the subject of a bitter debate between the Federal Government and the State of New York. Why would that be? Because, in New York's view, the Department of Energy is not fulfilling its responsibilities for the cleanup obligations it assumed under the West Valley Act.

I bring this up because it is directly relevant, even though it is not the same act. The West Valley site has the same type of waste that the Department of Energy would be able to reclassify at Savannah River under section 3116 of the Department of Defense bill. That is no coincidence.

Rather, the language that the Department of Energy originally sought to include in both the Energy bill last year and the DOD bill this year would have provided the DOE with general authority to reclassify high-level wastes at Hanford, Savannah River, the Idaho labs, and West Valley.

Now, obviously, West Valley does not have the mind-boggling quantities that are present at other sites, but we are still talking about 600,000 gallons of waste. That is a significant amount. It is not a problem that New York State or the local governments in the area will be able to handle if the Department of Energy decides it can wash its hands literally of its responsibility.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. CLINTON. Mr. President, I ask unanimous consent for 5 more minutes.

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

Mrs. CLINTON. So when the Department of Defense markup approached, New York Governor George Pataki wrote to Chairman WARNER and Ranking Member LEVIN urging them not to include DOE's language in the bill.

While the provision was changed before the markup, and it is now intended only to affect the Savannah River site, DOE's original language would have affected West Valley and the other sites I have mentioned. We know that is exactly what DOE is aiming for. That is their goal and their objective, to try to reclassify nuclear waste.

So New York State remains opposed to section 3116 of the bill. On behalf of the Governor and my State, I am supporting the Cantwell amendment, because I think we need a different process to get to the point of determining what our nuclear waste classification system should be.

It is certainly a very difficult issue. I respect the Presiding Officer's concern about the cost. I share that concern. These are incredibly expensive undertakings that go on for decades. But, in effect, we are cleaning up the mess we made. We made it for military purposes. We made it for commercial purposes. We owe it to ourselves and future generations to do it as well as it can be done. I, for one, hope we can take this issue off the floor of the Senate by passing the Cantwell amendment. Then let's have the hearings in the Energy Committee and the EPW Committee. If there is a role for the Armed Services Committee, let's do it there, also, because, for me, this is setting a precedent that is very troubling, to have a matter this important decided in such a quick consideration in a closed markup of the Armed Services Committee. I hope we will support the Cantwell amendment, and then put our heads together to determine if there are differences between Savannah River, Hanford, and West Valley that merit different classifications. If there are new advances in dealing with how we would grout over the high-level nuclear waste—we know that has not worked in the past; maybe it can work now—then we can proceed in a more sensible manner that protects the health and safety of our people and preserves the environment in the areas where this waste is stored and dispose of it appropriately.

I thank the Senator from Washington for being such a leader on this issue.

The PRESIDING OFFICER. Who yields time?

The Senator from Washington.

Ms. CANTWELL. Mr. President, I thank the Senator from New York for coming to the floor and speaking on this issue, and for her leadership in the Senate Armed Services Committee.

Before my colleague from Washington and I got a whiff of this plan, because the Senate Armed Services Committee met behind closed doors on this issue and the language was considered behind closed doors—I appreciate the fact that the Senator from New York was there fighting, at the very

beginning, this language being put into the DOD bill. I appreciate her comments about the fact that basically we are taking a bill that is about defense authorization and now changing waste policy, and weighing down the process.

Why would we want to weigh down the process of moving something that is about supporting our troops and supporting our efforts with a change in nuclear waste policy? The House dealt with this responsibly. They said: If you want to look at this policy, let's study it and get information. So that is what the House has done.

Mr. President, I yield the Senator from Washington 15 minutes.

The PRESIDING OFFICER. The Senator from Washington is recognized for 15 minutes.

Mrs. MURRAY. Mr. President, I rise today in support of the Cantwell amendment. I thank my colleague from Washington State for her tireless effort on this issue and her commitment to assuring the Federal Government meets its responsibility to the people of our State by fully cleaning up the Hanford site.

Today, on the Senate floor, there is an unprecedented attack on my State's ability to ensure that we clean up the nuclear waste that threatens the families I represent. I am here to fight it. I am here to send a clear message to the administration: You should be back at the table working with all the States and all of Congress instead of trying to get the Senate to bail you out of a court case that you lost.

The handwriting is on the wall. The White House wants Washington families to accept a lower cleanup standard. They are holding our funding hostage. They are fighting us in court. They are pushing misguided legislation right here on the Senate floor.

If the White House wins this attempt to leave more nuclear waste untreated, then Washington State families will lose. That is why I am on the Senate floor with my colleague from the State, Senator CANTWELL, fighting the bill's nuclear waste provisions and standing up for my State.

I know my colleague from Washington agrees that the fastest, most effective way to clean up America's contaminated nuclear sites is for the DOE to work as a partner with the States. But sadly, we are here today seeing a new attempt by the White House to overreach its authority, to circumvent a court case it lost and blackmail my State into accepting a lower cleanup standard. That threatens the families I represent, and I am not going to stand for it.

What is at stake is the cleanup of the Hanford nuclear reservation in the triticities in Washington where we developed the plutonium that helped our country win World War II and the cold war. My grandfather settled in the triticities in 1916. My dad grew up there. My dad saw how much those communities sacrificed to help our Nation

have a strong military. Our country has an obligation to make those communities whole, not leave them with high nuclear waste that has leaked from underground tanks.

Any time someone has threatened our cleanup efforts, I have taken them on, and it doesn't matter if they are Democrats or Republicans. In the 1990s, when the Clinton administration proposed inadequate budgets for the Hanford cleanup, I took them on, and I used my position in committee and on the Senate floor to get my State the funding we needed. Every time the Bush administration has tried to cut Hanford funding, it had a fight on its hands from this Senator. It is one of the reasons I joined with my colleagues in 2001 to create the Senate Nuclear Cleanup Caucus so that all communities across the country that are dealing with nuclear waste will have a strong bipartisan voice in the Senate.

Time and again I have taken on this White House when it tried to hurt the families I represent, and I have the scars to prove it. In fiscal year 2002, the Bush administration tried to cut Hanford funding by \$57 million. I worked in committee and on the floor to deliver \$145 million more for Hanford than the President's budget. Then in fiscal year 2003, the Bush administration tried to cut Hanford funding by \$300 million. They also tried to hold our cleanup dollars hostage unless we would jump through the hoops they set out for us. With my support, the Senate rejected the White House's misguided attempts. And through my work on the Energy and Water Appropriations Subcommittee, instead of a \$300 million cut, we added \$433 million to the President's budget for Hanford.

Time and again I have used my position on the Budget Committee and the Energy and Water Appropriations Subcommittee to protect my State, and I have gone toe to toe with this administration over nuclear cleanup. In February of 2002, I sharply questioned the President's budget director on their plans to shortchange Hanford. In April of 2002, I chaired a hearing of the Energy and Water Appropriations Subcommittee to review the Bush administration's work at Hanford and other sites. So don't think for a minute that we in Washington State are going to accept these attacks on our ability to get a fast and thorough cleanup of the nuclear waste that is at Hanford.

For more than a year, the Department of Energy has been trying to change the ground rules so it can leave more waste untreated, declare victory, and walk away from our Nation's most contaminated nuclear sites. They tried to do it in the courts, and they lost. Today they are trying to do it on the floor of the Senate.

As my colleagues know, I have been raising warning flags about this effort by the administration for many months. I warned about it in August of last year. In September, upon passage of the energy and water bill, I once

again raised concerns about this matter. But this attempt is part of a much longer and disturbing effort.

I want to take a few minutes to review the history because it shows an administration that is venturing far outside the standard practice in ways that threaten my State and many others.

Let me first offer some background on the Department of Defense bill that is before the Senate. The underlying bill contains two provisions dealing with high-level nuclear waste and the Department of Energy's authority for cleaning up nuclear waste sites in our country. One provision seeks to withhold funding from States that don't agree to give up their regulatory oversight of certain high-level waste. The second provision deals directly with the cleanup of the Savannah River site in South Carolina. But in reality, it has serious implications for every nuclear waste site in the country.

The Department of Energy is making a great deal of noise about a court case it lost. The DOE is claiming it cannot proceed with cleanup sites in Idaho, South Carolina, and Washington State until legislation is passed that essentially overturns that court's decision.

I believe it is important to look at how we came to this position today, because it clearly illustrates how DOE has refused good-faith offers to resolve this issue between the original litigants, six States, and the Department. So let me give you all a short history of how the issue developed.

In 1999, the Department of Energy issued regulations giving itself broad authority to reclassify nuclear waste. Essentially, the Department wanted to make unilateral decisions about what it needed to treat and remove from leaking underground storage tanks and what waste it could leave in the ground forever. This would be a dramatic departure from our current system where DOE must work with State and Federal regulators on such matters.

To prevent that type of game playing, the Natural Resources Defense Council brought a lawsuit against the Department of Energy in Idaho district court. Before that case went to trial, the NRDC and the States offered to settle the issue. Unfortunately, the Department of Energy did not appear to take that effort seriously, and they rejected that cooperative approach. This is an important point. When the NRDC and the States offered to work out these issues outside of the court system, DOE rejected their offer. So the case went forward and DOE lost. They lost in July of 2003.

One would expect at this point that DOE would go back to the plaintiff and the States to settle the issues. But that is not what happened. Instead, the Department appealed to the ninth circuit and immediately came running here to Congress asking for legislation to do what the Idaho court had rejected.

Shortly after that decision, the Idaho district court sent out an order asking

parties to consider mediation. The NRDC and the States quickly agreed to the court's request. Amazingly, DOE rejected the court's request. I believe this is an absolutely critical point because it demonstrates the Department has never approached this issue with a mindset open to considering the States' concerns or those of the winning plaintiff. This is the second time DOE rejected offers by other interested parties to cooperatively address this issue. This was a tremendous opportunity to try and reach broad consensus, and DOE passed it up. The court's mediation offer would have had a neutral court-appointed mediator and a very good forum for resolving differences. In fact, this could still happen, and it should.

My point in walking through the history of the issue is to highlight the fact that the Department of Energy has had many opportunities to resolve this issue with the States and with the original litigants. It rejected State offers to resolve issues before litigation went forward. And more amazingly, it rejected the Idaho district court's request for parties to use mediation after it lost the case. The States and litigants accepted the court's offer. DOE rejected it, and that is inexcusable. Bluntly, to me, it appears that DOE has allowed this issue to be taken over by its legal people.

Recently environmental management Assistant Secretary Jesse Roberson testified to us that DOE and Washington State have agreed upon a plan for cleaning up the tanks, and that is largely correct. My State is very eager to work through this and for this work to proceed. The fact is DOE seems to be the only one that feels new legislation is needed. It is not. The original litigants and States want to proceed with cleanup and don't believe the Idaho district court ruling presents any obstacles.

Unfortunately, this tactic of fighting the states and trying to do an "end run" around the other partners in the cleanup is not new for this administration. The truth is that the fastest, most effective way to clean up these sites is for the DOE to work in partnership with the states and Federal regulators. Time and time again, however, this administration has tried to go it alone to the detriment of the residents who live near these contaminated sites.

The Department of Energy needs to get back to working in partnership with the states and federal regulators. A unilateral approach will simply cost more money and will only create further delays.

Governor Kempthorn of Idaho and Governor Locke of Washington are both opposed to the legislative language currently in the underlying bill. In fact, I have a letter last month from Governor Locke of Washington state outlining his concerns.

For years, Senators and Congressmen with these waste sites located in their states and districts have had to fight

tooth and nail to get adequate funding to ensure cleanup of these sites. Further, as a group we have had to fight back simplistic notions of erecting fences and calling the sites clean and safe. This constant struggle on behalf of our States and districts brought together bi-partisan groups of Members in both the House and Senate to fight on these issues.

The House and Senate Nuclear Waste Cleanup caucuses have made a tremendous difference in how the administration and our fellow congressional members view the cleanup program. I believe the strength of these caucuses have been our unity and commitment to protect our state and citizens interests in cleanup. We have worked together to make sure the federal government lives up to its responsibility to clean up these sites. But the language in this bill is a license for the federal government to walk away from those very responsibilities. Leaving more waste permanently in the ground is not a real cleanup.

What should be of equal concern to every member of this body is the attempt to make such a dramatic legislative end run around the Nuclear Waste Policy Act without any hearing. This is a real, substantive weakening of a carefully crafted law.

Yet, we are weakening it without any broad consensus in this body, any hearing before a Senate committee, or any mark-up before the committee of jurisdiction—the Energy and Natural Resources Committee.

I propose to my colleagues that we—remove the offensive language in the underlying bill, allow cleanup to proceed at all three sites, and then set about carefully considering any new legislation.

We need more time to address this issue in a more thoughtful manner. There is plenty of time for the Energy and Natural Resources Committee to hold a hearing on this issue and move consensus legislation if necessary. We should not give in to DOE's efforts to leverage out of Congress bad policy that gives away the legal protections our states and citizens have currently.

The blatant attempt by DOE to withhold funding and stop work should not be accepted by this Congress. Six States have filed an amicus brief opposing DOE's efforts. The Governors of Idaho and Washington object to DOE's efforts. The House has not accepted DOE's language.

I urge my colleagues to support our States and citizens, uphold the Federal Government's responsibility to full and real cleanup, and not reward DOE's unilateral approach to cleanup. This isn't just about court orders and bureaucratic agreements. This is an obligation that we have to communities in my state that produced the plutonium that helped our country win World War II and the cold war.

And there is no way that I am going to let the Bush administration or the Department of Energy or Senators

from other States do things that threaten the families I represent.

I have got a message for anyone who tries to threaten my State and force us to accept a lower standard for cleanup. Don't you dare try to tie our hands as we work to protect our communities. The only way we are going to clean it up—quickly and thoroughly is through a real partnership with all of the players. I urge the Department of Energy to get back to its job of cleaning up the waste, rather than wasting valuable time seeking help from Congress over a court case that it lost.

I urge my colleagues to reject the administration's approach and support this amendment. Don't tie the hands of communities who are working hard to clean up nuclear waste. Don't reward the Department of Energy's heavy-handed tactics. Don't leave the families I represent with untreated waste that threatens their health and safety.

I urge my colleagues to support this amendment.

Mr. ALLARD. Mr. President, I yield 10 minutes to the Senator from Idaho.

Mr. CRAPO. Mr. President, I want to weigh in on this issue and try to bring clarity to what it comes down to. As has been said by virtually every speaker today, this issue was caused as a result of the outcome of a lawsuit in Idaho with regard to the authority and jurisdiction and prerogatives of the Department of Energy in managing high-level waste as a result of reprocessing.

When the court case came down the way it did, it threw into question the manner in which the Department of Energy would proceed with its cleanup operations in three States—Washington, Idaho, and South Carolina. There are people on all sides of that issue. Some say it is clear what they have to do. There are those who say it is unclear. There are those who say we can find clarity if we take some time to work it through between the States and the DOE.

The bottom line is there was an issue. As a result of this issue, the question of funding availability for the ongoing cleanup became paramount. It was the DOE's position, as taken by the Office of Management and Budget, that if we didn't have a clear path forward on these cleanups, approximately \$350 million that would have been available and was authorized and appropriated for cleanup in these three States would not be available in the next year. So the first urgent hurdle that came up was we had to make clear that the cleanup had to go on while we are trying to resolve these issues.

The second issue that came up is, how do we resolve them? In that context, the Senator from South Carolina is exactly correct. Each of the three involved States—Idaho, my State; his State, South Carolina; and the State of Washington—got involved in negotiating with the Department of Energy. In fact, in the beginning, there was some concern from the States, as to whether they were going to be allowed

to be engaged in these negotiations, and Senator CRAIG and I, from Idaho, and the Senator from South Carolina, Senator GRAHAM, made it clear we would take no steps that our States did not authorize and approve. We actually provided the incentive for these negotiations to take place.

As we began moving forward, a dynamic developed where it became evident that the State of South Carolina, because of differences in the State of South Carolina's issues, was going to make it through to and reach an agreement with the Department of Energy. This agreement, as has already been indicated, is one supported by the Governor of South Carolina, the attorney general, the applicable environmental regulator, and many others in the State whose input the Senator from South Carolina has brought forth as part of the record.

The States of Washington and Idaho, however, were not able to reach an agreement. Then we came forward and this bill came to the floor, and we have now found ourselves here with the State of South Carolina having an agreement, and the States of Idaho and Washington not having an agreement, and the question as to the money.

A very important issue that seems to have immediately passed in the debate today is what happened in the beginning of the debate. Today, my amendment and the amendment of the Senator from South Carolina, joined in by Senator CRAIG, were passed with a voice vote. Those amendments did a very critical and important thing. They made it clear the authorized cleanup dollars, the \$350 million, were going to largely be able to be made available for continuing operations while we continue to try to work out these negotiations. I think that is a big part of the story today that needs to be made clear, because a big success for the country has been achieved already through those amendments.

Secondly, we are now dealing with the question of the South Carolina language. When you boil down the debate today, it comes down to a question we have been focusing on in Idaho. And that is, does the South Carolina language create a precedent or some kind of a pressure which would cause us to have to deal with this issue in the State of Idaho or the State of Washington any differently?

The answer to that is simply no. In fact, I think if there is any precedent in what is happening in this dynamic today, it is the opposite, because the State of Idaho, Senator CRAIG, and I made it very clear to the committee, to the Department of Energy, and to everyone—and Senator GRAHAM of South Carolina joined us in making it clear—there would be no language in this bill relating to the State of Idaho unless and until the State of Idaho agreed to such language and Idaho's Senators brought that language forward. That is why we have very clear language in the bill that says the language that deals

with South Carolina deals with South Carolina only.

Having said that, there still has been a debate promulgated around the country, and it is raging in Idaho with regard to this very issue. Is there any precedential value in the South Carolina language that would cause a threat to any other State, particularly Idaho or Washington?

Senator CRAIG and I strongly believe the answer to that is no, but there is a question about it. Idaho's Governor, Governor Kempthorne, has been quoted on this floor as raising the question. So Senator CRAIG and I, working with the Senator from South Carolina and other Senators, decided we would make it ironclad clear, if it was not so clear already.

This morning, before this whole debate began, I asked unanimous consent to bring a further amendment that would have made it crystal clear, if it is not already crystal clear, that there is no precedential value here. Let me say before I go through what this amendment is, we believe it was crystal clear already in the statutory language, and Senator GRAHAM, Senator CRAIG, and I and others have made it clear in the record developed in the debate on this bill that there is no precedential impact of this language because each State is dealing with its own circumstances and working out its own solutions with the Department of Energy.

Having said that, here is the language, frankly, we were not given unanimous consent to put into the bill this morning. The language would have said:

Nothing in this section shall alter or jeopardize the full implementation of the settlement agreement entered into by the United States with the State of Idaho. . . .

And then there is a description of that agreement.

Or the Hanford Federal facility agreement and consent order, or the Federal facility agreement with the State of Idaho.

Furthermore, nothing in this section establishes any precedent or is binding on the States of Idaho, Washington, or any other State for the management, storage, treatment, and disposition of radioactive and hazardous materials.

We were stopped this morning from getting unanimous consent—I still do not understand why—we were stopped this morning from getting unanimous consent to put this amendment into the amendment we adopted earlier dealing with the funding stream. That is not going to stop us from moving this language in an amendment and putting it on the bill to make it very clear to anybody who still has any doubt that there is no intention here of creating any kind of precedent or pressure with regard to any other State.

I want to make it very clear we have now provided this language to the desk in the form of an amendment. That amendment will immediately follow the action on this vote with regard to the amendment of the Senator from Washington. Presuming that we still

have an opportunity because of the vote, we will proceed with this amendment to make it very clear to anybody who has any lingering doubts that this Congress has no intention and this statutory language is not intended to create any precedential pressure or value, whether it be in court or in legislative negotiations, with regard to how Idaho, Washington, or, frankly, any other State will negotiate with the Department of Energy.

It should be absolutely ironclad clear already, but Senator CRAIG and I worked with our Governor, and he is supportive of this effort to resolve this issue, and we are going to make it very clear to the Nation that this debate over whether there is some precedential value here is simply a debate that is contrived to object to allowing South Carolina to reach its own solution.

It seems to me as we approach this issue, we must recognize that nothing will happen with regard to the management of radioactive material in the States of Idaho or Washington or, frankly, South Carolina, for that matter, unless and until those States agree. That is why Senator CRAIG and I have been on this floor advocating States rights and why we will continue to do so.

Senator CRAIG and I have made a very strong, a very clear position to the administration and to this Congress, which is that our Idaho agreement—which, by the way, was entered into in 1995 and ratified by this Congress—will not be weakened or altered or modified, and that no agreement will be reached on these management issues regarding radioactive materials and hazardous waste unless and until the State of Idaho agrees to that solution. Those two principles are hard rock, base positions Senator CRAIG and I have made very clear.

Like I say, if there is any question about what the precedent of these proceedings means, the precedent is that Senator CRAIG and I will not allow—we will not allow—this Congress to move forward with these kinds of issues.

The PRESIDING OFFICER. The Senator from Idaho has used 10 minutes.

Mr. CRAPO. I thank the Senator for this time. I encourage us to support the efforts to make certain these things will move forward and particularly when we bring this amendment that we were not allowed to bring this morning, we encourage the entire Senate to support it to help make this issue crystal clear to anyone who has lingering doubts.

Mr. ALLARD. Mr. President, I ask unanimous consent that the vote occur in relation to the Cantwell amendment at 2:10 p.m. today, with the remaining time until then divided so Senator CANTWELL controls her remaining time and the remaining time under the control of Senator ALLARD or his designee.

Mr. REID. Reserving the right to object, if I can ask the Chair, how much time does the Senator from Washington, Ms. CANTWELL, have?

The PRESIDING OFFICER. The Senator from Washington has 33 minutes, and the Senator from Colorado has 75½ minutes.

Mr. REID. I say to the distinguished manager of the bill, you are probably going to have about 10 minutes on your side.

Mr. ALLARD. We have one speaker remaining.

Mr. REID. No objection, Mr. President.

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

Mr. ALLARD. I yield the floor.

Mr. LEVIN. Will the Senator yield me 10 minutes?

Ms. CANTWELL. I yield the Senator from Michigan 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. LEVIN. Mr. President, the Department of Energy has over 100 million gallons of high-level radioactive waste stored in 177 underground storage tanks, many of which are leaking. The Department of Energy and its predecessors have been generating and storing this high-level radioactive waste for 50 years.

The high-level radioactive waste is stored basically at three sites—Idaho, South Carolina, and Washington. It was generated by years of reprocessing nuclear reactor fuels to recover plutonium and highly enriched uranium for use in nuclear weapons and other defense purposes.

The DOE has a small amount of highly radioactive waste stored in two tanks in New York that was generated as a result of a failed effort to process spent nuclear fuel from commercial nuclear power reactors.

At the time the Nuclear Waste Policy Act was debated, the Department of Energy wanted the ability to reclassify high-level radioactive waste, including sludge, to low-level or waste incidental to reprocessing, for example. Congress denied this authority to the Department of Energy when the Nuclear Waste Policy Act was adopted.

The high-level radioactive waste that is stored in the Department of Energy tanks is highly radioactive. According to the State of South Carolina Department of Health and Environmental Quality, the 37 million gallons of high-level radioactive waste at the Savannah River site contain 426 million curies of radioactivity.

The Department of Energy was required under its obligation to clean up the nuclear weapons complex to pump the liquid waste out of those tanks. The layer of sludge, semihard material that was generated over the years as solids in the waste that sank to the bottom of the tanks, was included. It is to be left if the DOE has its way. They would like to leave that sludge in the tanks forever. They want to cover the solids with grout and declare the tanks are cleaned up. But by law, by the Nuclear Waste Policy Act, that sludge is high-level radioactive waste and, as such, must be disposed of as high-level radioactive waste.

This sludge accounts for only 8 percent of the volume of material in the tanks, but it accounts for over half of the radioactivity. So under the DOE plan, over half of the radioactivity in the tanks at Savannah River would remain in the ground, covered by grout, presumably forever.

Again, this sludge is high-level radioactive waste as defined in the Nuclear Waste Policy Act. So for the Department of Energy to succeed in leaving the sludge at the bottom of the tanks, the waste has to somehow or another be redefined. So they issued an order to DOE under which it gave itself the authority to reclassify high-level radioactive waste. That way it could leave the sludge in the tanks.

Under that order, the Department of Energy would have reclassified the high-level radioactive waste in the tank—the sludge—either as low-level radioactive waste or as waste incidental to reprocessing activities. By issuing that order, the Department of Energy sought to give itself what Congress had previously denied it, which was the authority to reclassify high-level radioactive waste.

So the lawsuit began with the Natural Resources Defense Council suing the Department of Energy in Federal district court in Idaho, claiming that the Department of Energy did not have the authority to reclassify high-level radioactive waste and that the sludge, as high-level radioactive waste, had to be disposed of in an NRC licensed geologic depository. The States of South Carolina, New York, Washington, and Idaho, the States where the waste is stored, and other States, filed friend-of-the-court briefs on behalf of the Natural Resources Defense Council. The Federal district court in Idaho ruled in favor of the States and against the Department of Energy. The Department of Energy has appealed that decision.

The Department of Energy, in an effort to force States to accept the notion that it should be allowed to reclassify waste, has determined in its budget request to hold hostage the funds that were to be used to pump the liquid waste from the tanks until the States resolved the lawsuit in the DOE's favor or that there would be legislation giving the DOE the authority to reclassify the high-level radioactive waste.

Senator CANTWELL's amendment would strike the section in the bill that would allow the Department of Energy to ignore the law. The law says it is high-level radioactive waste.

Section 3116 in the bill has many important provisions, but there are not six more important words in this section than the words "notwithstanding any other provision of law." What that means is that notwithstanding the Nuclear Waste Policy Act or perhaps a number of other environmental laws, the Department of Energy is allowed to enter into contracts and agreements such as they have with the State of South Carolina.

Now, one can quibble as to whether that is an amendment of the law. I be-

lieve it has been argued on the floor of the Senate today that this language in 3116 does not amend the Nuclear Waste Policy Act. One can perhaps argue that, but it is a quibble because the law or the section we are talking about by its very words allows the Department of Energy to ignore the Nuclear Waste Policy Act. Whether that constitutes an amendment is not the point. It is an effective amendment of the law for another law to come along and say one can ignore the first law. That is what this language does. It says:

Notwithstanding any other provision of law, with respect to material stored at a Department of Energy site at which activities are regulated by the State pursuant to approved closure plans or permits issued by the State, high-level radioactive waste does not include radioactive material resulting from the reprocessing of spent nuclear fuel that the Secretary of Energy determines . . .

Then they go 1, 2, 3, 4, which obviously the Secretary of Energy has already determined. That is what the issue is all about. It is whether we are going to maintain language in the bill which says that the law which exists as to what constitutes high-level nuclear waste can be ignored and that the Department of Energy is authorized to spend all the money in this bill—\$350 million—in carrying out activities which would be in violation of the Nuclear Waste Policy Act, except for the fact that section 3116 says, "notwithstanding any other provision of law."

The heart of this matter is that this language in the bill, unless it is stricken, authorizes the Department of Energy to spend all of the money we provide on activities which are inconsistent with the Nuclear Waste Policy Act. We should not be authorizing the Department of Energy to ignore the Nuclear Waste Policy Act by spending money pursuant to an agreement with South Carolina which is inconsistent with the Nuclear Waste Policy Act, activities which are not allowed by the Nuclear Waste Policy Act.

So those words, which sound awfully legalistic—and I guess they are—"notwithstanding any other provision of law," tell the Department of Energy they are hereby authorized to ignore the law that Congress wrote.

The Department of Energy and its predecessor tried to get the very authority that it now would have by contract if we approve that contract, notwithstanding the provision of the Nuclear Waste Policy Act which this Congress adopted and adopted very consciously to make sure that the waste—sludge—was included in high-level nuclear waste.

Finally, this language was debated quite heatedly in our markup at committee. There were a couple of close votes that were cast. In my judgment, the Senate Armed Services Committee is not the place where we either should be amending the Nuclear Waste Policy Act or authorizing the Department of Energy to ignore the Nuclear Waste Policy Act. I, therefore, support the Cantwell amendment and hope that this Senate adopts the amendment.

Mr. WARNER. Mr. President, on May 20, 2004, there was some question whether the Senate Armed Services Committee was the correct committee of jurisdiction to consider the matter of cleaning up and closing tanks filled with defense nuclear waste.

During the discussion on May 20, 2004, there were to have been printed in the RECORD materials including the President's budget request, appropriations acts, and authorization acts, which prove, irrefutably, that the funds for the cleanup and closure of the nuclear waste tanks at the Hanford Site in Washington, Idaho National Engineering and Environmental Laboratory, and the Savannah River Site in South Carolina, are appropriately within the jurisdiction of the Senate Armed Services Committee.

I will ask that this material be printed in the RECORD, today.

Additionally, I am including the pertinent portions of the Standing Rules of the Senate regarding committee jurisdiction. Listed under the section on the Committee on Armed Services it expressly includes "the national security aspects of nuclear energy;" under the section on the Committee on Energy and Natural Resources it expressly includes "nonmilitary development of nuclear energy;" and under the Committee on Environment and Public Works it expressly includes "nonmilitary environmental regulation and control of nuclear energy." I believe these Rules show clearly and unambiguously that the Senate Armed Services Committee is the proper committee to consider defense nuclear waste cleanup issues.

Finally, it is worth noting that, in 1982, the portion of the Nuclear Waste Policy Act dealing with defense nuclear waste was sent to the Senate Armed Services Committee for consideration.

For all of these reasons, I assert that the Senate Armed Services Committee is the correct committee to consider cleanup and closure activities concerning defense nuclear waste.

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

#### STANDING RULES OF THE SENATE

(c)(1) Committee on Armed Services, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations.
2. Common defense.
3. Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force, generally.
4. Maintenance and operation of the Panama Canal, including administration, sanitation, and government of the Canal Zone.
5. Military research and development.
6. National security aspects of nuclear energy.
7. Naval petroleum reserves, except those in Alaska.



8. Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces, including overseas education of civilian and military dependents.

9. Selective service system.

10. Strategic and critical materials necessary for the common defense.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to the common defense policy of the United States, and report thereon from time to time.

(g)(1) Committee on Energy and Natural Resources, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Coal production, distribution, and utilization.

2. Energy policy.

3. Energy regulation and conservation.

4. Energy related aspects of deepwater ports.

5. Energy research and development.

6. Extraction of minerals from oceans and Outer Continental Shelf lands.

7. Hydroelectric power, irrigation, and reclamation.

8. Mining education and research.

9. Mining, mineral lands, mining claims, and mineral conservation.

10. National parks, recreation areas, wilderness areas, wild and scenic rivers, historical sites, military parks and battlefields, and on the public domain, preservation of prehistoric ruins and objects of interest.

11. Naval petroleum reserves in Alaska.

12. Nonmilitary development of nuclear energy.

13. Oil and gas production and distribution.

14. Public lands and forests, including farming and grazing thereon, and mineral extraction therefrom.

15. Solar energy systems.

16. Territorial possessions of the United States, including trusteeships.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to energy and resources development, and report thereon from time to time.

(h)(1) Committee on Environment and Public Works, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Air pollution.

2. Construction and maintenance of highways.

3. Environmental aspects of Outer Continental Shelf lands.

4. Environmental effects of toxic substances, other than pesticides.

5. Environmental policy.

6. Environmental research and development.

7. Fisheries and wildlife.

8. Flood control and improvements of rivers and harbors, including environmental aspects of deepwater ports.

9. Noise pollution.

10. Nonmilitary environmental regulation and control of nuclear energy.

11. Ocean dumping.

12. Public buildings and improved grounds of the United States generally, including Federal buildings in the District of Columbia.

13. Public works, bridges, and dams.

14. Regional economic development.

15. Solid waste disposal and recycling.

16. Water pollution.

17. Water resources.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to environmental protection and resource utilization and conservation, and report thereon from time to time.

#### DEPARTMENT OF ENERGY FY 2005 CONGRESSIONAL BUDGET REQUEST

##### PROPOSED APPROPRIATION LANGUAGE

For the Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense site acceleration completion activities and classified activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; [\$5,651,062,000] \$5,620,837,000, to remain available until expended[: Provided that the Secretary of Energy is directed to use \$1,000,000 of the funds provided for regulatory and technical assistance to the State of New Mexico, to amend the existing Waste Isolation Pilot Plant Hazardous Waste Permit to comply with the Provision of section 310 of the Act]. (Energy and Water Development Appropriations Act 2004.)

##### EXPLANATION OF CHANGE

None.

#### FUNDING PROFILE BY PROGRAM

	FY 2003 comparable appropriation	FY 2004 original appropriation	FY 2004 adjustments	FY 2004 comparable appropriation	FY 2005 request
Defense Site acceleration Completion:					
2006 Accelerated Completions	1,234,037	1,248,453	-9,435	1,239,018	1,251,799
2012 Accelerated Completions	2,102,613	2,236,252	-36,914	2,199,338	2,150,641
2035 Accelerated Completions	1,811,563	1,929,536	-11,161	1,918,375	1,893,339

This PBS supports the mission of the high-level waste program, at the Savannah River Site, to safely and efficiently treat, stabilize, and dispose of approximately 37 million gallons of legacy highly radioactive waste. This waste is stored in 49 underground storage tanks (approximately 33.1 million gallons of radioactive salt waste and 3.9 million gallons of radioactive sludge waste). In addition, the Savannah River Site will: reduce the volume of high-level waste by evaporation to ensure that storage tank space is available to receive additional legacy waste volume from on-going nuclear material stabilization and waste processing activities; pretreat the high-level waste by segregating the waste into sludge, low curie salt, low curie salt with higher actinide content, and high curie salt with higher actinide content allowing less costly treatment methods to be used on the waste containing lower curie levels (radioactivity) and shorter lived radionuclides; vitrify sludge and high curie/high actinide high-level waste into canisters and then store and ship the canisters to the Federal Repository for final disposal; treat and dispose the low-level waste fraction resulting from high-level waste pretreatment as Saltstone grout; treat and discharge evaporator overheads through the effluent treatment facility; empty and permanently close in

place using grout all high-level waste tanks and support systems; and ensure that risks to the environment and human health and safety from high-level waste operations are eliminated or reduced to acceptable levels.

The end-state of this project will result in the permanent disposal of all the liquid high-level waste currently stored at the Savannah River Site as well as all legacy high-level waste from planned nuclear materials stabilization activities by FY 2019. It will also result in the permanent closure of the remaining 49 underground storage tanks by FY 2020 (two of the original 51 tanks have already been closed in place in FY 1997 using grout).

Because of uncertainties associated with a recent court ruling that finds the Department's plans to reclassify some high-level waste (Waste Incidental to Reprocessing) in violation of the Nuclear Waste Policy Act, the Department believes it is inadvisable to proceed with certain planned FY 2005 activities at this time. Therefore, those activities that are impacted by the court decision are presented in the High-Level Waste Proposal under the Defense Site Acceleration Completion appropriation including both the design and initial construction of the Salt Waste Processing Facility. Funding for this project will be requested only at such time as the legal issue is resolved.

In FY 2003 and FY 2004 this PBS included appropriations of \$4,842,000 and \$51,196,000, respectively, for design of the Salt Waste Processing Facility under line-item 03-D-414, Project Engineering and Design. Additionally, \$20,139,000 was appropriated in FY 2004 and \$43,827,000 is requested in FY 2005 for the construction of the Glass Waste Storage Building #2, line-item 04-D-408.

In FY 2005, the following activities are planned to support the accelerated cleanup of the Savannah River Site.

Fill 250 canisters with vitrified waste, complete fabrication of Melter Number 3, and place procurement contracts for Melter Number 4 at the Defense Waste Processing Facility.

Continue preparation of Sludge Batch 4 with the removal of bulk waste from three High-Level Waste tanks.

In support of the High-Level Waste system, continue capacity-based operation of the H and F Tank Farm Disposition and Effluent Treatment Projects.

Continue construction of an additional high-level waste canister storage facility (Glass Waste Storage Building II) in support of accelerated Defense Waste Processing Facility production.

Metrics	FY 2003	FY 2004	FY 2005	Cumulative complete FY 2005	Life-cycle quantity	FY 2005 complete (percent)
Liquid Waste in Inventory Eliminated (thousands of gallons)	0	1,300	1,900	3,200	33,100	10
Liquid Waste Tanks Closed (Number of Tanks)	0	2	0	4	51	8
High-Level Waste Packaged for Final Disposition (Number of Containers)	115	250	250	1,952	5,060	39



Key Accomplishments (FY 2003)/Planned Milestones (FY 2004/FY 2005).

Completed installation of Tank 18 bulk waste removal equipment (FY 2003).

Completed D&R of the neutralization dike and tanks at the 2H Evaporator and returned Tank 37 to service as a concentrate receipt tank for the 3H Evaporator (FY 2003).

Completed Tank 51 receipt of americium/curium material from F-Canyon (FY 2003).

Replaced the Defense Waste Processing Facility Glass Melter, and returned the Defense Waste Processing Facility to canister production (FY 2003).

Implemented the 10 CFR 830 Documented Safety Analysis for the High-Level Waste Tank Farms (FY 2003).

Restored Building 512S to operability (FY 2003).

Produced 115 canisters of vitrified high-level waste (FY 2003).

Regulatory close two high-level waste tanks (Tanks 18 and 19), which completes the closure of the first tank grouping (September 2004).

Produce 250 canisters of vitrified high-level waste (September 2004).

Prepare and feed Sludge Batch 3 to the Defense Waste Processing Facility (September 2004).

Complete 512-S modifications necessary to support Actinide Removal Salt Processing and begin hot operations with salt solutions (September 2004).

Complete the conceptual design for an optimal scale Salt Waste Processing Facility (September 2004).

Complete the Tank II Waste Removal Project and Bulk Waste Removal from Tank II to accelerate the preparation of Sludge Batch 4 (September 2004).

Complete the dissolution of low curie salt in Tank 41 (September 2004).

Pretreat and process 1,300,000 gallons of low-level radioactive salt waste into saltstone grout (September 2004).

Initiate construction of an additional high-level waste canister storage facility (Glass Waste Storage Building II) (September 2004).

Initiate dissolution of low curie salt in Tank 29 (September 2004).

Produce 250 canisters of vitrified high-level waste (September 2005).

Begin preparing tanks 4 and 6 for bulk waste removal (September 2005).

Complete bulk waste removal in Tank 5 (September 2005).

Prepare Sludge Batch 4 and initiate preparation of Sludge Batch 5 (September 2005).

#### FISCAL YEAR 2005 APPENDIX OF THE U.S. GOVERNMENT—DEPARTMENT OF ENERGY DEFENSE SITE ACCELERATION COMPLETION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense site acceleration completion activities, and classified activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; [\$5,651,062,000] \$5,620,837,000, to remain available until expended: Provided, That the Secretary of Energy is directed to use \$1,000,000 of the funds provided for regulatory and technical assistance to the State of New Mexico, to amend the existing WIPP Hazardous Waste Permit to comply with the provisions of section 310 of this Act. (Energy and Water Development Appropriations Act, 2004.)

2006 Accelerated Completions.—Provides funding for completing cleanup and closing down facilities contaminated as a result of

nuclear weapons production. This account includes all geographic sites with an accelerated cleanup plan closure date of 2006 or earlier (such as Rocky Flats, Fernald and Mound). In addition, this account provides funding for Environmental Management (EM) sites where overall site cleanup will not be complete by 2006 but cleanup projects within a site (for example, spent fuel removal, all transuranic (TRU) waste shipped off-site) will be complete by 2006.

2012 Accelerated Completions.—Provides funding for completing cleanup and closing down facilities contaminated as a result of nuclear weapons production. This account includes all geographic sites with an accelerated cleanup plan closure date of 2007 through 2012 (such as Pantex and Lawrence Livermore National Laboratory—Site 300). In addition, this account provides funding for EM sites where overall site cleanup will not be complete by 2012 but cleanup projects within a site (for example, spent fuel removal and TRU waste shipped off-site) will be complete by 2012.

2035 Accelerated Completions.—Provides funding for completing cleanup and closing down facilities contaminated as a result of nuclear weapons production. This account provides funding for site closures and site specific cleanup and closure projects that are expected to be completed after 2012. EM has established a goal of completing cleanup at all its sites by 2035.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

##### DEFENSE ENVIRONMENTAL MANAGEMENT (SEC. 3102)

The House bill contained a provision (sec. 3102) that would authorize \$6.8 billion for the Department of Energy for defense environmental management (EM) activities for fiscal year 2004, including funds for defense site acceleration completion and defense environmental services.

The Senate amendment contained a similar provision (sec. 3102) that would authorize \$6.8 billion for defense environmental activities.

The conferees agree to authorize \$6.8 billion for defense environmental management, the amounts of the budget request, including \$5.8 billion for defense site acceleration completion and \$995.2 million for defense environmental services.

The conferees support the continuing efforts of the Department of Energy to accelerate cleanup at all of the environmental management (EM) sites, which will result in reducing risk to the environment, workers, and the community, shortening cleanup schedules, and saving tens of billions of dollars across the EM complex. The conferees also support a policy that would take funds made available due to the cleanup completion of Fernald, Mound, Rocky Flats and other sites, and roll them into the remaining EM sites to help accelerate their completion even sooner, if possible.

#### MAKING APPROPRIATIONS FOR ENERGY AND WATER DEVELOPMENT FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2004, AND FOR OTHER PURPOSES—CONFERENCE REPORT—ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

##### DEFENSE ENVIRONMENTAL MANAGEMENT

The conference agreement provides a total of \$6,626,877,000 for Defense Environmental Management instead of \$6,748,457,000 as proposed by the House and \$6,743,045,000 as proposed by the Senate. This funding is provided in two separate appropriations: \$5,651,062,000 for Defense Site acceleration Completion and \$991,144,000 for Defense Environmental Services, and also includes a rescission of \$15,329,000 from the Defense Environmental Management Privatization account.

#### DEFENSE SITE ACCELERATION COMPLETION

The conference agreement provides \$5,651,062,000 for defense site acceleration completion, instead of \$5,758,278,000 as proposed by the House and \$5,770,695,000 as proposed by the Senate.

Accelerated Completions 2006.—The conference agreement provides \$1,248,453,000, an increase of \$3,282,000 over the request to reflect the adjustment for accelerated Oak Ridge cleanup activities.

Accelerated Completions 2012.—The conference agreement provides \$2,236,252,000, an increase of \$7,938,000 over the request to reflect the adjustment for accelerated Oak Ridge cleanup activities.

Accelerated Completions 2035.—The conference agreement provides \$1,929,536,000, a reduction of \$49,061,000 from the budget request to reflect the adjustment for accelerated Oak Ridge cleanup activities.

From within available funds, the conferees direct the Department to provide a total of \$6,000,000 for worker training programs and supporting communications infrastructure, oversight, and management activities at the Hazardous Materials Management and Emergency Response Training and Education Center. The conferees direct the Department to provide \$8,500,000 for the Hazardous Waste Worker Training Program from within available funds. The conference agreement provides \$750,000 from within available funds to the State of Oregon for its oversight activities related to the Hanford cleanup.

The conferees direct the Department to pay its title V air permitting fees at the Idaho National Laboratory consistent with prior year levels, and to bring the Pit 9 litigation to an end as expeditiously as possible. The conference agreement includes the budget request of \$1,356,000 for activities at Amchitka Island, Alaska.

Waste Isolation Pilot Plant.—The Department's activities at the Waste Isolation Pilot Plant (WIPP) are primarily funded under the Accelerated Completions 2035 sub-account within the Defense Site Acceleration Completion account. From within available funds for Accelerated Completions 2035, the conferees direct the Department to provide an additional \$3,500,000 to the Carlsbad community for educational support, infrastructure improvements, and related initiatives to address the impacts of accelerated operations at WIPP and an additional \$1,500,000 to consolidate at Carlsbad all record archives relevant to the operations of WIPP and the transuranic waste in WIPP.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from Colorado.

Mr. ALLARD. Mr. President, I yield 8 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 8 minutes.

Mr. GRAHAM of South Carolina. I thank the Senator for yielding.

The long and short of this is that all three States—South Carolina, Idaho, and Washington—have been negotiating to define waste classification standards in their States for a long time.

On January 26, 2004, Congressman HASTINGS, Senator MURRAY, and Senator CANTWELL sent a letter to Governor Locke and Secretary Abraham that asked them to work together to resolve the ongoing dispute over waste classification. Please listen to what I

just said. There has been a process in place in Washington since January 26 to try to find a way to reach an agreement with the Department of Energy to classify waste in that State so cleanup can move forward.

The letter did not say, call LINDSEY GRAHAM from South Carolina and see if you can get his permission. It did not say, call LARRY CRAIG and MIKE CRAPO. It said, call Spence Abraham and see if you all can work together.

The Governor wrote back to the Deputy Secretary of Energy and said that the Governor's chief of staff would be the point of contact for negotiations February 12, 2004. From mid-February to April 13, they have been sending drafts back and forth about how to define cleanup and what is clean in Hanford. They have been doing the same thing in Idaho. We have been doing the same thing in South Carolina. All of us have one thing in common: We oppose the Department of Energy's efforts to unilaterally determine what "clean" is and walk away.

That is why we had the lawsuit. That is why South Carolina joined as a friend of the court. The letters my friend from Washington read, about South Carolina objecting to DOE's moving forward, was an objection to a unilateral process where DOE would have the final say about how to clean up the tanks and remove waste.

All of us in all three States believe we should be involved. But it has never been the policy or the process where all three States have to agree to the same standard because, Members of the Senate, that is impossible to achieve because the waste scenario and the waste stream problems in Idaho are completely different.

The film we are trying to leave behind in South Carolina, that inch and a quarter of film that will be left in South Carolina and not sent to Yucca Mountain, doesn't exist in the tanks in Idaho, and the tanks in Washington have a totally different design.

Three States have been working in the defense arena to find a common ground with DOE to make sure the States don't get left holding the bag, and we also made sure no State can take over defining "high-level radioactive waste." That stays with the Federal Government. But the agreement we have achieved said the State of South Carolina has the final permitting authority and you cannot leave those tanks in a condition that will hurt South Carolina.

They are trying to do the same thing in Washington and Idaho. I hope they get there. But if they do get there, they are going to have to do the same thing I am doing today. They are going to need legislative language blessing that agreement. There will be an amendment of the Waste Policy Act. That is going to have to happen. In 1995, legislative language was brought to the Senate to bless an agreement Idaho achieved regarding another waste stream. That is going to have to

happen. I hope I will be man enough, Senator enough, not to stand in the way. If the Governor of Idaho, the Governor of Washington, the attorney general, the environmental regulators, the chamber of commerce, the mayor of the Hanford community, the communities involved in Idaho—if they say we have a deal that doesn't affect or prejudice my State or change nuclear policy in any significant way, I hope I will say: Go forward; God bless you; I am glad you were able to reach an agreement to clean up your States because you fought very hard to win the cold war.

For those who are worried about the safety issue in my State, I appreciate the concern. I did not make up this scenario. I am reacting to input from my State. I have been involved in the negotiations. They called me. They drafted the language and they have told me, and sent letters—the Governor and the environmental regulators: We have a deal, LINDSEY, that we can live with. We have already closed up two tanks of the 51. So we know in South Carolina, unlike the other two sites, we can extract the liquid waste, grout the tank, and have it not affect the ground water because we have done it twice and we are trying to move forward at a faster rate.

They are telling me: LINDSEY, we have a deal that will allow us to clean up the tanks and get the liquid waste out 23 years ahead of schedule and save \$16 billion.

I say to my colleagues, I cannot make that happen unless you allow it to happen. If it does happen in Idaho and it does happen in Washington, and I believe it will one day, you are going to have to do the same thing for those States.

To my friends in New York, the waste stream you are discussing and that you talked about on the floor is not remotely similar to the waste stream we are talking about here. This is defense waste.

To my friends in Maine who have spent nuclear fuel, it is covered under a whole different section. Here is what you have to understand. If you have spent fuel rods in your State, defense waste has priority in Yucca Mountain. If we are going to insist the cleanup standards be beyond what good science says and we are going to take that extra 23 years and spend that extra \$23 billion, you are going to run out of space in Yucca Mountain to send your spent fuel.

I say to my friend Senator ENZI, thank you. Every State has an obligation to help where it can. South Carolina can retain the film on the bottom of these tanks in a safe and sound manner, and it is not necessary to extract it, take 23 years, and spend \$16 billion to send it to Nevada. We can safely take care of it in South Carolina. We have done it twice and we want to do it more so we can get this waste out of the tanks, because the biggest threat to my State and to all the States is seepage and leakage of the waste.

Washington has a problem. Of all the States, Washington needs to reach agreement to make these tanks dry. I don't want to be a Washington. I don't want to look back 10 years from now and have this process slowed down to a crawl and my ground water get contaminated.

The NRC has said this is safe and that what is left in the tank is no longer high-level waste; it meets the definition of low-level waste. About hearings, Senators ALLARD, INHOFE, DOMENICI, have been talking about the plans to clean up the tanks in three States for well over 4 years. The Department of Energy has been working with each State with a separate cleanup plan for a long time. They have been negotiating with Washington since January. We have discussed how you would treat South Carolina, Idaho, and Washington through hearings in an exhaustive manner.

If you make us have more hearings, I am going to be right back here asking you to bless this agreement because the agreement has been a collaborative process that has been going on for 2 years and all you are going to do is throw us in chaos because if we can veto each other, then we will never clean up. If you are insisting on a standard that fits all of these sites, it will never be reached.

Mr. President, I commend to my colleagues the transcripts from the Armed Services hearing of February 25, 2004—what we talked about, the waste cleanup process; Senator DOMENICI's Energy and Water Subcommittee hearing of March 31, 2004, same topics discussed; and pages 1 through 47 of the EPW committee hearing of July 25, 2000.

My colleagues, I need your help. I want to make sure the tanks don't leak. We have a sound plan that will not affect your States. It will only help mine. I want to help you. Please help me.

The PRESIDING OFFICER (Mr. SUNUNU). Who yields time?

Mr. LEVIN. Mr. President, how much time do both sides have?

The PRESIDING OFFICER. The proponents control 22½ minutes. The opponents of the amendment control 1 minute. Who yields time? The Senator from Washington.

Ms. CANTWELL. Mr. President, I appreciate my colleague's characterization of this issue. I think we have had somewhat of a debate this morning. I think probably for most people, including my colleagues, what we have done is shown that this is a very complex issue, a very complicated issue, and that it needs more discussion than a few hours on the Senate floor, because what is at stake here is the lives of individuals who are living in these communities, whose ground water may be contaminated, whose safe drinking water in the future may be contaminated at levels that are not sustainable in these areas.

Let's recap for a second where we have been in this debate, because I will

have printed in the RECORD, for my colleagues to understand, the 1989 agreement between Washington State and DOE, and the 1995 agreement between the State of Idaho and DOE on cleanup.

Let me point out, we have agreements. We have agreements with the Department of Energy on cleanup. They are agreements that basically say: DOE, keep making progress on cleanup and please continue to follow the Federal statute. The issue at hand is that somehow my colleague from South Carolina has been persuaded by the Department of Energy—an argument the State of Washington refused to buy, I might add, an argument the State of Idaho refused to buy—that somehow cleanup means we have to reclassify waste.

So, yes, States in this country have continued to push DOE on agreement. We had agreements on the books. It is unfortunate that DOE has not been able to be trusted to get cleanup done in a timely fashion. That is why States have continued to push them.

Agreements are in place. And our State continues, as Idaho and South Carolina admit in a court filing that they do not trust DOE and that DOE should move forward and it doesn't need the sledge hammer of this legislation. That is South Carolina's own testimony in court and its own testimony to the Department of Energy in a letter.

Why are we having this discussion then? We are having this discussion because, even though agreements are already in place and DOE is failing to live up to cleanup, DOE would like to now change the rules of the game and change the definition of high-level waste.

If you think about it, the point of the Senator from South Carolina is that his State should have the right to agree with DOE to clean things up, and that he is not changing current law.

If that were the case, why are we here arguing today? The Senator from South Carolina and DOE should just go and proceed. The reason they do not is because the Senator from South Carolina knows all too well that his language is changing current law and that he needs that change if DOE wants to leave high-level waste in the ground.

The point is for all Americans to understand that nuclear waste in States such as Washington, Idaho, and South Carolina only have the authority to argue these issues about cleanup within the framework of a Federal statute. That Federal statute is the Nuclear Waste Policy Act.

What the Senator from South Carolina is doing in the underlying bill is threatening the rights of States, including his own State, to protect itself from DOE as DOE reclassifies waste. It leaves our States at jeopardy. It leaves all States where there are nuclear facilities in jeopardy because of DOE's insistence that the nuclear waste policy definition of spent nuclear fuel does not have to meet the standard of high-

level waste. It leaves all of these States with a debate with DOE that DOE can say this waste is no longer high level. We can transport it. We can do whatever we want with it. We can fill tanks with grout. It is a very dangerous precedent.

The Senator is getting rid of the Federal framework. No State has the ability to negotiate on its own a Federal cleanup standard. Imagine if the State of Michigan discussed with EPA this is what the clean air standard should be for the State of Michigan? What if Florida and the EPA decided what safe drinking water standards are for the State of Florida? We have never operated that way.

The Senator from South Carolina refuses to address that his State can only deal with leaving tank waste in the ground, which he is proposing we do, by changing the Federal standard. The Department of Defense authorization bill changes the definition of high-level waste. It is changing the Federal standard. It is then leaving those States subject to DOE's whim on how much ground waste and water pollution will be there in those tanks at Hanford, at Savannah River, and in Idaho.

The Senator talks about contaminated ground water. His ground water in Savannah River is already contaminated. The ground water in Washington State at Hanford is already contaminated. There are other parts of the country with high-level contaminated waste.

The question is, What are we going to do to hold DOE's feet to the fire to make sure they get this waste cleaned up? This body, for the last 3 years, has seen various changes at this administration level try to undermine current environmental standards and environmental law. The current environmental law of the day regarding nuclear waste is the Nuclear Waste Policy Act. The Senator's language in the underlying bill threatens that language.

Washington State agreements, which have been fighting DOE to live up to the Nuclear Waste Policy Act, will no longer be able to argue that effectively, nor will Idaho, unless we pass my amendment.

My amendment specifically says we are not changing the definition of high-level waste but the Department of Energy needs to have dollars appropriated, which this bill authorizes, for \$350 million of cleanup, and the DOE must spend that money on cleanup. We actually crafted that language with Senator LEVIN with the help and support of Governor Kempthorne of Idaho. We put the Kempthorne language in our amendment. Why did we do that? Because we wanted to be clear with the Kempthorne language that we were not going to be held hostage; Idaho, Washington, and even Savannah River were not going to be blackmailed by DOE to saying, they only get the cleanup dollars if, in fact, they agree to a lesser standard which allows us to leave more

pollution in the ground water in your State. We refused to agree to this policy and be held hostage by DOE.

The Senators from Idaho do not need any other language. They want their State protected on this issue. They want their dollars for cleanup protected. The Cantwell amendment protects the State of Idaho. I am sure that is what the response will be from the State of Idaho and the State of Washington and others as they look at this policy. It corrects onerous activities that happened when the Defense authorization bill moved through the Senate Armed Services Committee and marked up policy changes to environmental policy of which that committee does not have oversight.

My colleagues can say we have had lots of debate about cleanup and lots of budget discussions. I don't think anyone can seriously stand in the Senate and say the change in definition of hazardous nuclear waste is the jurisdiction of the Senate Armed Services Committee. It is not. The Parliamentarian has already ruled on that. That is the jurisdiction of the Energy Committee.

My colleagues on the other side of the aisle are ignoring the hard facts. This is not about individual States having agreement; it is about changing the Federal standard for nuclear waste cleanup.

This administration and DOE ought to be embarrassed. They are trying this sneaky process behind closed doors and putting language in that now we all have to come to the Senate and fight to take out.

What Member wants to vote against the Defense authorization bill that has this language in it? What does this language have to do with troops in Afghanistan or troops in Iraq? What does it have to do with giving men and women the support they deserve to fight for our country? It is creating a controversy around change to a Federal policy that has not been debated.

There is no Lindsey Graham bill or bill by any of my other colleagues that has the Graham language in it that was brought before the Energy and Natural Resources Committee and debated. My colleagues are wrong on this.

Let's see what the rest of America is saying about this because I guarantee this debate will not end today. It is very important the third parties that have looked at this issue have validated exactly what my colleagues on this side of the aisle are saying about this issue.

In fact, the Savannah Morning News says:

It's good for the government to save billions of dollars and to clean up nuclear waste. But a money-saving plan that does a poor job of tidying up is no bargain.

The Minneapolis Star Tribune said:

Quicker and cheaper can be valid considerations . . . but only after the highest level of safety has been guaranteed. And those guarantees must satisfy national standards, not the terms of a side deal.

That is exactly what this is, a side deal between a State and an agency

that has neglected its cleanup responsibilities for years. The court said they needed to move forward but not by changing the definition of high-level waste that they did not have, but move forward on the plans they have in place. This is a side deal.

The Boston Globe said:

If the Senate isn't careful, it could vote this week to allow the Department of Energy to cover some of the nation's most hazardous nuclear waste with grout instead of treating it properly. . . . The Senate should strip the defense spending bill of this toxic measure.

The Oregonian, from another part of the country that is greatly impacted by this issue because of the Columbia River and the huge impact that river has, already with that plutonium leaked into the river, said:

It's remotely possible that [this] policy is worth debating, but this sneaky approach suggests the Department of Energy isn't interested in a public discussion of the issue.

What did the Seattle Times say? In our State, we have been battling DOE for years because they always want to take a shortcut. They always want to take a shortcut and say we can do it quicker. What are the Washington agreements about? The Washington agreements are about forcing DOE to live up to Federal cleanup standards. That is what the agreements are. In fact, they always try to get out of it. The Seattle Times wrote:

The Senate should slap down a sneaky ploy . . . that would give the Department of Energy the right to single-handedly change the rules about how it handles highly radioactive waste.

The Washington Post took a look at this situation and said:

. . . a situation in which states compete to reach private agreements with the Energy Department and then rush to put them into legislation is untenable.

What did the Atlanta Journal Constitution say? It is a State that is affected by the Savannah River which flows into their State. The Savannah River already has pollution problems with radionuclides affecting fish and affecting safe drinking water conditions. It said:

. . . words do matter, and some semantic contortions can be dangerous. Recent efforts by the U.S. Department of Energy to circumvent the 1982 Nuclear Waste Policy Act by slipping through a linguistic wormhole are an outrageous case in point.

What about the Omaha-World Herald? They know a little bit about this issue. They have debated the nuclear waste issue. They said:

We hope Congress will listen to common-sense views . . . and yank this terrible idea back out of the bill. It's not merely wrong-headed; it would result in a hazard to the public well-being.

And there are newspapers in my State weighing in on this issue. The Tri-City Herald, which is in the heart of this cleanup effort at Hanford, the largest tank waste cleanup in the country, where we already have 1 million gallons of tank waste leaking in a plume that is an 80-square-mile area that is going to the Columbia River, said:

Senators considering [this issue] should ask themselves this: If reclassification really is such a great and worthy idea, why isn't the Energy Department making the argument in the light of day?

If they really thought reclassifying waste was such a great idea, why don't they put a bill before this legislative body saying so, driving it through the normal channels and the normal process of legislation? They know they do not have this authority. They tried by their own executive administrative order to do it, and the courts told them they did not have the ability to do it. But instead of coming through the proper channels with a bill and legislation, they have chosen, instead, to sneak language into the Defense authorization bill—probably one of the most unpatriotic things I can think to do.

These men and women gave a serious amount of their lives to fighting in World War II and the cold war by producing plutonium and giving us a tool to win in those areas. They did that in record time. Now they expect this country, just like businesses all across America, to clean up their waste. We expect the Federal Government to clean up their waste. We do not expect a short-end process where they say you can simply grout over nuclear radioactive waste and put sand and gravel on top of it and somehow stabilize the situation.

So the Tri-City Herald said Senators should ask themselves this: If reclassification is such a great idea, why don't they make the argument in the light of day?

What did the Idaho Statesman say? The Idaho Statesman said:

The Energy Department's shameful record on this issue—

Why would a paper like the Idaho Statesman say it is a "shameful record"? Because it is true. DOE fails to live up, time and time again, to the process of moving forward, and so States have had to enter into agreements that comply with Federal law—not circumvent Federal law, but comply with Federal law—and hold DOE's feet to the fire and say: DOE, you must meet the Federal standard and move forward. So the Idaho Statesman said:

The Energy Department's shameful record on this issue is even more troubling. Remember recent history . . . Suggesting there's no precedent—and no potential effect on Idaho—is politically naive.

That is from the Idaho Statesman.

What did the Bangor Daily News say? Well, the Bangor Daily News said:

The long-term implications of such an important change in waste-storage policy are too serious to give the issue a free ride in a spending bill.

So we have heard from over 20 newspapers across America. My colleague from New York submitted editorials from both the New York Times and the Buffalo News. I talked about the Minneapolis Star earlier and their comments on this issue.

Show me a newspaper in America that is saying this is a good policy. In

the limited amount of time we have had to get this debate in front of the public, the public has basically, in these editorials and letters to the editors, raised serious questions about this policy, serious questions about why the Senate would be moving forward on this issue.

As my colleague, the senior Senator from Washington, mentioned earlier, the House of Representatives, when posed with this question, figured it out and said: Listen, if this is such a good idea, let's have a study. Let's have a study and analysis of this issue and see exactly what people can come up with as far as science. Well, that is what is in the House version of this legislation—a study—because my colleagues over there understood that this was a change to Federal policy.

So what about the underlying effects of this legislation if the Cantwell amendment is not adopted? The Cantwell amendment says two things: We are not changing the definition of what is high-level waste and the definition of spent nuclear fuel. We are leaving that the same. But we are giving the authorization and requiring that DOE spend \$350 million on cleanup in Washington, in Savannah River, and in Idaho. So we are pushing them ahead. So there is no holdup on cleanup, no issue. DOE, get back to your job of taking the waste out of the tanks and putting it into a glassification and storage process. Why are we spending billions of dollars on a glassification process—that is, the process of taking this spent fuel and turning it into glass logs and moving it into storage—if we are going to leave so much of it in the ground in these tanks? Why would we be spending so much money on it?

As my colleagues are trying to paint a picture that somehow our language does not take care of the blackmail clause, we are simply not—in Washington or in Idaho—going to be blackmailed by DOE into sneaking in language or having our funds held up. As my colleague from Washington said, we have successfully, as a caucus, fought these efforts in the past and have not been peeled off by DOE, that likes to play a switch-and-run game, just because OMB or somebody says we don't have the money in the budget to do the cleanup.

Well, nuclear waste cleanup costs money. The plume in our State already has 1 million gallons of ground water leakage; I will point out to my colleagues, these tanks started leaking years ago. This is not a recent phenomenon. So the fact that these tanks were built, and that DOE knew they were leaking. We all became aware of this; I know this body changes, you have turnover in membership, but my colleagues knew these tanks were leaking. The thing we should have done is continued to push DOE, just as Washington has, just as Idaho has, and just as Savannah River has in legal documents.

I have, again, great respect for the junior Senator of South Carolina, but

he is wrong as it relates to his State's history. His State has said, on numerous occasions, that DOE is wrong on this issue. Now, I get that they have an advocate in the Senate today to make a different point for them, but why do they spend the taxpayers' money in South Carolina arguing in a Federal court case that DOE was wrong to try to change this policy and send letters to Spencer Abraham, the Secretary of Energy, saying he was dead wrong on this policy? Why did they spend the money of the taxpayers in South Carolina fighting this battle, along with Washington and along with Idaho, if they did not believe in it?

I know. Because the State of South Carolina does believe that Federal cleanup policy should be preserved, that the States can only be protected by having a Federal statute, that negotiating cleanup policy standards is not the prerogative of individual States. It is something that is designated under the Nuclear Waste Policy Act. If that law is to be changed, then it ought to be done in the broad daylight of this body and this organization.

So what are we left with today? I think some people at home, who may have been watching this debate, are asking themselves this question. I hope the Cantwell amendment is adopted because it will remove this debate from this bill that we need to move forward with to protect our troops, to continue to give them the resources they need, and move the nuclear waste debate off of something that is so important for us to get done.

But if the Cantwell amendment is not adopted, what we will leave the people with is legislation that basically says the Department of Energy can grout these tanks and can leave this waste in the ground. I do not want safe drinking water affected. I do not want ground water contamination. I want the Senate to do its job and uphold the Federal standard.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Colorado.

Mr. ALLARD. Mr. President, I yield 10 seconds to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Augusta Chronicle, which is the major newspaper at the Savannah River site, supporting my efforts with this amendment.

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

[From the Augusta Chronicle, May 15, 2004]

#### RESCUING SRS CLEANUP

A way apparently has been found that will get the accelerated cleanup project at Savannah River Site back on track.

The project was dealt a severe setback last summer, when a federal judge ruled that the Department of Energy's plan to reclassify residual sludge in tanks at SRS and other nu-

clear weapons sites from high-level radioactive nuclear waste to low-level waste violated the 1982 Nuclear Waste Policy Act.

That act requires nuclear facilities to route all their high-level N-waste to the permanent storage facility approved, but not yet built, at Yucca Mountain, Nev. The energy agency is charged with removing strontium-90, plutonium, uranium and other highly radioactive wastes from tanks that have held the nuclear bomb making substances for nearly five decades during the Cold War.

That highly radioactive waste is extremely expensive and difficult to remove. Reclassifying it and treating it on site would save \$16 billion in cleanup costs and shorten SRS cleanup time by 23 years, according to the energy agency that sought the reclassification.

But the federal court said no, the agency cannot arbitrarily reclassify nuclear waste to suit its convenience.

The ruling made sense, but it wreaked havoc with the accelerated cleanup plan. DOE is trying, so far unsuccessfully, to get Congress to change the law to allow the agency to reclassify the contaminated waste.

More successful is U.S. Sen. Lindsey Graham's proposal, which he got included in the defense bill approved last week by the Senate Armed Services Committee. Although the measure applies only to the Savannah River Site, it could serve as model legislation for other states concerned about residual liquid radioactive waste left in DOE facilities.

The South Carolina senator's plan would allow DOE to leave in place the highly radioactive sludge that lines the tank's sides and bottom, but it would have to be diluted with grout, thus turning it into "low level" nuclear waste in accordance with the state's Department of Health and Environmental Control.

The provision, said Graham, still "allows South Carolina and DOE to define high-level waste in a very reasonable manner. There's nothing going to be left behind . . . that will not be secured through environmental remediation to protect South Carolina."

The next move is to make sure the Graham plan stays in the defense bill as it works its way through the rest of Congress. The stakes are high. DOE was planning to withhold cleanup funds if it couldn't move ahead on its accelerated cleanup project. The Graham plan would put the agency back in business.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I yield myself the remainder of our time.

I happen to believe that the sooner you clean up a nuclear waste site the better. And you do it within the guidelines of the Nuclear Regulatory Commission. That is what we are trying to do with the WIR project. That is what the Department of Energy is trying to do. I think quicker is better because it means less seepage throughout the ground, less pollution.

And there is a cost. If we stay with the original plan that was drawn out, we do not get cleaned up until 2065. It is going to cost well over \$138 billion. With rapid cleanup, we save \$86 billion and we help clean up the environment quicker, which means less pollution. I think it is better for the citizens of these States.

I ask my colleagues to join Senator WARNER, myself, the Senator from Idaho, Mr. CRAPO, and the Senator from South Carolina, Mr. GRAHAM, in voting no on the Cantwell amendment.

The PRESIDING OFFICER (Mr. ALEXANDER). The assistant Democratic leader.

Mr. REID. Mr. President, do we have 1 minute on each side between votes on the judges?

The PRESIDING OFFICER. That order has not been entered.

Mr. REID. I ask unanimous consent that prior to the judges, there be 1 minute to speak in relation to those judges.

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

The Senator from Washington.

Ms. CANTWELL. Mr. President, I ask unanimous consent to print in the RECORD a letter from the National Congress of American Indians. And I commend to my colleagues the 1995 Idaho settlement agreement and the Washington Tri-Party Agreement.

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

NATIONAL CONGRESS OF  
AMERICAN INDIANS,  
Washington, DC, June 3, 2004.

To: Members of the United States Senate.  
Re Tribal Support of Cantwell-Hollings  
Amendment to Defense Authorization.

DEAR SENATOR: On behalf of the over 250 member tribes of the National Congress of American Indians—the oldest and largest intertribal organization in the US—I write this letter to urge you to support the Cantwell-Hollings amendment to the Defense Authorization Act that will prevent the Department of Energy (DOE) from leaving hazardous and harmful nuclear waste in underground tanks to contaminate our soil and water. The health and environmental hazards of this practice notwithstanding, many tribes believe that the Earth is our Mother, and that these leaking tanks are a wound to her that must be healed.

DOE's high-level waste (HLW) remains dangerous for hundreds or thousands of years. For this reason, they must be disposed in a geological repository along with nuclear power spent fuel. Under the NWPA, the Environmental Protection Agency (EPA) and the Nuclear Regulatory Commission (NRC) regulate the geologic disposal of HLW—and decide what is (and what is not) HLW. The Graham amendment eliminates NRC and EPA legal protections and gives DOE sole authority to transform these lethal materials into "waste incidental to reprocessing."

These provisions establish a dangerous precedent for the country. They would allow DOE to redefine about 70 percent of the total radioactivity of all the nation's defense high level wastes stored at the Savannah River site, while preventing access to necessary funds for other states that support the existing, more protective legal framework as Washington and Oregon do for the Hanford site—which is very important to our member tribes in the Northwest.

We urge you to support efforts by Senators Cantwell and Hollings to strike these provisions. The costs of cleaning up DOE sites are expensive. However, the costs of allowing DOE to regulate itself in terms of our nation's natural resources are incalculable. The Indian people of the United States—because we are so dependent on the Earth—will suffer mightily if DOE is able to shirk its responsibilities relative to cleaning up nuclear waste sites.

Please consider NCAI's resolute support for the Cantwell-Hollings amendment as you determine how you will vote on the amendment. If you have any questions, please contact NCAI at 202.466.7767.

Thank you for your work for Indian Country, and thank you for your support on this issue.

Sincerely,

TEX HALL,  
President, NCAI.

Mr. REID. Mr. President, the staff indicates we have 10 minutes prior to the vote on the judges. That should be more than enough to talk about the three judges. I ask unanimous consent that the 1 minute between the judges, which is unnecessary, be rescinded.

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

Mr. REID. Have the yeas and nays on the Cantwell amendment been ordered?

The PRESIDING OFFICER. No, they have not.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to amendment No. 3261. The clerk will call the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 48, nays 48, as follows:

[Rollcall Vote No. 107 Leg.]

#### YEAS—48

Akaka	Durbin	Lincoln
Bayh	Feingold	McCain
Biden	Feinstein	Mikulski
Bingaman	Graham (FL)	Murray
Boxer	Harkin	Nelson (FL)
Breaux	Hollings	Nelson (NE)
Byrd	Inouye	Pryor
Cantwell	Jeffords	Reed
Carper	Johnson	Reid
Clinton	Kennedy	Rockefeller
Conrad	Kohl	Sarbanes
Corzine	Landrieu	Schumer
Daschle	Lautenberg	Smith
Dayton	Leahy	Specter
Dodd	Levin	Stabenow
Dorgan	Lieberman	Wyden

#### NAYS—48

Alexander	DeWine	Lugar
Allard	Dole	McConnell
Allen	Domenici	Miller
Bennett	Ensign	Murkowski
Bond	Enzi	Nickles
Brownback	Fitzgerald	Roberts
Bunning	Frist	Santorum
Burns	Graham (SC)	Sessions
Chafee	Grassley	Shelby
Chambliss	Gregg	Snowe
Cochran	Hagel	Stevens
Coleman	Hatch	Sununu
Collins	Hutchison	Talent
Cornyn	Inhofe	Thomas
Craig	Kyl	Voinovich
Crapo	Lott	Warner

#### NOT VOTING—4

Baucus	Edwards
Campbell	Kerry

The amendment (No. 3261) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. McCONNELL. I ask the next vote be a 10-minute vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, could we make all of them 10-minute votes?

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. The next vote will be a 10-minute vote.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, I ask unanimous consent that the next votes all be 10 minutes.

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

### EXECUTIVE SESSION

#### NOMINATION OF SANDRA L. TOWNES TO BE UNITED STATES DISTRICT JUDGE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session for the consideration of three nominees. The clerk will report.

The assistant legislative clerk read the nomination of Sandra L. Townes, of New York, to be United States District Judge for the Eastern District of New York.

The PRESIDING OFFICER. Under the previous order, there will be 10 minutes equally divided between the two leaders or their designees prior to three consecutive votes.

Mr. HATCH. Mr. President, I am pleased today to speak in support of Justice Sandra Townes, who has been nominated to the United States District Court for the Eastern District of New York.

Justice Townes comes to us with an impressive record of public service and accomplishment. She left a successful teaching career to attend Syracuse University College of Law. Following her graduation, she went to work in the Onondaga County District Attorney's Office, where she had a long and successful career as prosecutor. She left the district attorney's office in 1987, when she was elected judge of the Syracuse City Court—becoming the first African American woman to do so. She made history again in 1999, when she became the first African American to be elected locally to the New York State Supreme Court. Two years later, Gov. George Pataki appointed her to associate justice of the Appellate Division of that court, where she now sits.

I applaud President Bush for his nomination of Justice Townes and am confident that she will continue her outstanding record of public service on the Federal bench in the Eastern District of New York.

I yield the floor.

Mr. LEAHY. Mr. President, today the Senate is proceeding to confirm Sandra

Lynn Townes to the U.S. District Court for the Eastern District of New York. Justice Townes is currently an associate justice of the New York State Supreme Court, Appellate Division, where she has served for several years. She previously served as a judge in the Fifth Judicial District of the New York State Supreme Court. According to press reports, Justice Townes is the first African-American woman to serve on the appellate bench in New York and the first African-American Judge elected to the New York Supreme Court in the Fifth District. She was also a judge of the City Court of Syracuse from 1988 to 1999.

Her extensive record of judicial experience commends her for this lifetime appointment, and I am pleased to join her home-State Senators in support of her nomination.

Today's confirmation will make the 178th judicial nominee to be confirmed for this President. With 78 judicial confirmations in just the past year and a half alone, the Senate has confirmed more Federal judges than were confirmed during all of 1995 and 1996, when Republicans controlled the Senate and President Clinton was in the White House. It also exceeds the 2-year total for the last Congress of the Clinton administration, when Republicans were in the Senate majority. We have already exceeded the totals for the last two Congresses leading up to presidential elections.

When Democrats controlled the Senate for 17 months in 2001 and 2002, we worked diligently to confirm 100 of President Bush's judicial nominees. We are now confirming the 78th in the other 24 months that have transpired during this most divisive presidency. With 178 total judicial confirmations in 3½ years, the Senate has confirmed more lifetime judicial appointees of this President than were allowed to be confirmed in President Clinton's entire term from 1997 through 2000. We have already surpassed the number of judicial confirmations during President Reagan's entire term from 1981 through 1984, and he is acknowledged to have appointed more Federal judges than any other president in our history.

The Republican Senate leadership has again chosen to avoid debate of the nomination of J. Leon Holmes and Judge Dora Irizarry. Just so that there is no confusion, it is the choice of the Republican Senate leadership to skip those nominations.

The Holmes nomination will take some significant debate. The nomination was sent by the Judiciary Committee to the floor without recommendation, a highly unusual circumstance. That means that there was not a majority vote in committee to report the nomination favorably. The committee disserved the Senate by not doing its job of fully vetting the nomination and reaching a consensus or even a vote on the merits.

It is also the decision of the Republican leadership to skip the nomination



of Judge Irizarry, which has been pending on the Senate floor since last October. She is one of many Bush nominees with a "not qualified" or partial "not qualified" rating from the ABA. With the support of Senator SCHUMER, her nomination was considered and favorably reported by the committee. For months Democrats have been ready to vote on that district court nomination. The delay in considering her nomination since last October, a delay of 7 months, is attributable to the reluctance of the Republican Senate leadership to consider her nomination.

It is reminiscent of the way the Republican leadership treated the nomination of other Hispanics. For example, President Clinton's nomination of Judge Sonia Sotomayor to the 2nd Circuit was delayed for 16 months and was likewise stalled by Republicans on the Senate calendar for 7 months. Judge Richard Paez's nomination to the 9th Circuit was delayed for more than 4 years and was stalled by Republicans on the Senate calendar for more than 18 months alone. More recently, Republican Senate leadership even delayed Senate consideration of President Bush's nomination of Judge Edward Prado of Texas to the 5th Circuit for a month on the calendar, until we called them on it. Considering Judge Prado's nomination in a timely fashion would not have fit with the partisan political characterizations that Republicans wanted to draw of Democrats so they just left him on the shelf for a time.

The Republican leadership must be accountable for its scheduling priorities and the delays that it is causing in the consideration of the President's judicial nominations.

I congratulate Justice Townes and her family on her confirmation today.

Mr. President, I thank the Senators on both sides of the aisle who have worked with me and others in the past few weeks to get through this logjam on judges.

I yield back any remaining time.

The PRESIDING OFFICER. Is all time yielded back?

Without objection, it is so ordered.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Sandra Townes, of New York, to be United States District Judge for the Eastern District of New York.

The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

The PRESIDING OFFICER (Mr. CRAPO). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 108 Ex.]

YEAS—95

Akaka	Dole	Lott
Alexander	Domenici	Lugar
Allard	Dorgan	McCain
Allen	Durbin	McConnell
Bayh	Ensign	Mikulski
Bennett	Enzi	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Nickles
Breaux	Graham (FL)	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Cantwell	Harkin	Santorum
Carper	Hatch	Sarbanes
Chafee	Hollings	Schumer
Chambliss	Hutchison	Sessions
Clinton	Inhofe	Shelby
Cochran	Inouye	Smith
Coleman	Jeffords	Snowe
Collins	Johnson	Specter
Conrad	Kennedy	Stabenow
Cornyn	Kohl	Stevens
Corzine	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lautenberg	Thomas
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wyden
Dodd	Lincoln	

NOT VOTING—5

Baucus	Edwards	Miller
Campbell	Kerry	

The nomination was confirmed.

#### NOMINATION OF KENNETH M. KARAS TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

The PRESIDING OFFICER. The clerk will report the next nomination.

The assistant legislative clerk read the nomination of Kenneth M. Karas, of New York, to be United States District Judge for the Southern District of New York.

#### NOMINATION OF KENNETH M. KARAS

Mr. HATCH. Mr. President, I am pleased today to speak in support of Kenneth Karas, who has been nominated to the United States District Court for the Southern District of New York.

Mr. Karas, a graduate of Columbia University School of Law, is a distinguished veteran of the U.S. Attorney's Office for the Southern District of New York, where he is co-chief of that office's unit specializing in terrorism cases. He is known among his peers as an "al-Qaida expert," for his assistance in successfully prosecuting four of Osama bin Laden's followers for the 1998 embassy bombings in East Africa. He is currently the lead prosecutor in the case against alleged al-Qaida terrorist Zacarias Moussaoui.

Mr. Karas is, by all accounts, a gifted prosecutor whose familiarity with Federal trial procedure will benefit him immensely on the Federal bench.

I applaud President Bush for his nomination of Mr. Karas and am con-

fident that he will serve on the bench with compassion, integrity and fairness.

Mr. LEAHY. Mr. President, this evening the Senate considers the nomination of Kenneth Karas to be a United States District Judge for the Southern District of New York. For the past 11 years, Mr. Karas has served as an assistant United States attorney for the Southern District of New York. He received a favorable rating from the American Bar Association and he has the support of both Senators from his home State.

In sharp contrast to so many judicial nominees of this President, apparently selected for their political viewpoint, Mr. Karas appears to be a well-qualified, moderate nominee. He has advocated for civil rights and the rights of the indigent and has served the public as an assistant U.S. attorney for 11 years.

Mr. Karas's testimony and answers to my questions have made me confident that he will treat all who appear before him with respect. The nomination of Mr. Karas is an example of how effectively Democrats and Republicans can work together when we have qualified, moderate nominees.

Mr. Karas will be the ninth of President Bush's nominees confirmed to Federal court vacancies in New York, leaving only one vacancy on the Federal judiciary in the State. The nominee to that vacancy was favorably reported by the Judiciary Committee to the Senate 7 months ago. It has been the decision of the Republican leadership not to move the nomination of Judge Dora Irizarry, a Latina nominee. Democrats have been ready to vote on Judge Irizarry's nomination.

With 79 judicial confirmations in just the past year and a half, the Senate has confirmed more Federal judges than were confirmed during either Congress leading to a presidential election with a Democratic President and Republican Senate majority in 1996 and 2000.

This marks the 179th judicial confirmation since President Bush took office. That is more than President Reagan, the acknowledged all-time champion, achieved in his entire 4-year presidential term from 1981 through 1984 working hand in hand with a Republican Senate majority. It is more than President Clinton was able to achieve in his entire 4-year presidential term from 1993 through 1996, having to work with a Republican Senate majority during 1995 and 1996.

I congratulate Mr. Karas and his family on his confirmation today.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Kenneth M. Karas, of New York, to be United States District Judge for the Southern District of New York?



The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

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

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 109 Ex.]

YEAS—95

Akaka	Dole	Lott
Alexander	Domenici	Lugar
Allard	Dorgan	McCain
Allen	Durbin	McConnell
Bayh	Ensign	Mikulski
Bennett	Enzi	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Nickles
Breaux	Graham (FL)	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Cantwell	Harkin	Santorum
Carper	Hatch	Sarbanes
Chafee	Hollings	Schumer
Chambliss	Hutchison	Sessions
Clinton	Inhofe	Shelby
Cochran	Inouye	Smith
Coleman	Jeffords	Snowe
Collins	Johnson	Specter
Conrad	Kennedy	Stabenow
Cornyn	Kohl	Stevens
Corzine	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lautenberg	Thomas
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wyden
Dodd	Lincoln	

NOT VOTING—5

Baucus	Edwards	Miller
Campbell	Kerry	

The nomination was confirmed.

#### NOMINATION OF JUDITH C. HERRERA TO BE UNITED STATES DISTRICT JUDGE

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Judith C. Herrera, of New Mexico, to be United States District Judge for the District of New Mexico.

Mr. DOMENICI. Mr. President, I rise in support of a New Mexican named Judith Herrera to be United States District Judge for the District of New Mexico. I believe everyone knows that the administration of justice is one of the most significant pillars of good government. I think in this instance the President has sent us an extraordinary person to be a judge in the District of New Mexico.

We have a vacancy there because of a justice who took senior status. We have a tremendous overload, and I am very pleased that we finally got to the point where we could have another judge. Maybe we can begin to take care

of this enormous overload. I thank everyone who worked on this nomination. Her credentials are impeccable. Every group that needed to recommend her.

Judith Herrera is a resident of Santa Fe, NM. She attended the University of New Mexico.

She then attended the Georgetown University Law Center where she earned her law degree.

We, in New Mexico, are fortunate that Judy decided to return to New Mexico upon completion of her law degree.

She began her career in public service shortly after returning to New Mexico, serving on the Santa Fe City Council from 1981 to 1986.

She continued her service by sitting on the boards of St. Vincent Hospital in Santa Fe, St. Michael's High School Foundation, also in Santa Fe, and the University of New Mexico in Albuquerque.

She has practiced law for more than 20 years in New Mexico, amassing in impressive resume and reputation in the legal community.

I am confident she will be an outstanding member of the federal judiciary.

I look forward to Judy Herrera's tenure on the bench.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I join my colleague, Senator DOMENICI, in urging the Senate to support this nomination. Judith Herrera is very qualified. I compliment the President for nominating her for this position. I compliment my colleague for recommending that nomination. She will serve us well on the district court in New Mexico.

Ms. Herrera began her career as a prosecutor, and has spent many years in private practice. Currently, she is a partner at Herrera, Long, Pound & Komer in Santa Fe, NM. She has also served on the Santa Fe City Council and on the University of New Mexico's Board of Regents. Mrs. Herrera has served with distinction in all of these positions.

I urge my fellow Senators to support her nomination.

Mr. HATCH. Mr. President, I rise today to express my strong support for the confirmation of Judith Herrera, who has been nominated to the United States District Court for the District of New Mexico.

Ms. Herrera is an exceptional nominee and has a distinguished record of service in both the private and public sectors. After graduating from Georgetown Law School, Ms. Herrera worked as an Assistant District Attorney in Santa Fe, New Mexico where she prosecuted a variety of misdemeanor and felony offenses. She later entered the private sector and practiced in the areas of education and employment law.

Ms. Herrera distinguished herself as one of the most effective advocates in

New Mexico for employers defending wrongful discharge and discrimination cases. She later founded her own law firm, and currently serves as shareholder and president of that firm. Ms. Herrera has also served the local community of Santa Fe in a variety of ways. She was a member of the Santa Fe City Council, the Board of Trustees for St. Vincent Hospital, and the Board of Regents for the University of New Mexico. Ms. Herrera's broad experience as a trial attorney and her many hours of community service have prepared her for the challenges she will face as a Federal judge. I am confident that she will make a fine addition to the federal bench in the District of New Mexico.

I yield the floor.

Mr. LEAHY. Today the Senate is proceeding to confirm Judith Herrera to the U.S. District Court for the District of New Mexico. Ms. Herrera is a partner with the Santa Fe firm of Herrera, Long, Pound & Komer, which she co-founded in 1987. She appears in court frequently on behalf of employers, and their insurance companies, serving as defense counsel in employment discrimination and wrongful discharge cases. Before starting this practice, she handled education cases and also served briefly as a local prosecutor. She also previously served on the Santa Fe City Council. She has the support of both of her home-state Senators.

Democratic support for the confirmation of Ms. Herrera, an active Republican, is yet another example of our extraordinary cooperation in this Presidential election year. Today's confirmation will make the 180th judicial nominee to be confirmed since this President took office. With 80 lifetime judicial appointments confirmed in just the past year and a half alone, the Senate has confirmed more Federal judges than were confirmed during the all of 1995 and 1996, when Republicans first controlled the Senate and President Clinton was in the White House. It also exceeds the 2-year total for the last Congress of the Clinton administration, when Republicans held the Senate. This Senate has now confirmed more Federal judges than were confirmed during either Congress leading to a presidential election with a Democratic President and Republican Senate majority in 1996 and 2000.

This marks the 180th judicial confirmation since President Bush took office. That is more than President Reagan, the acknowledged all-time champion, achieved in his entire 4-year Presidential term from 1981 through 1984 working hand in hand with a Republican Senate majority. It is more than President Clinton was able to achieve in his entire 4-year Presidential term from 1993 through 1996, having to work with a Republican Senate majority during 1995 and 1996.

I have already noted that at the Republican Senate leadership has again chosen to avoid debate of the nomination of J. Leon Holmes and Judge Dora

Irizarry. These two district court nominees have been pending on the Senate floor longer than any of the other pending district court nominees. Just so that there is no confusion, that is the choice of the Republican Senate leadership to skip those nominations.

The Holmes nomination will require significant debate. It was sent by the Judiciary Committee to the floor without recommendation, a highly unusual circumstance. That means that there was not a majority vote in committee to report the nomination favorably. The committee disserved the Senate by not doing its job of fully vetting the nomination and reaching a consensus or even a vote on the merits.

With regard to Mr. Holmes, to excuse widely shared misgivings about this nomination partisan Republicans are falsely claiming that the opposition to him is based on his religion. That is a slander. Nonetheless, right wing groups like the Committee for Justice have run outrageous and false ads and propaganda against Democrats and have posted assertions that Democrats are anti-Catholic.

Ms. Herrera is, of course, another among the scores of judicial nominees we have confirmed who are active in their faith. Ms. Herrera has stated in her Senate questionnaire that she is on the Board of Directors of the St. Michael's High School Foundation, a local Catholic high school, and she is a parishioner at St. Francis Cathedral. It is wrong for Republican partisans to seek political benefit by falsely claiming that Democrats are anti-Catholic and insulting for them to claim that Catholic Democrats are somehow not Catholic enough. Senator DURBIN just released a study this week that shows that Democrats actually vote more often in agreement with the U.S. Conference of Catholic Bishops on domestic and international issues than their counterparts across the aisle. Yet the destructive Republican politics of division persist. These are unfortunate and dangerous schemes that will only further divide our people and our Nation. Anna Quindlen's recent column in *Newsweek*, *Casting the First Stone*, captures the heart of this current tendency to mix religion and politics into a concoction that some Republican strategists hope will help them at the ballot box. I ask unanimous consent that this editorial be printed in the *RECORD*.

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

[From *Newsweek*, May 31, 2004]

CASTING THE FIRST STONE

(By Anna Quindlen)

It was nearly 25 years ago that Robert Drinan, a member of Congress and an outspoken Jesuit (a redundancy if there ever was one), so enraged the Vatican with his defense of abortion rights that an order came down from Rome demanding priests withdraw from politics.

It appears that someone has had a change of heart.

Or at least that's how it seems now that certain segments of the Roman Catholic hi-

erarchy are behaving like wholly owned subsidiaries of the Republican Party, hellbent on a course that will weaken the church's moral authority and eventually deplete its membership. And all because of abortion, the issue the celibate male leadership is least equipped to personally understand.

To paraphrase a Gospel passage, my Father's house is a house of prayer, but they have made it a den of partisanship. The archbishop of St. Louis announced that if John Kerry, the Democratic candidate, showed up for mass he would be denied communion. After threats from clerics in New Jersey, the pro-choice Democratic governor saved himself the embarrassment of being turned away by saying he would no longer present himself for the sacrament; the Democratic majority leader of the state Senate responded by quitting the church and saying he will likely join the Episcopalians. And in Colorado a bishop went a step further, saying that any Catholic who supports politicians who favor abortion rights, same-sex marriage or stem-cell research should not take communion.

Surely the next step is to put ushers at the door each Sunday with a purity checklist. Adulterer? Out. Gay? Out. Tax cheat? Gossip? Condom in your pocket? Out. Out. Out. My, how empty those pews have grown. And the altar, too, where we learned that too many priests had a secret life of sexual abuse. Why were known pedophiles permitted to give communion for years, while people of conscience at odds with Vatican teaching (not church dogma) are prohibited from receiving it? It brings to mind the always topical injunction that it's he who is without sin who gets to cast the first stone.

Too many bishops seem to have missed key seminary lessons: the ones on the teachings of St. Thomas Aquinas that civil and moral law are often two different things, or those on the tradition in Catholic thought that a good law must be enforceable, not a law like one prohibiting abortion that will be so often broken that it leads to disregard for all laws. Too many bishops seem to have forgotten the notion of the individual examination of conscience. Instead they have decided to examine conscience for us, particularly if we are liberal Democrats.

Leaders of the church began a schism between pew and pulpit in 1968 with the publication of the encyclical *Humanae Vitae*. The majority of the members of a papal commission on contraception recommended that the church change its opposition; the minority members won out, mainly because they based their argument on the primacy of the pope. Even then, power politics overrode the well-being of the people.

But over time there was an unforeseen result of the encyclical. The use of contraception became the church prohibition millions of Catholics ignored, in part because the directive was so out of step with modern life (as the majority report suggested), in part because the issue was so private. Little by little Catholics made their peace with consulting their conscience instead of Father, especially on intimate issues. The intermediaries became increasingly irrelevant, especially when, in recent years, the full extent of priestly sexual predation became known.

These members of the church were derided by conservatives as "cafeteria Catholics," picking and choosing their beliefs. Now we have cafeteria clergy, picking and choosing which prohibitions they emphasize and which politicians they damn. What of the pro-life policies of a living wage or decent housing? The church is opposed to the death penalty, yet no bishop has yet suggested he will deny the sacrament to those who support capital punishment. And sanctions for Democratic candidates have far out-

numbered those for Republicans, even Republicans who favor legal abortion. The timing of all this is curious as well. It coincides with that new Catholic holy day, the feast of the first Tuesday in November, known to secularists as Election Day.

It is one thing to preach the teachings of the church, quite another to use the centerpiece of the faith selectively as a tool to influence the ballot box, that confessional of democracy. Even a member of Congress opposed to abortion complained that church leaders were "politicizing the eucharist." If citizens who are Methodist, Muslim or Jewish begin to suspect that Catholic politicians are beholden first and foremost to Rome, a notion we thought was laughable and bigoted when John F. Kennedy ran for president, who could blame them? Next month American Catholic bishops meet for a retreat in Colorado. There they should speak out against grievous sin, the sin of using communion to punish by those who have not the moral authority to persuade.

Mr. LEAHY. I also want to focus briefly on how Republicans continue to delay consideration of some Hispanic judicial nominees. For some time the only Hispanic nomination of this President to the first 42 circuit court vacancies was the ill-fated nomination of a young man whose record was kept from the Senate by the Bush administration and who was opposed by the Congressional Hispanic Caucus, prominent Latino leaders of the civil rights community and by many others. This single nomination was in sharp contrast to the many Hispanic nominees sent to the Senate by President Clinton. In fact, eight of the Hispanic jurists serving on our circuit courts today were named by President Clinton, and at least three other Clinton Hispanic circuit nominees would be sitting on the bench now if they had not been denied consideration by a Republican-controlled Senate.

When Democratic Senators supported the confirmation of Judge Edward Prado, President Bush's nominee to the U.S. Court of Appeals for the Fifth Circuit, the Senate Republican leadership delayed consideration of that nomination for a month on the floor for no good reason, other than to allow us to vote on this Hispanic nominee would undercut their false charges that Democrats were anti-Hispanic. Judge Prado had a fair record, years of experience as a Federal District Court judge, and broad support from both sides of the aisle. Nonetheless, in order to get Judge Prado a vote, I had to come before the Senate on a number of occasions to urge his consideration because the Republican leadership was delaying final Senate consideration of his nomination.

Now the Republican leadership seems to be returning to its earlier ways and is again passing over Hispanic nominees without explanation. Last October, 7 months ago, the Senate Judiciary Committee favorably reported the nomination of Judge Dora Irizarry of New York to be a United States District Court Judge for the Eastern District of New York. This was not a nomination without some controversy. The

American Bar Association accorded her a majority rating of "not qualified," as it has several of this President's judicial nominees. Nonetheless, the Judiciary Committee held a hearing on her nomination. The Members of the Committee examined the nomination on the merits and reached their own judgment. With the support of Senator SCHUMER of New York, the nomination was favorably reported. While Senate consideration will include some brief debate, there is no reason this matter has not been scheduled and considered in the last seven months. It could easily have been considered during the course of an extended quorum call during any one of the many days when there is no significant business taking place on the Senate floor. As I have reiterated for months, there is no Democratic hold on this nomination. It merits a brief discussion, but we are prepared to vote on it. Republican delay has prevented action on this nomination.

I do not recall this lengthy a delay in scheduling debate on a Latina nominee since the untoward Republican obstruction of Senate consideration of President Clinton's nomination of Judge Sonia Sotomayor to the U.S. Court of Appeals for the Second Circuit in 1999. That nomination of an outstanding judge, who had been appointed to the federal bench by President George H.W. Bush, was delayed for more than 400 days in all and waited 7 months on the Senate floor, before we were able to force action and a vote on her confirmation. According to some accounts, she was delayed over Republican concerns that she would be chosen by President Clinton for the Supreme Court if a vacancy arose.

Likewise, the Senate's Republican leadership has not yet scheduled a vote on the nomination of Ricardo S. Martinez to be a United States District Court Judge for the Western District of Washington or Juan R. Sanchez to be a United States District Court Judge for the Eastern District of Pennsylvania.

Despite Republican delays in the consideration of President Bush's Hispanic nominees, the Senate has already confirmed, unanimously, three of his Hispanic nominees to the circuit courts and 11 to the district courts. Ms. Herrera will be the 12th Latino district court nominee and 15th overall confirmed by the Senate.

Unfortunately this White House's commitment to diversity seems shallow when compared to its devotion to ideological purity. The President has nominated many more members of the Federalist Society than members of the nation's fastest growing ethnic group. The White House has sent over the nominations of more than 45 individuals active in the Federalist Society, which is more than twice as many Latinos as he has nominated. In fact, the President has chosen more individuals involved in the Federalist Society than Latinos, African Americans, and Asian Americans combined.

We have made significant progress over the last three years in reducing Federal judicial vacancies. As of today, there are only 43 total vacancies in the Federal court system. That stands in sharp contrast to the treatment Republicans accorded President Clinton's nominees. Indeed, under Republican leadership, from 1995 to the summer of 2001 the number of vacancies in the federal courts rose from 63 to 110. We have now made up that 67 percent increase in vacancies the Republican Senate leadership had engineered between 1995 and 2001, and we have reduced vacancies from the 1995 level by one third, to the lowest vacancy level in 14 years. In spite of the way more than 60 of President Clinton's nominees were defeated by Republicans' objections, Senate Democrats have cooperated in the consideration and confirmation of 180 of this President's judicial nominations.

We now have 16 vacancies in the circuit courts. That is the number of vacancies that existed when Republicans took majority control of the Senate in 1995. Unfortunately, through Republican obstruction of moderate nominations by President Clinton, those circuit vacancies more than doubled, rising to 33 by the time Democrats resumed Senate leadership in the summer of 2001. We steadily reduced circuit vacancies over the 17 months that Senate Democrats were in charge. Even though since 2001 an additional 15 circuit vacancies have arisen, we have done what Republicans refused to do when President Clinton was in the White House by not only keeping up with attrition but actually working to reduce vacancies. We have now reduced circuit vacancies to the lowest level since before Republican Senate leadership irresponsibly doubled those vacancies in the years 1995 through 2001.

We should recognize the progress we have made. I certainly recognize the entirely different approach to judicial nominations Republicans have taken with a Republican President's nominations in contrast to their systematic obstruction of Senate action on President Clinton's judicial nominations. I would hope that we will be able to find ways to work together without too much more delay to consider the Hispanic nominees to the federal bench who Democrats are supporting.

I congratulate Ms. Herrera and her family on her confirmation today.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Judith C. Herrera, of New Mexico, to be United States District Judge for the District of New Mexico?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 110 Ex.]

YEAS—93

Akaka	Domenici	Lott
Alexander	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Ensign	McConnell
Bayh	Enzi	Mikulski
Bennett	Feingold	Murkowski
Bingaman	Feinstein	Murray
Bond	Fitzgerald	Nelson (FL)
Boxer	Frist	Nelson (NE)
Breaux	Graham (FL)	Nickles
Brownback	Graham (SC)	Pryor
Bunning	Grassley	Reed
Burns	Gregg	Reid
Byrd	Hagel	Roberts
Cantwell	Harkin	Rockefeller
Carper	Hatch	Santorum
Chafee	Hollings	Sarbanes
Chambliss	Hutchison	Schumer
Clinton	Inhofe	Sessions
Cochran	Inouye	Shelby
Coleman	Jeffords	Smith
Collins	Johnson	Snowe
Conrad	Kennedy	Specter
Cornyn	Kohl	Stabenow
Craig	Kyl	Stevens
Crapo	Landrieu	Sununu
Daschle	Lautenberg	Talent
Dayton	Leahy	Thomas
DeWine	Levin	Voinovich
Dodd	Lieberman	Warner
Dole	Lincoln	Wyden

NOT VOTING—7

Baucus	Corzine	Miller
Biden	Edwards	
Campbell	Kerry	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 3263

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of myself, the Senator from California, Mrs. FEINSTEIN, the Senator from Rhode Island, Mr. REED, the Senator from New Jersey, Mr. LAUTENBERG, and the Senator from Wisconsin, Mr. FEINGOLD, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mrs. FEINSTEIN, Mr. REED, Mr. LAUTENBERG, and Mr. FEINGOLD, proposes an amendment numbered 3263.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of funds for the support of new nuclear weapons development under the Stockpile Services Advanced Concepts Initiative or for the Robust Nuclear Earth Penetrator (RNEP))

At the end of subtitle B of title XXXI, add the following:

**SEC. 3122. PROHIBITION ON USE OF FUNDS FOR NEW NUCLEAR WEAPONS DEVELOPMENT UNDER STOCKPILE SERVICES ADVANCED CONCEPTS INITIATIVE OR FOR ROBUST NUCLEAR EARTH PENETRATOR.**

None of the funds authorized to be appropriated by section 3101(a)(1) for the National Nuclear Security Administration for weapons activities may be obligated or expended for the following:

(1) The Stockpile Services Advanced Concepts Initiative for the support of new nuclear weapons development.

(2) The Robust Nuclear Earth Penetrator (RNEP).

Mr. KENNEDY. Mr. President, I see my friend and colleague, who offered this amendment on a previous occasion, in the Chamber. We have worked closely together. Because of the necessities of time, I hope the Chair will recognize her to make remarks, and then I will try to gain recognition.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Massachusetts. I particularly thank him for being the main sponsor of this amendment.

This amendment is something about which I feel passion, and the reason I do is because the country, of which I am a part, in this bill authorizes the opening of a nuclear door to the development of new nuclear weapons.

One of the things I realized is Americans forget what a nuclear weapon does. Both Senator KENNEDY and I were very young teenagers when the first nuclear bomb was dropped. The first nuclear bomb that was dropped was 15 kilotons, and it was dropped on Hiroshima. This is what Hiroshima looked like when that bomb was dropped.

Let me show you what a 21-kiloton nuclear bomb did, because that was the second bomb that was dropped, and that was on Nagasaki. In the course of a year, between the two cities, 200,000 people died—200,000—many of them in the most horrible of ways from radiation sickness.

Radiation is a major problem whenever you look at a new nuclear weapon—where it can be contained, how it can be contained, and where it cannot be contained.

In this bill, there is authorization for a 100-kiloton nuclear bunker buster. In this bill, there is a request for authorization of \$9 million for advanced nu-

clear weapons concepts which translates into strategic battlefield nuclear weapons under 5 kilotons—battlefield nuclear weapons.

Let me show you the depth to which a bomb has to penetrate to prevent nuclear fallout. If it is two-tenths of a kiloton, it has to go down 70 feet, to 120 feet, and then it throws off 25,000 tons of radioactive fallout.

If it is 1 kiloton, at 80 feet, it throws up 60,000 tons of radioactive fallout and would have to go down to 220 feet not to throw out any radioactive fallout. Five kilotons, if it goes down 320 feet, it will not throw off radioactive fallout, but at 130 feet, it throws out 220,000 tons of radioactive fallout. At 100 kilotons, it would have to go down to 800 to 1,000 feet not to throw off any radioactive fallout.

That is what we are talking about. That is what is authorized in this bill: a nuclear bunker buster of 100 kilotons, and there is no known way to drive a bomb 800 to 1,000 feet into the earth because there is no known casing strong enough to drive that bomb down to that depth.

So I ask the question: Why are we doing this? Why are we spending what over 5 years will be \$500 million on this program? And why are we doing it when it is going to encourage the very proliferation everything about us wants to prevent?

We now know through newspaper articles that India may be looking at what is called a boutique nuclear weapon, a battlefield nuclear weapon. We lead the way. We do not want other nations to go ahead and develop this, and this country has the most sophisticated conventional military in the world.

I support this amendment which essentially would eliminate the authorization for the robust nuclear earth penetrator and the advanced nuclear weapon concept.

I want to point out when this administration came into office, they put out a document called the Nuclear Posture Review in 2002. This Nuclear Posture Review, according to press reports, actually stated the United States would countenance a first use of nuclear weapons in certain circumstances.

This document named seven countries against whom we would consider launching a nuclear first strike. Those seven countries as listed in 2002 were North Korea, Iraq, Iran, Syria, Libya, China, and Russia. It also proposed a new triad in which nuclear and conventional weapons coexist along the same continuum. This effectively blurs the distinction between nuclear and conventional weapons and suggests that they could be used as an offensive weapon.

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 or biological agents.

I have now asked Secretary Rumsfeld, as a member of the Defense Appropriations Committee 2 years running, about this. The first year he said this is just a study; that is all. This year a week ago when I asked him, he said clearly, with the amount of underground activity that exists in the world, and it is pervasive in country after country that people have tunneled underground—North Korea is a perfect example; certainly Iran is—we have found this in country after country, and the question is, if that is a problem, what might be done about it. Your first choice would be to find some obviously conventional way to do it. They have looked and looked and looked, and this additional way is at least, in my view, worth studying.

In addition, the Congressional Research Service says the fiscal year 2005 budget request seems to cast serious doubt on the assertions that the Robust Nuclear Earth Penetrator is only a study because budget projections over the next 5 years is nearly \$500 million for this program. So it is more than a study. It is a real program that is underway. I think it is a huge mistake.

I indicated that there is no way today to sink a nuclear weapon deeply enough into the earth to prevent radioactive fallout. Let me show what that fallout would do. This is the predicted radioactive fallout from a 300-kiloton explosion in west Pyongyang, North Korea, using historical weather data for the month of May. We see what the fallout would be. This makes no sense. We are not going to use a weapon either on a battlefield or as a bunker buster that spews out radioactive nuclear fallout. Why reopen the nuclear door? Why have other nations look at America and say, America is going to do this; maybe we should do it? India, Pakistan, historic enemies, both nuclear capable countries, rumors are that one now is going to develop a tactical battlefield nuclear weapon. They see us doing it; therefore, it is all right for them to do it.

According to press reports, in a Nuclear Posture Review, one of the countries we might consider a first use, North Korea. We then find North Korea breaks the agreed formula. North Korea is producing a nuclear capability. It makes no sense for the strongest military on Earth, the most sophisticated conventional military on Earth, to say, once again, we must reopen the nuclear door, and we must begin a new generation of nuclear weapons.

The people of California do not want this. I do not think the people of any State want that. So I believe very strongly in this amendment. I hope to discuss it more on Tuesday. I will do everything in my power to fight every way I can the reopening of this nuclear door.

The Robust Nuclear Earth Penetrator, and Advanced Concepts Initiative are only part of a movement to expand the development of new nuclear

weapons. There are also plans to develop a modern pit facility, and that modern pit facility would provide the capacity to create up to 450 more plutonium pits per year. The plutonium pit is the shell which is effectively the trigger of a nuclear device which compresses and therefore detonates. That is not necessary to maintain the current nuclear numbers that we have. It is only necessary if you are going to build new nuclear. In addition, last year the Administration urged Congress to eliminate the Spratt-Furse provision which for the past 10 years provided that there could be no research, no development, no study of low-yield nuclear weapons.

So the evidence is there that this administration is proceeding along the lines to reopen the nuclear door to develop a new generation of nuclear weapons while at the same time preaching to the world, thou shalt not; we are opposed to nuclear proliferation. Yet we are willing to open that door and proliferate ourselves.

In my view, this is hypocrisy. In my view, this is not good public policy. In my view, this is immoral and unethical.

I represent a constituency that does not think we need a new generation of nuclear weapons. So this amendment would remove that authorization from the Defense authorization bill, and I stand in support of it.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Arizona.

Mr. KYL. Mr. President, I rise in opposition to the amendment and would like to first reflect on some remarks that would have been presented by the chairman of the Armed Services Committee, Senator WARNER, were he able to be here. Then I will make a couple of comments on my own as well.

He points out that for the past 2 years, the Department of Energy has requested funding or legislation for several nuclear-weapons-related activities, including a feasibility study on the robust nuclear earth penetrator and the advanced concepts initiative.

These requests generated significant debate in the Congress, both last year and in the previous year. Last year, Congress decided to authorize research and the feasibility studies on advanced concepts and the robust nuclear earth penetrator, while ensuring that the Congress has the final say on whether more advanced development activities may proceed in the future.

So it is strictly up to Congress as to whether we would authorize anything in the future, and that has nothing to do with the bill that is before us today.

Specifically, the National Defense Authorization Act for fiscal year 2004 prohibits the Department of Energy from proceeding to the engineering/development, production or deployment phases of the robust nuclear earth penetrator, or a low-yield nuclear weapon, unless specifically authorized by Congress.

This is a prudent way to handle a very sensitive issue, which is deserving of the Congress's most careful oversight. I believe we struck a proper balance which will allow our weapons scientists, engineers, and technicians to conduct necessary research and studies to ensure that they maintain the ability to respond to any future military requirements from the Department of Defense.

We know rogue nations are increasingly developing hardened and deeply buried targets where they can conduct command, control, and communications operations, operate laboratories to produce and store weapons of mass destruction, and engage in other activities.

Pursuant to military requirements from the Department of Defense to address hardened and deeply buried targets, the National Nuclear Security Administration is doing a feasibility study to determine whether an existing nuclear weapon can be modified so that it can destroy these hardened targets—I repeat, an existing nuclear weapon, not a new nuclear weapon. The feasibility study is also trying to determine what collateral damage would result in such an event.

The need for validating this capability is well documented over several preceding administrations. Increased urgency to develop a capability to destroy hardened and deeply buried targets, both conventional and nuclear, was identified in the Quadrennial Defense Review, also in the Nuclear Posture Review, and the Hard and Deeply Buried Target Capstone Report and the HDBT report to the Congress. Advanced penetrators armed with conventional warheads have a very limited capability. They can only address relatively shallow targets whose location is known precisely.

I would parenthetically note that we also have photographs at the very beginning of the gulf war where we thought we had identified the location of Saddam Hussein. Very precise weaponry was deployed to try to penetrate the bunkers and facilities in which we thought the command and control was located. You remember the photographs of the concrete, layer upon layer upon layer, and hardened steel intermeshed with that concrete, none of which, of course, was penetrated enough to destroy the target we wanted to destroy. Only nuclear weapons can address the deeply buried targets that are protected by manmade or even hard geology. Our current nuclear penetrator, the B6-111, is only capable of penetrating a few feet of frozen soil and is incapable of attacking successfully a growing number of these hardened targets.

The feasibility study on the Robust Nuclear Earth Penetrator is focused on technical issues related to adapting an existing nuclear weapon to meet a spectrum of nuclear requirements for hardened and deeply buried targets, including survival through impact and

penetration of hard geology. While the feasibility study on the Robust Nuclear Earth Penetrator will allow the Department of Energy to determine if the capability of destroying the HDBTs is possible, the current authorization will not result in a new or modified nuclear weapon.

Again I want to emphasize that the National Defense Authorization Act for the fiscal year 2004 included a provision requiring a specific authorization from the Congress before the Secretary of Energy can proceed to the engineering/development phase or subsequent phase of a Robust Nuclear Earth Penetrator or a low-yield nuclear weapon.

I support the National Nuclear Security Administration's ability to continue the feasibility study and the Advanced Concepts Initiative, and I urge my colleagues to oppose the amendment, which is, if anything, premature because of the points I have just made.

I will note in closing that it is possible to show photographs of a flattened Tokyo during World War II that was not bombed with a nuclear weapon or a burned-out Dresden, Germany. It is possible to show a lot of destruction in war caused by either nuclear or conventional weapons. But that is not what we are talking about nor are we talking about opening the nuclear door, as was mentioned. No new nuclear weapon is envisioned here. What we are talking about, again, is a feasibility study to use something we already have to destroy a target.

I would answer the question, Why would we want to do this? There are a lot of intelligence reports we cannot get into on the Senate floor that discuss the propensity for potential enemies of the United States to deeply bury what they don't want us to be able to destroy—whether it be weapons of mass destruction, production or storage or launch capability facilities or command and control or other kinds of targets we may need to deal with in a time of war. Why would we want to deny ourselves the ability to destroy those kinds of targets?

The point was mentioned that Secretary Rumsfeld testified. What did he testify to? That this was worth studying. He never said we were proceeding, because the law would prohibit that. That is all he said, that this is worth studying. Indeed it is.

Why does the 5-year budget requirement carry out a larger sum of money? Simply because that is what we require. We say to the DOE: Even though you have a 1-year number here, what would it look like if you proceeded 5 years out? And they have to tell us. But that is a hypothetical number because we have not authorized anything beyond the number we are talking about here.

The final point. Once we start talking about nuclear weaponry, a lot of very extraneous arguments get brought into the picture. I suggest we not go down that road because it is not necessary. It has nothing to do with this debate.

One of the arguments is, why would we want to begin testing nuclear weapons when we are trying to convince these other countries such as Pakistan and India, and so on, not to do so? I remind my colleagues that long after the United States imposed a moratorium on all nuclear testing, it was not just India or Pakistan but the North Koreans who were trying to develop a weapon. The French and the Chinese tested weapons after our moratorium was declared. So it is fallacious to say if only we would forego any testing of any kind, then the other countries would forego it as well. History shows that is a fallacious argument.

My point is let's not get into the scary discussion of reopening the nuclear window with an amendment that would prohibit us from continuing to study something that all of our defense people say we need to continue to study, and that is whether an existing weapon could be used to destroy a target we may need to destroy at some time in the future. As long as Congress has the ultimate say as to whether we would proceed with the development or deployment of the weapon—and we have not done that—it is absolutely not necessary for us to adopt an amendment such as this that would cripple us from even looking into the subject. That would be a Luddite position for a country like the United States with all of the responsibilities we have to take.

I urge my colleagues to vote against this amendment when we have the opportunity to do so.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I welcome the opportunity to join with my colleague and friend, the Senator from California, offering this amendment with my other colleagues.

Just to summarize very briefly, the development of these nuclear weapons signals a dangerous direction in our nuclear policy. It weakens our ability to ask other countries to give up their nuclear programs. If we build these nuclear weapons, the costs are clear. No one will believe we are serious about nuclear nonproliferation. Developing new nuclear weapons sends a mixed message that undermines all of our calls for nonproliferation. When we criticize Iran and North Korea for their nuclear weapons development, they point back to ours.

There is little doubt that we would be starting a new arms race. Although it is too soon to tell who will follow suit, few developments in the quantity or quality of nuclear weapons have gone unmatched by other powers. To start a costly new arms race for these weapons of little utility is, I believe, a mistake.

At the same time, the benefits are not clear. Opponents will just build deeper bunkers, out of the range of new weapons. We will build weapons with deeper range and our enemies will again build deeper bunkers.

But even more compelling is the fact that conventional weapons will do the job against deeply buried targets. All bunkers must have air intakes, energy sources, and entries; and secure those through conventional means and you have essentially secured the bunker, making these new nuclear weapons programs effectively useless.

In the end, the Department of Energy would like us to buy something that we do not need, that we will never use, that endangers us by its mere existence, and that makes our important diplomatic goals much more difficult to achieve.

I hope we will have the acceptance of our amendment.

Mr. President, having outlined what I believe to be the principal reasons for the amendment, I am going to take a few moments to go into some detail now about what is at risk.

As I mentioned, we are on the threshold of a new nuclear arms race. Instead of curbing the spread and the development of nuclear arms, the Bush administration wants us to build a new generation of nuclear weapons. I believe this is a dangerous and reckless policy that will put Americans at even greater risk in an increasingly dangerous world.

The nuclear weapons the administration is developing go by such terms as "mini-nukes" and "bunker busters." They may not possess the yield of the nuclear warheads of the cold war era, but a mushroom cloud is still a mushroom cloud. They can still cause monumental destruction, massive casualties, and long-term environmental damage to entire regions of the world. They will encourage other countries to follow our example and produce a new generation of nuclear weapons of their own. Their existence makes it even more likely that nuclear weapons could fall into the hands of terrorists.

On issue after issue, the Bush administration has arrogantly abandoned cooperation of the allies in favor of "my way or the highway" policies that alienate us from the world, from its rejection of the Kyoto Treaty against global warming to misguided occupation of Iraq. This administration's policies have made the world more dangerous for Americans, and the development of a new generation of nuclear arms is another such policy. These nuclear weapons programs must be stopped.

The administration requested a total of \$34.2 million for the development of these new nuclear weapons. Our amendment would stop this money from going toward these new nuclear weapons and would direct the money toward other priorities such as increasing the safety of our existing stockpile, or environmental cleanup of nuclear materials.

The administration's funding request for these programs is a continuation of the dangerous new direction this administration is taking in our nuclear weapons policy.

The administration's Nuclear Posture Review acknowledged this, stating it "puts in motion a major change in our approach to the role of nuclear"—this is in the Nuclear Posture Review, 8 January 2002. Building on the QDR—the overall review of our defense capability—the Nuclear Posture Review "puts in motion a major change in our approach to the role of nuclear offensive forces in our deterrent strategy and presents the blueprint for transforming our strategic posture."

Why? Because the administration intends to go ahead not only in the research but in the development of these weapons systems. We will hear from the other side: "Oh, no, we aren't, Senator." All you have to do is look in the legislation itself. There it is on page 378—the limitation of availability of funds for advanced nuclear weapons concept limitation. Under the funds authorized to be appropriated this year, they may be obligated or expended for the purpose of additional or exploratory studies under an advanced nuclear weapons concept initiative until 30 days after the date on which the Administrator for Nuclear Security submits to the congressional defense committees a detailed report on the activities for such studies on the initiatives that are planned for 2005.

There it is. Is that what the administration and is that what the Senate is relying on to say they are going to have to come back here for another action in terms of the development and the testing of nuclear weapons?

Look at what the language says—until 30 days after the date on which a report goes to the committee. They can go ahead.

Let us see what they are intending. This is a pass. Those who rely on that language said, "Senator KENNEDY, Senator FEINSTEIN, we have effectively addressed your needs." They cannot go ahead in terms of development or testing because we have language in there to prohibit it.

That is not accurate. That is not accurate. I have read the operative language in the Defense authorization bill for this year's funding. They can do anything they want after they give notification. That isn't any prohibition for this year.

We can ask, What do they mean? What do they intend?

Let us look at what Linton Brooks, Administrator of the National Nuclear Security Administration, says. He is the top person on nuclear weapons. He says on December 5, 2003: "On behalf of the administration, I would like to thank you"—

This was a memoranda to the directors of some of the laboratories. I will include the page in the RECORD.

"On behalf of the administration, I would like to thank you and your staff for helping us to support this important effort. We are now free to explore a range of technical options."

This is after Congress repealed the amendment which prohibited mini-



nukes. That was in the law. And the last Congress repealed that action. Here is the head of the National Nuclear Security Administration:

"We are now free to explore a range of technical options. We should not fail to take advantage of this opportunity."

Look what else Linton Brooks said:

"I have a bias in favor of things that might be usable. I think that's just an inherent part of deterrence. If it is usable, they can be developed, and we ought to use it."

You can ask, How do we know the administration is serious in pursuing the bunker buster? How do we know that? All we have to do is look at the 5-year budget the administration has submitted.

As it moves on through in the development of the bunker buster, you will find as it increases—it has a total appropriations for this whole project of some \$484 million over the next 5 years. For studies? For technical research? That is for the robust nuclear penetrator. Research is \$484 million and \$82 million for the small nuke. If you look in their budget, that is what it has.

Look in the details of what they expect each year. And when you come to 2007, you will find it is planning development in 2007. It has the technical language.

If I am wrong, I hope those on the other side will correct me. If this language does not mean development, correct me. If applicable, RNEP will move to level 6.3 authority, given the appropriate authorization—that means effectively the development in 2007 and the testing in 2009. It is in the 5-year program. This is what they are intending to do. That is why this amendment is so important.

It is very clear what the intention of the budget proposal is from the statement of the key administration officials who are dealing with the development of nuclear weapons and by the statement of the Nuclear Posture Review in and of itself. That is the direction we are going.

We believe we should say we are not going to go in this direction. We do not want to have another nuclear arms race.

One of the great successes of Democratic and Republican Presidents over the period since the end of World War II was being able to contain the nuclear arms race. We came dangerously close during the Cuban missile crisis of a nuclear exchange. But we have been able to avoid it, and we have seen progress made with the different arms control agreements which have been signed and supported by Republicans and Democrats alike.

Why in the world, when we are trying to contain the nuclear capability of North Korea and Iran, are we going out and beginning to have another nuclear arms race when we have the most feared military in the world right now? That is the argument that must be addressed on the other side to those who

want to support this particular program.

Development of these nuclear weapons is part of that ill-advised transformation. It returns us to the dangerous dynamics of the world when our nuclear scientists competed with our rivals to develop the latest technology, our arsenals were on highest alert, and we were only minutes away from nuclear attack.

The administration's nuclear posture review directs the Department of Defense to look into the possible modification to existing weapons to provide additional yield flexibility in the stockpile and improve the earth-penetrating weapons to counter the increased use of potential adversaries of hardened and deeply buried facilities, referring to the bunker buster. In addition, the nation's nuclear weapons laboratories were to look into the weapons that reduce collateral damage, the so-called mini-nukes.

Last year, the House Energy and Water Subcommittee raised serious concerns about our Nation's nuclear weapons program. They had extensive hearings on this. The Department of Energy is proposing, and this is their conclusion of the House committee report:

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

That is what the Republican House committee concluded, after extensive hearings on this particular issue. The House Energy and Water Subcommittee thought the pursuit of a broad range of new initiatives was premature until the Department of Energy could demonstrate that it could adequately care for the nuclear weapons we already have, which makes sense.

The committee cut the funding for the mini-nukes program, refusing to "support redirecting the management resources and attention to a series of new initiatives."

Chairman HOBSON's criticisms ring just as true today. Our amendment would similarly cut the funding for new nuclear weapons programs.

The President's budget for fiscal year 2005 contains \$9 million for the Advanced Concepts Initiative, which funds research into the programs. This is an increase of 50 percent from last year's level of \$6 million.

The low-yield nuclear weapons are nuclear weapons with a yield up to 5 kilotons. But these mininukes are very deadly. A 5-kiloton bomb is half the size of the bomb we dropped on Hiroshima, capable of killing hundreds of thousands of people and making the target radioactive for decades to come.

Based on questions about their battlefield utility, Congress banned the research and development of these weapons for over 10 years. As Chairman of the Joint Chiefs of Staff during the

first gulf war, Colin Powell asked for a review of options for using tactical nuclear weapons on the battlefield. He rejected all of them. Colin Powell rejected all of them because he concluded they have no usefulness on the battlefield.

Unfortunately, last year, at the administration's request, Congress repealed the ban and allowed research into these weapons to go forward. I disagreed with that action and joined with my colleague from California in an amendment to retain the ban. Many supported repealing the ban because they believed the administration would not field these new weapons. This is simply not true.

The administrator's nuclear weapons chief, Linton Brooks, says, as I mentioned: "I have a bias in favor of the lowest useable yield because I have a bias in favor of . . . things that might be useable."

That is a clear intention of what a leading person for the administration believes and feels about the usability of small nuclear weapons.

The administration wants these weapons because it believes our existing nuclear weapons are too large to be used. It wants to develop a generation of more useable nuclear weapons. In creating a more useable nuclear weapon, the administration is making it more likely that the United States would use such a weapon, increasing the risks of escalation and nuclear war.

This chart shows a detonation outside of Damascus. This would be a 5-kiloton bomb that was detonated in a hypothetical bunker in the Middle East, in Damascus, on a typical day. Over half a million people would be wounded or killed from such explosion, and the fallout pattern would extend from Damascus into the Mediterranean Sea. The detonation of even a 1-kiloton nuclear weapon at a depth of less than 50 feet will create a crater larger than the World Trade Center and spew a million cubic feet of radioactive dust into the atmosphere.

According to Michael May, the former Director of Lawrence Livermore Nuclear Laboratory, one of our premier research labs, "Scientists say even a low-yield nuclear strike on a bio-warfare storage bunker will dig a large, hot crater and blast a witches' brew of weaponized germs and radioactive fallout into the air."

This next chart gives some idea about what that might look like. We can realize the size of the hole only if we can see the observation post that allegedly can hold 20 people. They are right on the edge of that very substantial crater for the 1-kiloton bomb, with the thousands of tons of radioactive material which comes from that.

For those who argue that the advanced weapons concepts program is necessary to preserve the intellectual base of nuclear weapons scientists, one

of the prime reasons being recommended before our committee is because we want to keep occupied our nuclear scientists so they will be energized in their work.

This amendment would not stifle their ability to study nuclear weapons. There is plenty of work to be done on stockpile security, on the nuclear weapons capability of other nations. This amendment would leave the money available for research in the nuclear weapons field but would prevent it from being spent on nuclear weapons research.

The robust nuclear earth-penetrator, the so-called bunker buster, is a nuclear weapon that will burrow into the ground 10 to 50 feet before detonating. The administration is currently studying the feasibility of putting existing nuclear weapons with yields up to 300 kilotons into an earth-penetrating casing. The bunker buster is designed to strike deeply buried, hardened bunkers, which could be fortified below 100 to 300 feet of concrete.

Earth-penetrating weapons would spray millions of tons of radioactive waste into the atmosphere, creating a plume of deadly fallout, according to nuclear physicists.

Robert Peurifoy, the retired vice president of Sandia National Laboratories, another premier nuclear weapons laboratory, had this to say:

"If you can find somebody in a uniform in the Defense Department who can talk about the need for nuclear bunker busters without laughing, I'll buy him a cup of coffee. It's outlandish. It's stupid. It is an effort to maintain a payroll at the weapons labs."

Opponents will argue that we are simply funding a study, that there is no intent to go any further. But last year Fred Celec, former Deputy Assistant Secretary of Defense for Nuclear Matters in the Bush administration, was asked about these bunker busters and he stated that 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."

In May 2003, Secretary Rumsfeld said the bunker buster "is a study. It is nothing more and nothing less." This study was planned to cost \$15 million for fiscal years 2003 to 2005. In fiscal year 2004, based on concerns about the program, Congress cut the appropriations to \$7.5 million. But this year, the President's fiscal year 2005 budget request challenged that and the administration requested \$27.6 million for the study and revealed that it planned to spend \$485 million over the next 5 years.

Surely an investment of that magnitude is not just a study but a quantum leap towards deployment of this dangerous weapon. In fact, in that plan the administration stated its intent to move in a development stage.

Whatever their size, current deployed nuclear weapons must be detonated close to the ground in order to kill

chemical or biological agents, creating a great deal of nuclear fallout. If the detonation is underground, all the debris becomes radioactive and disperses through the air. Fallout can be reduced by detonating the weapons at a higher altitude, but that reduces their effectiveness against chemical or biological weapons.

Bunker busters require pinpoint accuracy to hit deeply buried, hardened bunkers that may contain chemical or biological weapons. They require precise intelligence on the location of the target because even an enhanced radiation weapon has a very short range of effectiveness to neutralize a biological agent. If the bomb is even slightly off target, the detonation may cause the spread of chemical bioagents in addition to the radioactive fallout instead of vaporizing the agent.

In fact, the administration's own Nuclear Posture Review acknowledges that "significant capability shortfalls currently exist in: finding and tracking mobile relocatable targets and WMD sites" as well as "locating, identifying, and characterizing hard and deeply buried targets."

Given our current failure to locate WMD in Iraq, do we have sufficient confidence to drop a nuclear bomb on a suspected hardened, deeply buried bunker? According to noted Stanford physicist Sidney Drell, the blast effects of such a weapon "extend beyond the area of very high temperatures and radiation they create for destroying such agents." The consequences of using such a weapon extend far beyond the limited area of a suspected bunker.

In the months leading up to the war in Iraq, the administration refused to rule out—isn't this interesting—in the months leading up to the war in Iraq, the administration refused to rule out the use of nuclear weapons. If we had mininukes last spring, would we have used them against suspected chemical or biological bunkers, bunkers which turned out not to have existed?

Using a low-yield nuclear weapon against a suspected bunker around Baghdad could have killed a half a million people or more. Imagine the geometric increase in the resentment of the Iraqi people to our occupation, what it would have been had we done so.

Couple the administration's interest in these weapons with its newly declared preventive war doctrine and we face the potential of a nuclear first strike against a nonnuclear nation. This would violate our obligations under the Nuclear Nonproliferation Treaty. Use of a nuclear weapon against a country preemptively would instantly transform America from the great beacon of hope in the world to a pariah.

So, as I mentioned, the development of these new weapons signals a dangerous direction in our nuclear policy. It weakens our ability to ask other countries to give up their nuclear programs. And the costs are clear. No one

will believe we are serious about nuclear nonproliferation. Developing the new nuclear weapon sends a mixed message that undermines all of our calls for nonproliferation. When we criticize Iran and North Korea for their nuclear weapons development, they point back to ours. There is little doubt that we would be starting a new arms race. Though it is too soon to tell who will follow suit, few developments in the quantity or quality of nuclear weapons have gone unmatched by other powers. To start an arms race with these weapons of little utility is a mistake.

Opponents, as mentioned, will just build deeper bunkers, but even more compelling is the fact that conventional weapons will do the job against deeply buried targets. We have not heard on the Armed Services Committee testimony that we do not have the capacity or capability to deal with the deep bunkers with conventional weapons today. I will wait for those who are opposed to this amendment to justify that position.

So this is a matter of enormous importance and consequence. The materials I mentioned are here on my desk. It is quite clear the direction this administration is intending to go. It is clear not only from the statements of those who have the prime responsibility for the development of nuclear weapons, it is clear in their statement for their 5-year proposal. You cannot read that proposal and not see where they are looking for development and testing. It is all out there for everyone to see.

For those to suggest on the floor of the Senate that under the existing Defense authorization bill we have effectively prohibited that kind of conduct in terms of the testing and the development defies the language I have read previously. The only hindrance would be the fact that the Department of Defense is required to send studies here to the appropriate Defense committees and then, after 30 days, is free this year to take whatever action they want. That is not the way for us to move into another nuclear arms race. That is what this amendment is meant to address. That is why I hope it will be accepted.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, first, let me compliment the Senator from Massachusetts. I fully intend to support this amendment. I have spoken about this issue on the Senate floor previously. It is in my judgment that job one for this country is to attempt to stop the spread of nuclear weapons around the rest of the world, to prevent the proliferation of nuclear weapons, to make certain the nuclear weapons that do exist are protected and safeguarded, and then for this country to lead in this world to try to reduce the stockpile of nuclear weapons.

But for this country to be talking about building new nuclear weapons,

earth-penetrating, bunker-buster nuclear weapons or low-yield nuclear weapons, and have people in this administration talk about nuclear weapons as if they are just another weapon to be used in a war—drop a nuke on a cave someplace; just another weapon, that is what they are talking about—that this country should be wanting to build more, it is absurd.

There are roughly 30,000 nuclear weapons on this Earth. The stealing of one of those weapons or the acquisition of one by terrorist groups would cause an apoplectic seizure for people who live in the major cities of this country that would be targeted by the detonation of a nuclear weapon.

Our job is not to be talking about building new nuclear weapons. There are plenty of nuclear weapons on this Earth—far too many, in fact. Our job is to be a world leader in stopping the spread of nuclear weapons and to find ways to reduce the stockpile of existing nuclear weapons. That is the way we create a safer world, not talking about building more, not talking about resuming testing, not talking about bunker buster, earth penetrators, low-yield, usable nuclear weapons. That is, in my judgment, reckless talk. I intend to support this amendment.

Mr. President, I am going to be offering an amendment to this Defense authorization bill dealing with the White House plan to use a military aircraft to broadcast Television Marti to the Cuban people. I want to talk about that just for a moment.

It is almost unbelievable. When someone listens to the logic of all of this, they would say: Are you nuts? Is no one thinking at all about this?

Cuba, as we know, is a Communist government, run by Fidel Castro. He, I think, has lived now through 10 American Presidencies, with an embargo on the country of Cuba through 40-some years.

So we want to convince the Cubans that Fidel Castro is a bad deal for them. Well, I have been to Cuba. I do not think they need much convincing. They understand. They do not live in a free country. They understand that they live under the yoke of a Communist government. They would love to come to this country. If we had no immigration laws and Castro let them go, we would have an exodus to this country. So they do not need a great deal of convincing. But, nonetheless, we spend a lot of money on Television and Radio Marti.

So Radio Marti actually gets into Cuba, and people listen to it. I have been to Cuba. The dissidents and others in Cuba indicated that Radio Marti is effective, although they can also pick up the radio stations from Miami easily. All those commercial stations are available to be listened to by the folks in Cuba.

I support Radio Marti. It is fine with me. It gets into the Cuban broadcast range, the Cuban people listen to it, and I have been told by the Cubans in

Cuba that it is effective. But TV Marti, broadcasting television signals into Cuba, let me talk about that for a moment.

All those television signals are blocked so the Cuban people can't see it. We broadcast it. I want to show you what we have been doing with the taxpayers' money. This is a picture of something called Fat Albert. It is a tethered dirigible or balloon that goes up, and using Fat Albert we send television signals at Cuba. Traditionally, we have done it from 3 until 7 in the morning. We broadcast 4 hours a day through Fat Albert. The Cuban Government blocks the signal. So we spend the money for nothing. We have a balloon-enhanced signal to Cuba and nobody can see the image.

In fact, here is how the television screen in Cuba looks. As you see, it is a scrambled screen. There is no TV picture.

The President announced recently that he is going to get much more aggressive on TV Marti. One would think if what we are doing is a colossal, tragic, complete, thorough waste of taxpayers' funds, you would stop it. No, not us, not now, not with Cuba. We want to spend more money. The President says it doesn't matter that they can't see it. It doesn't matter that it doesn't work. What we want to do is phase out these balloons because they are old. What we want to do is take an EC-130 special operations aircraft, under the control of the Department of Defense, and use it to transmit TV Marti broadcasts to Cuba. The broadcasts may well still be jammed, and the Cuban people still won't be able to see them. But the President and the White House are talking about \$18 million to be able to send these television messages into Cuba that the Cubans can't see.

We have spent \$180 million on TV Marti since 1989, \$180 million on broadcast signals the Cubans haven't seen. One wonders if there is any depth to which foolishness will move in this Chamber, if we continue to do this. Is there anything that is beyond the pale? We just want to keep doing this? In fact, we want to get rid of the balloon, and we can put this aircraft up, run by a military special operations unit.

There are only six of these aircraft in the world. They are extraordinarily valuable in the Middle East. We have used these airplanes to great value in the Middle East. They broadcast important messages to support U.S. military operations in places like Afghanistan and Iraq. But they will not be used to great value in Cuba.

So if something doesn't work, the President and the White House announce we want to do more of it, and do it with more sophisticated equipment.

We want to divert this aircraft from missions in war theaters—Afghanistan, Iraq—and see if it can replace Fat Albert; put it up in the air and push television signals out the carcass of this

airplane that the Cuban people probably cannot see or receive.

It is unbelievable to me that the White House is pushing this nonsense. I am going to offer an amendment that will say we will prohibit the use of EC-130 special operations aircraft and other aircraft for transmission of TV Marti broadcasts to Cuba or radio broadcasts to Cuba. We already get the radio broadcasts in. We don't need to do it with special operations aircraft. Having a special operations aircraft available probably will not get TV signals in effectively.

My point is, why waste the money? We were told yesterday that we are short of money for DOD. We were told we should have a \$25 billion reserve fund. This Congress voted for it without a dissenting vote. Why? Because we are short of money. We need it, so the Congress provided it. Do we want to use scarce resources for flying a special ops airplane, of which there are only six in the entire world, so that we can send signals that will be jammed by Fidel Castro?

I don't have any use for Fidel Castro. I want the Cuban people to be free. But I want the American people to be free from this nonsense. These are taxpayers' moneys that come from the pocketbooks of the American people, and they ought not be wasted. This is a tragic waste of the taxpayers' money.

While I am at it, let me make one more point. We have folks who are in the Treasury Department in an organization called OFAC, Office of Foreign Assets Control. Their job is to track terrorist funds, the funds that support terrorist groups. Down at the Office of Foreign Assets Control, they have 21 people tracking American tourists who travel to Cuba. And they have fewer than four who are tracking assets that are supporting Osama bin Laden. That is unbelievable to me.

Recently I brought a picture of a woman named Joanie Scott to the Senate floor, a wonderful young woman who came to see me. She went to Cuba to distribute free Bibles. But she found out those fearless warriors in OFAC were not tracking Osama bin Laden. They were tracking Joanie Scott who was distributing free Bibles to the people of Cuba and slapping her with a \$10,000 civil fine.

And it is not just Joanie Scott. It is a whole series of others, such as a man whose father died, and his last wish was that his ashes be buried at the church in which he ministered in Cuba. His son takes them there, and OFAC, instead of tracking Osama bin Laden's funding, is going after this guy with a civil fine for taking his dead father's ashes to bury them in Cuba. That is the kind of nonsense that is going on. It has nothing to do with sound public policy. It has everything to do with politics in Florida. This administration is playing it like a violin.

The fact is, this ought to stop. I will support the Defense authorization bill, but I hope my colleagues will agree

with me that diverting money from the Defense Department to put up a special operations EC-130 to broadcast television signals to the Cuban people who probably won't be able to see it is a waste of taxpayers' money, and it ought to stop.

#### REGULATORY AGENCIES

Mr. DORGAN. Mr. President, I read in the paper a story that reminded me that we have some real problems with respect to regulatory agencies these days. I happen to think there is a significant role for effective regulation in government, especially in areas where you have monopolies or the potential of abuse of consumers and citizens. That is why you have regulatory authorities, and there is a requirement for them to regulate effectively.

I noticed in the paper that "SEC Seeks Psychologist to Boost Morale." It says:

Some former SEC officials find the idea of an SEC psychologist laughable.

This is a full-time position that will pay \$147,000 a year, and they want to improve employee attitudes and job satisfaction, reduce burnout, conflict, and stress by hiring a psychologist.

I don't doubt there is plenty of need for psychologists in Washington, DC.

This came on the heels of a report in the newspaper about the Bureau of Indian Affairs sending a number of employees to Tony Robbins' motivational course in Chicago, IL, at a cost of tens of thousands of dollars. At a time when we don't have enough money to fund health care needs for Indian children, to fund Indian tribal colleges, to deal with the social service needs of most of these children on Indian reservations, we are sending people off to the Tony Robbins motivational course in Chicago, spending a small fortune.

As I was thinking about these things, which seemed to me to be a waste of the taxpayers' money, I was thinking about the issue of regulation.

Last evening, I saw the CBS report about what had happened in California with electricity prices. I held hearings and I chaired the subcommittee in Commerce holding hearings on the issue of the fleecing of west coast consumers who were paying prices for electricity that were outrageous a couple of years ago. We subpoenaed Kenneth Lay, former head of Enron. He came in and took the fifth amendment in front of our committee. We had Jeffrey Skilling. He actually testified. He is now under indictment. I was thinking about this issue of regulation, when I read last evening the transcript of Enron employees talking about going ahead and shutting down the electric plant.

That way, you have less supply of electricity out there. You inflate the price and we can maximize profits, manipulate the supply in order to maximize profits. They say: Well, all the money you guys stole from those poor grandmothers. The other guy says: Yes, Grandma Millie, that's Grandma Millie.

They laughed about stealing money from people by manipulating and shutting down electric plants. This all happened while we had the FERC, Federal Energy Regulatory Commission—people who are paid by the taxpayers who are supposed to regulate—sat on their hands; they did their imitation of a potted plant and did absolutely nothing.

One might ask consumers on the west coast about the \$5 billion to \$10 billion that was stolen from them by manipulating supply and demand and the inflating of prices by cartels, by traders who created schemes named "get shorty," "fat boy," "death star," and "load shift."

These are organizations—and there is more than one—that, in my judgment, stole billions of dollars. Yes, there are some indictments, but some are still living in their gated communities and counting that money.

The Federal regulatory agency here, called FERC, did the American public an enormous disservice by deciding their job wasn't to regulate, it was to observe. If a regulatory agency is not going to regulate in cases where you have the stealing of billions of dollars, then we don't need that agency at all. We ought to dissolve it and create one that will work.

Here is another regulatory agency, the Federal Communications Commission. They are not regulating, either. They are content to just observe. They just came up with new rules on broadcast ownership. They said, oh, by the way, it will be all right with us if, in one major city in this country, the same company owns eight radio stations, three television stations, the cable company, and the major newspaper. That will be fine. That is what the FCC said.

You talk about abridging the rights of people in this country. This is a decision that means a handful of people—fewer and fewer people—will decide what the American people see, hear, and read in the future. Hundreds and hundreds of thousands of people wrote to the FCC complaining about the proposed rule. It didn't matter a bit. They went ahead and adopted it anyway. This is not a regulatory agency. At least they are not representing the interests of the American people. It is what the big interests want; let us move in that direction. It is what the big and powerful interests want—that is what we will do. That is true with FERC, with the FCC, the Surface Transportation Board, STB, and the SEC.

The Surface Transportation Board took the place of the Interstate Commerce Commission, the ICC, which I always thought was dead from the neck up. We replaced it with something called the STB. It doesn't matter. They are supposed to look after the railroads and make sure consumers are not cheated.

In North Dakota, we are overpaying rail rates by \$100 million. Does the STB

care about that? They don't give a whip. They are supposed to regulate and they are content to sit on their hands and observe. I met with them yesterday; same old story.

The Securities and Exchange Commission wants to hire a psychologist because of employee stress. It is interesting to me that the investment banking firms were investigated in this country and reached a settlement because they internally, some of them, were trying to sell stocks to the public that internally they called dogs. They said, we have these stocks that are real dogs, not worth anything, but let's market them to the public. They had sales people trying to sell the stocks that they described as dogs. Do you know who uncovered all that double dealing going on, the basic conflicts of interest? Was it the SEC, the ones that have hundreds of lawyers who are supposed to be doing this? No, the Securities and Exchange Commission, which wants to hire a psychologist because they have such stress on their jobs, didn't do a thing. It was the attorney general of New York State.

How about the scandal with the mutual funds? Was that the SEC, the organization that is so stressed out they want to hire a psychologist for employees? Unfortunately not. They were busy observing. The first Chairman under this administration said it would be a kinder and gentler SEC, we are probusiness. That is the message he wanted to send.

Well, that is certainly true. They have done nothing. It was Elliot Spitzer, the attorney general of New York, who unearthed both of those scandals. So much for the SEC, and so much for job stress for people who don't do anything.

The FDA is supposed to regulate as well. They seem content to represent the pharmaceutical industry. They have spent their time in recent months trying to prevent the Congress from providing for the reimportation of FDA-approved drugs from Canada. Why? Beats me. When the question is asked, whose side are you on, they come down on the side of the pharmaceutical industry, not the consumer.

We are trying to put downward pressure on prescription drug prices. They are in the wrong corner. I don't need to mention much about the FTC. When gas prices are \$2.10 or \$2.20 a gallon, you would hope to have an agency like the FTC that would be aggressive and active, and that you would see a cloud of dust from an investigating agency trying to find out what is happening. We know some of what is happening. There is a lot of trading and speculation going on, and a great deal of concern that consumers are being taken advantage of. Do we see much activity out of the Federal Trade Commission? Not much going on there, either. It is a great place to nap, apparently.

There is a good reason, it seems to me, for us to start asking: Is there not a requirement for a regulatory authority that regulates? I know this notion

of deregulation is wonderful. But if you deregulate in the face of monopolies, the American people, in my judgment, are going to be injured severely. Ask people in California, Oregon, and Washington, who paid sky-high rates for electricity, about the need for effective regulation. Why did they pay those rates? Because a company such as Enron, and others, I might add, got involved and found ways to cheat. They created schemes, such as "get shorty," "fat boy," "death star," and others, by which they could cheat the ratepayers, the consumers. I think there is a time when you need effective regulation.

Going back to one more point, I mentioned all of these agencies—the SEC, FDA, Federal Communications Commission, Surface Transportation Board, and others. They are all there for a purpose. If they are not serving that purpose, maybe we don't need them at all. It is a purpose, however, that I embrace.

I believe the American people deserve someone who fights for them. When the railroad overcharges somebody, in my judgment, they ought to be able to file a complaint and find due process in a regulatory body that is not on the railroad's side, or that automatically decides for the railroads, but in a way that fairly and effectively deals with those complaints.

When the FCC is looking at what the impact is of the concentration of broadcast properties, I hope they will not come up with the conclusion that it is not a problem for the consumers if one company owns eight radio stations, three television stations, the newspaper, and the cable company in the same town.

I do not know what school you go to learn that sort of nonsense, but that is not the right thing for this country.

Incidentally, on that subject, the Senate agrees with the position I have articulated. We voted on this issue and by a wide margin the Senate voted to overturn the Federal Communications Commission's rules on broadcast ownership, but it is not going anyplace because the leaders in the House of Representatives are blocking that resolution.

My hope is as we proceed through this year and work on appropriations issues we might be able to address some of these issues with regulatory agencies. If we are going to have regulatory agencies—and I think we should in a good many areas; I do not think they need psychologists, they need leadership—they need an administration that says: Your job at the FCC, FDA, FERC, and others is to effectively represent the interests of the American people, and when you have big interests confronting small interests, you need to be the fair referee here, the one that evens the score a bit.

I mentioned many times the refrain in Bob Wills and the Texas Playboys song from the 1930s, but it applies pretty well:

Little bee sucks the blossom and the big bee gets the honey.

The little guy picks the cotton and the big guy gets the money.

With respect to Government, there ought to be a mechanism that provides protection for the smaller interests when confronted by the larger interests that want to take advantage of it. What happened on the west coast should never have happened with respect to electric grids because the Federal Energy Regulatory Commission should have stepped in immediately, but they would not; they did not. The President, in fact, when he took office bragged: There will be no price caps; we won't put any caps on prices because we want the market to work.

The market was not working. There was massive stealing and cheating going on of west coast consumers by some folks who got rich in the Enron Corporation, and others. That is not speculation on my part. We now know this as a function of criminal filings that have been made in these cases. We now know it as a result of tape recordings that were made available only under duress by the U.S. Justice Department in the last couple of days. "Enron Traders Caught on Tape," "Enron Tapes Anger Lawmakers."

The American people deserve better. The American people deserve much better than they are getting with these regulatory agencies that decide they do not want to regulate.

I wanted to visit about these regulatory agencies. Some will not like what I have to say. Frankly, I do not like their inattention to the issues facing the American people in a manner that is not fair to many people.

I come back to where I started, the amendment I discussed earlier about prohibiting the use of special operations aircraft to broadcast TV Marti signals into Cuba. My amendment is a prohibition on the use of money for that purpose.

Radio Marti is effective. I have been to Cuba. They hear those signals. It is effective. We have spent nearly \$180 million on TV Marti. It has been a tragic waste of the taxpayers' money. Those signals are not able to be seen in Cuba. They are blocked. To appropriate military aircraft for the use of sending signals that will likely still be blocked and not seen by the Cuban people seems folly to me.

I ask unanimous consent that we lay the current amendment aside so I may formally offer the amendment I have described.

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. DORGAN. Let me ask the Senator from Nevada the status of the legislation in the Senate. It is my intention to offer the amendment. Of course, I will have the opportunity. Is it the intention of the floor managers not to allow amendments the rest of the day?

Mr. REID. Yes, there may come a time when there are six or seven amendments the managers cleared. As far as setting the Kennedy amendment

aside, we are not able to do that this afternoon.

Mr. DORGAN. Let me also say—I know the managers of the bill are not here—as an observation, it would make a lot of sense to move amendments. There is always the case of people coming to the floor of the Senate saying: Boy, we don't want any delays; this is taking too long. And yet on a fair number of occasions, when I have come to the floor, there is someone—in this case it is not the Senator from Nevada himself. Well, I guess it is the Senator from Nevada at this point saying someone objects.

I would prefer we offer amendments, get them to the desk, and consider them with votes in due course. If there is a decision or an objection at this point to setting aside the current amendment, which is the course that must be taken, then I will come back, I guess, on—on Monday or Tuesday, will we be open for amendments?

Mr. REID. Monday.

Mr. DORGAN. Then I will come back on Monday and offer the amendment I described and hope it may be seen by the Senate as something that represents an enhancement to this underlying Defense authorization bill.

Mr. President, I yield the floor.

Mr. REID. Mr. President, it is my understanding the distinguished Senator from North Carolina wishes to speak for 20 minutes; is that right?

Mrs. DOLE. Yes.

Mr. REID. Is that in morning business or on this amendment?

Mrs. DOLE. Morning business.

Mr. REID. I ask unanimous consent that the Senator from North Carolina be recognized for 20 minutes.

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

Mr. REID. Following the Senator from North Carolina recognized in morning business, that Senator LAUTENBERG be recognized for 20 minutes to speak as in morning business. It is my understanding we have cleared amendments now.

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

The Senator from North Carolina.

AMENDMENT NOS. 3274, 3275, 3236, 3276, 3233, 3277, AND 3278, EN BLOC

Mrs. DOLE. Mr. President, I have a set of amendments to the Defense bill that have been cleared by both managers. Therefore, I ask unanimous consent that the amendments be considered and agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. REID. These have been cleared by Senator LEVIN. There is no objection.

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

The amendments (Nos. 3274, 3275, 3236, 3276, 3233, 3277, and 3278) were agreed to, en bloc, as follows:

## AMENDMENT NO. 3274

(Purpose: To provide for the conveyance of land at the Sunflower Army Ammunition Plant, Kansas)

At the end of subtitle C of title XXVIII, insert the following:

**SEC. 2830. LAND CONVEYANCE, SUNFLOWER ARMY AMMUNITION PLANT, KANSAS.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army, in consultation with the Administrator of General Services, may convey to an entity selected by the Board of Commissioners of Johnson County, Kansas (in this section referred to as the “entity” and the “Board”, respectively), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 9,065 acres and containing the Sunflower Army Ammunition Plant. The purpose of the conveyance is to facilitate the re-use of the property for economic development and revitalization.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the entity shall provide the United States, whether by cash payment, in-kind contribution, or a combination thereof, an amount that is not less than the fair market value, as determined by an appraisal of the property acceptable to the Administrator and the Secretary. The Secretary may authorize the entity to carry out, as in-kind consideration, environmental remediation activities for the property conveyed under such subsection.

(2) The Secretary shall deposit any cash received as consideration under this subsection in a special account established pursuant to section 572(b) of title 40, United States Code, to pay for environmental remediation and explosives cleanup of the property conveyed under subsection (a).

(c) CONSTRUCTION WITH PREVIOUS LAND CONVEYANCE AUTHORITY ON SUNFLOWER ARMY AMMUNITION PLANT.—The authority in subsection (a) to make the conveyance described in that subsection is in addition to the authority under section 2823 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107-314; 116 Stat. 2712) to make the conveyance described in that section.

(d) ENVIRONMENTAL REMEDIATION AND EXPLOSIVES CLEANUP.—(1) Notwithstanding any other provision of law, the Secretary may enter into a multi-year cooperative agreement or contract with the entity to undertake environmental remediation and explosives cleanup of the property, and may utilize amounts authorized to be appropriated for the Secretary for purposes of environmental remediation and explosives cleanup under the agreement.

(2) The terms of the cooperative agreement or contract may provide for advance payments on an annual basis or for payments on a performance basis. Payments may be made over a period of time agreed to by the Secretary and the entity or for such time as may be necessary to perform the environmental remediation and explosives cleanup of the property, including any long-term operation and maintenance requirements.

(e) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the entity or other persons to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental, and other administrative costs related to the conveyance.

(2) Amounts received under paragraph (1) shall be credited to the appropriation, fund, or account from which the costs were paid. Amounts so credited shall be merged with funds in such appropriation, fund, or ac-

count, and shall be available for the same purposes, and subject to the same limitations, as the funds with which merged.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey jointly satisfactory to the Secretary and the Administrator.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary and the Administrator may require such additional terms and conditions in connection with the conveyance of real property under subsection (a), and the environmental remediation and explosives cleanup under subsection (d), as the Secretary and the Administrator jointly consider appropriate to protect the interests of the United States.

## AMENDMENT NO. 3275

(Purpose: To clarify the protection of military personnel from retaliatory action for communications made through the chain of command)

On page 280, after line 22, insert the following:

**SEC. 1068. PROTECTION OF ARMED FORCES PERSONNEL FROM RETALIATORY ACTIONS FOR COMMUNICATIONS MADE THROUGH THE CHAIN OF COMMAND.**

(a) PROTECTED COMMUNICATIONS.—Section 1034(b)(1)(B) of title 10, United States Code, is amended—

(1) by striking “or” at the end of clause (iii); and

(2) by striking clause (iv) and inserting the following:

“(iv) any person or organization in the chain of command; or

“(v) any other person or organization designated pursuant to regulations or other established administrative procedures for such communications.”.

(b) EFFECTIVE DATE AND APPLICABILITY.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to any unfavorable personnel action taken or threatened, and any withholding of or threat to withhold a favorable personnel action, on or after that date.

## AMENDMENT NO. 3236

(Purpose: To authorize and improve Operation Hero Miles)

On page 131, between lines 17 and 18, insert the following:

**SEC. 653. ACCEPTANCE OF FREQUENT TRAVELER MILES, CREDITS, AND TICKETS TO FACILITATE THE AIR OR SURFACE TRAVEL OF CERTAIN MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES.**

Section 2608 of title 10, United States Code, is amended—

(1) by redesignating subsections (g) through (k) as subsections (h) through (l), respectively; and

(2) by inserting after subsection (f) the following new subsection:

“(g) OPERATION HERO MILES.—(1) The Secretary of Defense may use the authority of subsection (a) to accept the donation of frequent traveler miles, credits, and tickets for air or surface transportation issued by any air carrier or surface carrier that serves the public and that consents to such donation, and under such terms and conditions as the air or surface carrier may specify. The Secretary shall designate a single office in the Department of Defense to carry out this subsection, including the establishment of such rules and procedures as may be necessary to facilitate the acceptance of such frequent traveler miles, credits, and tickets.

“(2) Frequent traveler miles, credits, and tickets accepted under this subsection shall be used only in accordance with the rules es-

tablished by the air carrier or surface carrier that is the source of the miles, credits, or tickets and shall be used only for the following purposes:

“(A) To facilitate the travel of a member of the armed forces who—

“(i) is deployed on active duty outside the United States away from the permanent duty station of the member in support of a contingency operation; and

“(ii) is granted, during such deployment, rest and recuperative leave, emergency leave, convalescent leave, or another form of leave authorized for the member.

“(B) In the case of a member of the armed forces recuperating from an injury or illness incurred or aggravated in the line of duty during such deployment, to facilitate the travel of family members of the member to be reunited with the member.

“(3) For the use of miles, credits, or tickets under paragraph (2)(B) by family members of a member of the armed forces, the Secretary may, as the Secretary determines appropriate, limit—

“(A) eligibility to family members who, by reason of affinity, degree of consanguinity, or otherwise, are sufficiently close in relationship to the member of the armed forces to justify the travel assistance;

“(B) the number of family members who may travel; and

“(C) the number of trips that family members may take.

“(4) Notwithstanding paragraph (2), the Secretary of Defense may, in an exceptional case, authorize a person not described in subparagraph (B) of that paragraph to use frequent traveler miles, credits, or a ticket accepted under this subsection to visit a member of the armed forces described in such subparagraph if that person has a notably close relationship with the member. The frequent traveler miles, credits, or ticket may be used by such person only in accordance with such conditions and restrictions as the Secretary determines appropriate and the rules established by the air carrier or surface carrier that is the source of the miles, credits, or ticket.

“(5) The Secretary of Defense shall encourage air carriers and surface carriers to participate in, and to facilitate through minimization of restrictions and otherwise, the donation, acceptance, and use of frequent traveler miles, credits, and tickets under this section.

“(6) The Secretary of Defense may enter into an agreement with a nonprofit organization to use the services of the organization—

“(A) to promote the donation of frequent traveler miles, credits, and tickets under paragraph (1), except that amounts appropriated to the Department of Defense may not be expended for this purpose; and

“(B) to assist in administering the collection, distribution, and use of donated frequent traveler miles, credits, and tickets.

“(7) Members of the armed forces, family members, and other persons who receive air or surface transportation using frequent traveler miles, credits, or tickets donated under this subsection are deemed to recognize no income from such use. Donors of frequent traveler miles, credits, or tickets under this subsection are deemed to obtain no tax benefit from such donation.

“(8) In this subsection, the term ‘family member’ has the meaning given that term in section 411h(b)(1) of title 37.”.

## AMENDMENT NO. 3276

(Purpose: To require a report on the training provided to members of the Armed Forces to prepare for post-conflict operations)

At the end of subtitle C of title X, add the following:



**SEC. 1022. REPORT ON TRAINING PROVIDED TO MEMBERS OF THE ARMED FORCES TO PREPARE FOR POST-CONFLICT OPERATIONS.**

(a) **STUDY ON TRAINING.**—The Secretary of Defense shall conduct a study to determine the extent to which members of the Armed Forces assigned to duty in support of contingency operations receive training in preparation for post-conflict operations and to evaluate the quality of such training.

(b) **MATTERS TO BE INCLUDED IN STUDY.**—As part of the study under subsection (a), the Secretary shall specifically evaluate the following:

(1) The doctrine, training, and leader-development system necessary to enable members of the Armed Forces to successfully operate in post-conflict operations.

(2) The adequacy of the curricula at military educational facilities to ensure that the Armed Forces has a cadre of members skilled in post-conflict duties, including a familiarity with applicable foreign languages and foreign cultures.

(3) The training time and resources available to members and units of the Armed Forces to develop cultural awareness about ethnic backgrounds and religious beliefs of the people living in areas in which post-conflict operations are likely to occur.

(4) The adequacy of training transformation to emphasize post-conflict operations, including interagency coordination in support of combatant commanders.

(c) **REPORT ON STUDY.**—Not later than May 1, 2005, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the result of the study conducted under this section.

**AMENDMENT NO. 3233**

(Purpose: To express the sense of the Senate regarding the funding of the Advanced Shipbuilding Enterprise under the National Shipbuilding Research Program of the Navy)

On page 35, between lines 6 and 7, insert the following:

**SEC. 232. SENSE OF THE SENATE REGARDING FUNDING OF THE ADVANCED SHIPBUILDING ENTERPRISE UNDER THE NATIONAL SHIPBUILDING RESEARCH PROGRAM OF THE NAVY.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) The budget for fiscal year 2005, as submitted to Congress by the President, provides \$10,300,000 for the Advanced Shipbuilding Enterprise under the National Shipbuilding Research Program of the Navy.

(2) The Advanced Shipbuilding Enterprise is an innovative program to encourage greater efficiency in the national technology and industrial base.

(3) The leaders of the United States shipbuilding industry have embraced the Advanced Shipbuilding Enterprise as a method for exploring and collaborating on innovation in shipbuilding and ship repair that collectively benefits all components of the industry.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate—

(1) that the Senate—

(A) strongly supports the innovative Advanced Shipbuilding Enterprise under the National Shipbuilding Research Program as an enterprise between the Navy and industry that has yielded new processes and techniques that reduce the cost of building and repairing ships in the United States; and

(B) is concerned that the future-years defense program of the Department of Defense that was submitted to Congress for fiscal year 2005 does not reflect any funding for the Advanced Shipbuilding Enterprise after fiscal year 2005; and

(2) that the Secretary of Defense should continue to provide in the future-years defense program for funding the Advanced Shipbuilding Enterprise at a sustaining level in order to support additional research to further reduce the cost of designing, building, and repairing ships.

**AMENDMENT NO. 3277**

(Purpose: To require a study regarding promotion eligibility of retired warrant officers on active duty)

On page 79, between lines 10 and 11, insert the following:

**SEC. 515. STUDY REGARDING PROMOTION ELIGIBILITY OF RETIRED WARRANT OFFICERS RECALLED TO ACTIVE DUTY.**

(a) **REQUIREMENT FOR STUDY.**—The Secretary of Defense shall carry out a study to determine whether it would be equitable for retired warrant officers on active duty, but not on the active-duty list by reason of section 582(2) of title 10, United States Code, to be eligible for consideration for promotion under section 573 of such title.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the results of the study under subsection (a). The report shall include a discussion of the Secretary's determination regarding the issue covered by the study, the rationale for the Secretary's determination, and any recommended legislation that the Secretary considers appropriate regarding that issue.

**AMENDMENT NO. 3278**

(Purpose: To convert appropriations transfer authority in section 123 to authority for transfers of authorizations of appropriations)

Strike section 123 and insert the following:

**SEC. 123. PILOT PROGRAM FOR FLEXIBLE FUNDING OF SUBMARINE ENGINEERED REFUELING OVERHAUL AND CONVERSION.**

(a) **ESTABLISHMENT.**—The Secretary of the Navy may carry out a pilot program of flexible funding of engineered refueling overhauls and conversions of submarines in accordance with this section.

(b) **AUTHORITY.**—Under the pilot program, the Secretary of the Navy may, subject to subsection (d), transfer amounts described in subsection (c) to the authorization of appropriations for the Navy for procurement for shipbuilding and conversion for any fiscal year to continue to provide authorization of appropriations for any engineered refueling conversion or overhaul of a submarine of the Navy for which funds were initially provided on the basis of the authorization of appropriations to which transferred.

(c) **AMOUNTS AVAILABLE FOR TRANSFER.**—The amounts available for transfer under this section are amounts authorized to be appropriated to the Navy for any fiscal year after fiscal year 2004 and before fiscal year 2013 for the following purposes:

(1) For procurement as follows:

(A) For shipbuilding and conversion.

(B) For weapons procurement.

(C) For other procurement.

(2) For operation and maintenance.

(d) **LIMITATIONS.**—(1) A transfer may be made with respect to a submarine under this section only to meet either (or both) of the following requirements:

(A) An increase in the size of the workload for engineered refueling overhaul and conversion to meet existing requirements for the submarine.

(B) A new engineered refueling overhaul and conversion requirement resulting from a revision of the original baseline engineered refueling overhaul and conversion program for the submarine.

(2) A transfer may not be made under this section before the date that is 30 days after the date on which the Secretary of the Navy transmits to the congressional defense committees a written notification of the intended transfer. The notification shall include the following matters:

(A) The purpose of the transfer.

(B) The amounts to be transferred.

(C) Each account from which the funds are to be transferred.

(D) Each program, project, or activity from which the amounts are to be transferred.

(E) Each account to which the amounts are to be transferred.

(F) A discussion of the implications of the transfer for the total cost of the submarine engineered refueling overhaul and conversion program for which the transfer is to be made.

(e) **MERGER OF FUNDS.**—A transfer made from one account to another with respect to the engineered refueling overhaul and conversion of a submarine under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred and shall be available for the engineered refueling overhaul and conversion of such submarine for the same period as the account to which transferred.

(f) **RELATIONSHIP TO OTHER TRANSFER AUTHORITY.**—The authority to make transfers under this section is in addition to any other transfer authority provided in this or any other Act and is not subject to any restriction, limitation, or procedure that is applicable to the exercise of any such other authority.

(g) **FINAL REPORT.**—Not later than October 1, 2011, the Secretary of the Navy shall submit to the congressional defense committees a report containing the Secretary's evaluation of the efficacy of the authority provided under this section.

(h) **TERMINATION OF PROGRAM.**—No transfer may be made under this section after September 30, 2012.

Ms. SNOWE. Mr. President, today, I rise to speak to an amendment to Section 841 of the National Defense Authorization Act for fiscal year 2005 revising the authority for the Commission on the Future of the National Technology and Industrial Base.

This amendment is intended to ensure that small business interests are represented in the membership of the commission and are considered in its studies.

I applaud Chairman WARNER and the Armed Services Committee for creating this Commission in Section 841 of this Act. This esteemed commission will be composed from persons with backgrounds in defense industry, foreign policy, trade, labor, economics, and other relevant fields. Further, this commission is charged with studying and reporting on various important issues affecting the future of the national technology and industrial base.

However, as chair of the Small Business Committee, I was surprised to find that Section 841 contains no requirement to appoint small business persons to the commission. I was also disappointed to see that the commission is not currently required to study small business issues.

There is no reasonable basis for retaining these omissions in the act. Persuasive studies from the Office of Advocacy of the Small Business Administration have shown that small businesses are crucial to job creation, economic development, and technological innovation. Further, the Small Business Act sets forth the goal of directing 23 percent of defense procurement dollars to small business prime contracts. Clearly, the commission's studies will be incomplete without taking into account small business contributions to our Nation's defense.

My amendment provides for appointment to the commission of persons with background in small business contracting. It also gives this commission the mandate to study the ways to strengthen the role of the small business sector as a vital component of our national technology and industrial base.

#### NATIONAL HUNGER AWARENESS DAY

Mrs. DOLE. Mr. President, 1 year ago, I shared my thoughts on the Senate floor on a matter that weighs heavily on my mind. I reserved my maiden speech for a topic I chose to make one of my top priorities as a Senator. Hunger is the silent enemy lurking within too many American homes and a tragedy I have seen firsthand far too many times throughout my life in public service.

Today, on National Hunger Awareness Day, I call once again for a hunger-free America. The battle to end hunger in our country is a campaign that cannot be won in months or even a few years, but it is a victory within reach. What we need is to help our fellow Americans understand the terrible reality of hunger and how to put a stop to it.

As Washington Post columnist David Broder said:

America has some problems that defy solution. This one does not. It just needs caring people and a caring government working together.

We are fortunate, indeed, to have a President who strives to lead our Government and our Nation in a compassionate direction. President Bush has said poverty runs deep in this country, and we need to take the war on poverty a step further by recognizing the power and promise of faith-based and community-based groups that exist not because of Government, but because they have heard the universal call to love somebody in need.

I am curious if the majority of the American public knows how many of their fellow citizens go hungry each and every day. The number is astounding. The Census Bureau reports that in the year 2002, 34.6 million Americans were living in poverty. Within that figure, over 7 million families, families with children, young little ones fall asleep with an empty stomach. It is hard to believe that here in America, where we are desperately trying to get a handle on obesity, there are literally millions of children who do not have enough to eat.

Families in my home State of North Carolina are especially struggling. According to the most recent studies from the U.S. Department of Agriculture, we are one of the few States that has an increasing rate of food insecurity. From 1996 to 2002, food insecurity among North Carolina households rose from 9.6 percent to 12.3 percent. That means tens of thousands of families have difficulty affording food at some point each year.

A great deal of this can be attributed to the significant economic hardship we have faced over the last few years. Once-thriving towns have been decimated by the closing of furniture and textile mills. In the summer of 2003, less than 1 year ago, North Carolina experienced the largest layoff in State history when textile giant Pillowtex closed its doors forever. That day alone, 4,400 people lost their jobs, and eventually nearly 5,000 were laid off.

In eastern North Carolina, plant closures have resulted in more than 2,200 layoffs since last summer, and in the last few months, the western region of North Carolina has lost more than 1,500 jobs.

Now there are signs that the situation is improving, but even as our employment numbers rise, there are families struggling to put a balanced meal on their table. Sadly, their story is not unlike so many others across the country. There are many Americans who, after being laid off, were fortunate enough to find new employment. But in the changing climate of today's workforce, simply being able to hold down a job will not necessarily guarantee your family three square meals a day.

A recent report from the U.S. Conference of Mayors found that many of the jobs lost between the years 2001 and 2003 will be replaced by jobs paying at least 20-percent less. The face of the hungry has changed over the last 10 years. While many associate those who struggle with hunger as being unemployed Americans, the sad truth is that the number of the working poor has escalated in the last decade.

There are 43 million people in low-income families. That means millions of those lining up at soup kitchens, low-priced pantries, and other charitable organizations are men and women working anywhere from one to three jobs, raising children, and under daily pressure to make ends meet. They have been called the new poor in the editorial sections of our newspapers.

I think of families such as Danny and Shirley Palmer of rural Ohio, a State such as North Carolina that has been devastated by thousands of job losses. Danny worked for a quarter of a century at a local power company until he was let go in November 2002. After over a year of job searches, he obtained a union card as a pipefitter. He pays union dues but has yet to be tapped for a job. He works now as a Wal-Mart employee, but with bills, including a \$343-a-month mortgage, their savings account is almost empty. Their frustra-

tion is not being able to find suitable employment, and that frustration is growing rapidly.

Our food banks are having a hard time finding food to feed these families. As America struggles in today's economic hardships, financial donations have dropped off or corporations have scaled back on food donations. As recent numbers have shown, many times there are just too many people and not enough food.

In the year 2003, at least 23 million Americans stood in food lines. In any given week, it is estimated that 7 million people are served at emergency feeding sites around the country. The numbers in specific parts of our country are just as disheartening.

In western North Carolina, the Manna Food Bank says over 68,000 people seek food assistance throughout the year, with over 20,000 seeking assistance each week. This means many of the same people are coming back again and again.

Since I came to Congress, I have visited homeless and hunger shelters, food distribution sites and soup kitchens. I went through the process of applying for Government assistance through the WIC Program, helping women, infants and children. As I learned more about the efforts to combat hunger, I gained a great respect for groups such as the Society of St. Andrew.

For the last 25 years, this organization has been doing yeoman's work in the area of gleaning. That is when excess crops that would otherwise be thrown out or taken from farms, packing houses, and warehouses are distributed to the needy. Gleaning also helps the farmer because he does not have to haul off or plow under crops that do not meet exact specifications of grocery chains, and certainly it helps the hungry by giving them not just any food but food that is both nutritious and fresh.

Last year, the Society of St. Andrew told me \$100,000 would provide at least 10 million servings of food for hungry North Carolinians. Just before last year's National Hunger Awareness Day, I set out to raise that amount for the society. Thanks to the compassionate hearts of several individuals, companies, and organizations, we surpassed the original goal and raised \$187,000 in 2 weeks. That money was enough for at least 18 million servings of food.

The Society of St. Andrew is the only comprehensive program in North Carolina that gleans available produce and then sorts, packages, processes, transports, and delivers excess food to feed the hungry. In the first few months of this year, the society hosted over 168 events, gleaning 4.2 million pounds of food. Between January and March, they gleaned 12.8 million servings.

Incredibly, it only cost one penny a serving to glean and deliver this food to those in need. All of this work is done by the hands of the 9,200 volunteers and a minimal staff.

Like any humanitarian effort, the gleaning system works because of cooperative efforts. Clearly, private organizations and individuals are doing a great job, but they are doing so with limited resources. It is up to us to make some changes on the public side and help leverage scarce dollars to feed the hungry.

Transportation is the single biggest concern for gleaners. As the numbers tell us, the food is there. The issue is simply how to transport such a large volume. I am proud to say that with the help of organizations such as the American Trucking Association and America's Second Harvest we are making progress at easing that transportation concern.

I have introduced a bill with cosponsor Senators CHRIS DODD, RICHARD LUGAR, and LAMAR ALEXANDER that will change the Tax Code to give transportation companies tax incentives for volunteering trucks to transfer gleaned food. Such tax incentives would be especially helpful to organizations such as Relief Fleet. This food distribution system is run through transportation companies who donate empty trailer space to move food donations to the proper sites.

Last fiscal year, Relief Fleet moved 16.7 million pounds of food free of charge. More than 555 truckloads traveled to 130 food banks, generating a savings of \$382,000 in shipping costs.

Gleaning and transportation efforts are just some of the possible initiatives to help end hunger. There is so much more that can be done. Take, for example, child nutrition programs. There is no question that far too many of our children are going hungry each and every day. Of the 23 million Americans being fed at soup kitchens, 9 million of those are hungry children under the age of 18. This is why the School Lunch Program is so important.

In fact, recent research at Tufts University indicates that even mild undernutrition experienced by young children during critical periods of growth may affect brain development and lead to reductions in physical growth. Under the current School Lunch Program, children from families with incomes at or below 130 percent of poverty are eligible for free meals.

Additionally, children from families with incomes between 130 and 185 percent of poverty are eligible for reduced price meals, no more than 40 cents per meal. This may seem like a nominal amount, but for struggling families with several children, the costs add up. School administrators in my State tell me they hear from parents who just do not know how they will be able to pay for their child's school meals. These income eligibility guidelines are not consistent with the WIC Program and other Federal assistance.

For example, families whose incomes are at or below 185 percent of poverty are eligible for free benefits through WIC. It makes sense to harmonize these income eligibility guidelines, al-

lowing us to clarify this bureaucratic situation. Doing so would enable us to immediately certify children from WIC families for the national school lunch and breakfast programs.

Difficulty paying the reduced price fee is an issue that is real across America. More than 500 State and local school boards have passed resolutions urging the Congress to eliminate the reduced price category, thereby expanding free lunches and breakfasts to all of those children whose families' incomes are at or below 185 percent of poverty.

In addition, the American School Food Service Association, the Association of School Business Officials, the National Association of Elementary School Principals, and the American Public Health Association have endorsed this idea. Why? Because it is the right thing to do.

I was pleased when the Senate agriculture panel went on record in the child nutrition reauthorization bill in favor of eliminating the reduced price meal program. This initiative will begin through a pilot program in five States. I thank Chairman COCHRAN, Ranking Member HARKIN, and my colleagues on the Senate Agriculture Committee for their support and assistance. Since introducing this legislation, colleagues on both sides of the aisle have joined me and two bills have been introduced in the House of Representatives. Of course, this is only the first step. There is far more to be done.

Our work to end hunger stretches outside of our own country, of course. There are more than 300 million chronically hungry children in the world. More than half of these children go to school on an empty stomach and almost as many do not attend school at all but might if food were available. I believe the distribution of food in schools is one of the most effective strategies to fight hunger and malnutrition among children. Studies have shown this encourages better school attendance which in turn improves literacy rates and helps fight poverty. This increased school attendance for students in poor countries may very well protect some children who would otherwise be susceptible to recruitment by groups that would offer them food in return for attending extremist schools or participating in terrorist training camps.

I was proud to introduce a joint resolution with Congressman JIM MCGOVERN of Massachusetts that recognizes the worldwide problem of hunger and acknowledges the vital significance of food distribution to millions of starving children. This resolution recognizes the benefits of increased school attendance due to food availability for needy children, benefits ranging from improved literacy rates and job opportunities to protection from root causes of terrorism. In short, children who attend school on a regular basis have a much brighter future. Let us build on this foundation.

On this third annual Hunger Awareness Day, I urge Americans to join me in the campaign to end hunger. As I have said before, hunger does not differentiate between Democrats and Republicans, and just as it stretches across so many ethnicities, so many areas, so must we.

Bill Shore, director of Share Our Strength, an antihunger organization, said it best.

There are two kinds of poverty in America. There are those who don't have and there are those who don't know. The majority of Americans are fortunate not to be in the category of those who don't have. Too many have been willing to remain in the category of those who don't know. Men and women of conscience must do more than accept or reject allegations about the conditions of the society in which they live. They must find out for themselves. Those who do will learn that hunger is a serious but solvable problem. It is only as invisible as Americans allow it to be.

It is a privilege to work with colleagues from both sides of the aisle toward the goal of ending hunger.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

SENATOR FRITZ HOLLINGS—A CAREER OF SUPPORTING ISRAEL AND AMERICAN JEWS

Mr. LAUTENBERG. Mr. President, I want to talk for a little while about a matter that has come up regarding one of my distinguished colleagues who, like me, served in Europe during World War II, who was a very brave and proud soldier, and who was decorated for his service there. That is Senator HOLLINGS.

Senator HOLLINGS has served for some years in this body as a junior Senator, even when he was well into 70 years of age. That was one of the more unusual circumstances, although I think I, too, bring a junior status at a fairly advanced age to my being here as a freshman.

But in the delegation that is going to go to Normandy tonight, I am one of several who served in World War II. The other names are among the bravest of all: Senator DANIEL INOUE, who lost his arm in Italy after being struck three times by enemy fire. And, as he described it to me, in one of those incidents he had not felt any part of the wound from the bullet which apparently passed through his body—a rifle shot through his body, or a machine gun shot through his body. He was knocked down. He got up to continue to lead his platoon into a murderous battle in Italy.

Although it took some 50 years for Senator DANIEL INOUE to get his medal, it finally arrived. Those of us who were privileged to be here were so proud of Senator INOUE's service as

the medal was bestowed on him for the service he so bravely gave to his country.

It was noted also that even though DANIEL INOUE, now Senator INOUE, was volunteering for service in the U.S. Army which at first was denied, he continued to be as loyal as he could to his country, brave and courageous. We are proud of the opportunity to serve with him and to know him as a friend.

In addition to Senator INOUE, Senator HOLLINGS, Senator WARNER—and Senator STEVENS had an illustrious military record flying in China, Burma, India—and Senator AKAKA and Senator WARNER—all of us join together in the bond we received as a result of serving in World War II and being given then the privilege to serve in this distinguished body.

I want to talk about FRITZ HOLLINGS, a good friend of mine for more than 20 years, now the senior Senator from South Carolina, a good friend to all of us, an outstanding public servant, someone who has given more years to public service than some of the people who are serving here have. He was accused of being anti-Semitic because of an op-ed piece he wrote that appeared recently in the Charleston Post and Courier.

The charge has been made on the Senate floor by the junior Senator from Virginia who apparently heads up the National Republican Senatorial Committee and serves as the chief fundraiser for Republican incumbents and candidates for the Senate.

It is very unusual. Frankly, I don't remember in almost 20 years of service that one Senator issues a press release criticizing another for something the person did in a public press release. That tells us where it was going. It was going to politics.

I also heard the junior Senator from Virginia repeat the charge again earlier this week while he was a guest on the Don Imus radio show. The charge he leveled is outrageous. I encourage the junior Senator from Virginia to cease and desist.

I am a Jewish American and fully support the American-Israeli relationship, not because I am a Jewish American but because it is good for America. It is good for us to have an ally that is as strong as she is, an ally that is the only democratic society in the entire Middle East with over 100 million of those who would declare they are the enemy of Israel and the United States. Israel is a very valuable part of our support for freedom and liberty in this world.

I have known the senior Senator from South Carolina for almost a quarter of a century. I am proud of his long-standing service to the people of this country. I treasure our friendship. Although he will be leaving this Senate in January of next year, he will be missed. I certainly will be one of those who will miss him.

He is one of the strongest Senate supporters of the State of Israel and the

American Jewish community we have. He doesn't just "talk the talk." As an appropriator, he has "walked the walk."

Israel is safer and more secure as a result of the votes Senator HOLLINGS has cast in the Appropriations Committee and on the floor of the Senate.

The senior Senator from South Carolina has a well-deserved reputation for candor. And, frankly, we could use a little bit more of that around here.

The op-ed in question is his candid assessment of why President Bush took us to war with Iraq despite the fact Iraq did not have weapons of mass destruction or links to al-Qaida.

I want to make it positively clear I don't necessarily agree with everything the senior Senator from South Carolina said in the op-ed, but I reserve the right to disagree with the best of friends on an issue. But to construe the op-ed piece or its author as representing anti-Semitism is patently unfair.

Senator HOLLINGS was critical of Paul Wolfowitz, Richard Perle, and the journalist Charles Krauthammer for being three of the architects of a dubious policy to forcibly democratize the Middle East, starting with Iraq. They believe that such policy will make Israel more secure. That is something all of us want and need.

The problem with that policy is that it is not quite working the way the architects envisioned. This may have something to do with the fact that none of them, to my knowledge, have any combat experience. People who do have experience in combat, such as former President Bush, Secretary of State Colin Powell, are a little more circumspect about what we can achieve and how we can achieve it.

I, too, have been critical of this policy which the administration swallowed hook, line, and sinker. I called for Deputy Secretary of Defense Wolfowitz and Under Secretary of Defense Douglas Feith to resign, along with Secretary of Defense Rumsfeld. Does that make me an anti-Semite? I would say not.

We are all kind of holding our breath right now as we wait to see the fallout from the resignation of Mr. Tenet, the head of the CIA, so abruptly, so quickly. We want to know what it is that caused that sudden change. He was a loyal, faithful servant. Perhaps mistakes were made. We will find out more about that very soon.

The bottom line is that these high-ranking civilian officials to whom I just referred in the Pentagon have misled America and they have let our troops down. Senator HOLLINGS' contention that Israel is less secure as a result of this misguided policy certainly cannot be dismissed.

It is time for that cadre of people who run the Pentagon to go. It has nothing to do with anti-Semitism. It has everything to do with the fact that Iraq is becoming a quagmire and has already claimed over 800 brave young American men and women.

When I heard the junior Senator from Virginia attack Senator HOLLINGS, I asked my staff to research his voting record with regard to Israel and other matters of concern to the American Jewish community.

The memo my staff prepared is 10 pages long. I could not find a single vote that could be construed as opposition to Israel or American Jews.

I will cite a few examples. In 1978, he voted against S. Con. Res. 86, a measure to disapprove the sale of jet fighters to Israel. He voted against the disapproval of the sale. The resolution was defeated 44 to 54.

In 1980, he voted to table an amendment to S. 2714, the foreign aid authorization bill, that would have withheld \$150 million in aid to Israel because of the settlements being erected in the West Bank.

In 1981, he opposed President Reagan's decision to sell AWACs and other military equipment to Saudi Arabia.

In 1986, Senator HOLLINGS supported Senator BYRD's amendment to H.J. Res. 738, the continuing resolution for fiscal year 1987 to ensure that funds appropriated for aid to the Philippines did not come at the expense of aid to Israel or Egypt.

Senator HOLLINGS also supported recognizing Jerusalem as the undivided capital of Israel. As the ranking member and former chairman of the Appropriations Subcommittee on Commerce, Justice, State, and the Judiciary, he has insisted that the annual appropriations bill under his jurisdiction contain the following three provisions: One, that people born in Jerusalem be allowed to list Israel as their country of origin; two, that all relevant official U.S. Government documents list Jerusalem as the capital of Jerusalem; and three, that U.S. policies treat Jerusalem as the capital of Israel.

I note that these provisions have been eliminated in conference at the insistence of House Republicans and the administration.

Does that make them anti-Semites? Absolutely not. The Senator from South Carolina is eloquent and certainly able to defend himself and his record.

But when I hear his reputation repeatedly besmirched, the reputation and integrity of a man that I know to be one of the staunchest supporters of Israel and the American Jewish community, a man who fought hard, almost gave his life to defend his country, I will not sit by and be quiet.

To paraphrase our former colleague, Lloyd Bentsen: I know FRITZ HOLLINGS. FRITZ HOLLINGS is a friend of mine. FRITZ HOLLINGS is no anti-Semite.

To state otherwise goes beyond the pale of partisan rhetoric, even by the standards of a heated election campaign.

Frankly, I think the senior Senator from South Carolina is owed an apology, not just by the junior Senator from Virginia but from Senators who believe it was an inappropriate besmirching of character and reputation

dutifully earned by years and years of service to this country and certainly to this body. Silence on the other side, in my view, is implicit approval of what was said.

I hope we hear something different in the not-too-distant future.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. I ask unanimous consent that the order for the quorum call be rescinded.

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

#### FTAA NEGOTIATIONS AND FLORIDA CITRUS

Mr. NELSON of Florida. Mr. President, I take this opportunity to bring to the Senate's attention to some recent news about the ongoing negotiations of the Free Trade Area of the Americas, or the FTAA. These negotiations have been going on for some period of time. I look at these with significant interest, as they dramatically affect my State of Florida.

There are many mutual benefits that will accrue to the nations of the Western Hemisphere from a Free Trade Area of the Americas agreement. I am someone who has consistently supported free and fair trade. That is why I am hopeful these negotiations are going to yield an agreement that ultimately can be supported here.

However, there is a critical issue with respect to the negotiations of the FTAA that is absolutely crucial to my State. It involves the Florida citrus industry. It involves tens of thousands of jobs, and it involves basically the production of frozen concentrate that supplies the fresh orange juice on the breakfast tables of so many Americans every morning.

Here is the news. Last week, Reuters reported that "the United States signaled for the first time that some agriculture products would be excluded altogether from the [Free Trade Area of the Americas agreement] FTAA."

There was another publication called "Inside U.S. Trade," which reported that this new proposal from the United States would "allow for some market access negotiations to yield results other than total elimination of tariffs."

Well, that is a significant change from what we have been told. It is, from my standpoint and my State's standpoint, clearly a step in the right direction. But while this would appear to be welcome news to Florida's citrus industry, we need some more information.

I am going to continue to fight to preserve the tariff on imported frozen concentrated orange juice and ask for a commitment from the President. I believe the President must state publicly, in clear language, that we will not ne-

gotiate any reduction of the tariff on imported orange juice. It is not only important to Florida, it is important to the consumers of orange juice all over this country.

Now, why is this so important? Let me tell you. Because if the FTAA negotiated out an elimination of the tariff, it would not be free and fair trade because Brazil would become a monopoly. Here is what happens. Right now, basically, of the world's production of frozen concentrated orange juice, you have Brazil basically producing about 60 percent and the remainder—around 40 percent—is produced by the Florida citrus industry.

Of the world's production, the Florida citrus industry basically produces the supply for the domestic orange juice market; that is, the U.S. market. Brazil supplies some of that domestic United States market, and basically the markets in the rest of the world. There are other producers, but I am simplifying it. The two big producers are the United States—mainly Florida—and Brazil.

Now, what happens? If you eliminate the tariff protecting the Florida citrus growers, and therefore the 40 percent that is produced in Florida, since Brazil has cheaper land and cheaper labor, Brazil then takes over 100 percent of the world's market for frozen concentrated orange juice. That is not free trade. That would be a monopoly. And what happens in a monopoly? In a monopoly, then, the producers can determine whatever price they want because they are the sole suppliers. And what happens to the consumer? The consumer gets it in the neck, and the price goes up.

Well, you will hear those people who say: Oh, don't worry. There is competition among the growers in Brazil. The truth is, there are about five major producers in Brazil and, in effect, they operate as a cartel with collusion among themselves. So if they took over the entire world's market, ran the Florida citrus industry out of business, they would start to set the price, and that is not free and fair trade.

I can tell you, this Senator, who is someone who is for free and fair trade, and has voted that way—is not going to stand for that because that is not in the best interests of consumers.

I might also tell you when I went to Brazil last December, I had several very pleasant meetings with members of the Brazilian Government, including the chief negotiator for the FTAA, and a number of other ministers in the Government. I visited with the Acting President, who is the Vice President of Brazil, and he becomes Acting President when the President is out of the country, as the President was in South America in a Mercosur meeting at the time.

When I told the Brazilian Vice President about this problem for Florida, his response was—half in jest, but half seriously—well, why don't you just have the Florida citrus growers move

to Brazil where our land is cheaper and our labor is cheaper? That is exactly what we do not want to happen. We want to keep a vital industry alive in the United States.

Florida has 12,000 growers, many of whom operate small family-owned operations. Unlike almost all agricultural commodities, the citrus industry receives no U.S. production subsidies. The tariff on Brazilian orange juice is the only offset the industry receives. Any reduction in that tariff would simply devastate Florida's citrus industry.

This citrus industry is Florida's second largest. It is responsible for generating over \$9 billion for the economy and providing nearly 90,000 jobs. It accounts for \$1 billion in revenue for the State and local governments, which, of course, funds our public hospitals and our schools and our fire and our police services.

So back on Brazil, I am disappointed that Brazil reportedly does not view a proposal to exclude certain agricultural products from "total tariff elimination" as a constructive step. I do not think we are going to see them take that position.

Excluding the tariff on imported orange juice from the negotiations would actually represent an important step toward completing, not retarding, an FTAA agreement that will benefit all of the Western Hemisphere. And regardless of the progress of the FTAA negotiations, our industries should focus on expanding global markets for orange juice and not waste our efforts on fighting over the tariff. Greater cooperation is needed between Brazil and the United States.

On a tangential matter, I want to encourage the administration to select Miami as the U.S. candidate city to serve as the home of the FTAA secretariat. Miami's special and close relationship with our Latin American neighbors makes the city a natural choice as the city to play this important role. The administration should announce this decision soon so we can put the full efforts of the U.S. Government behind one U.S. city; and that is logically Miami.

As a matter of fact, from different destinations in Latin America, it is a lot easier to get to Miami from those locations in Latin America, in many cases, than it is to get from one location in Latin America to another.

Miami is the logical choice. It is a place of significant Hispanic culture and population. La lingua is spoken there every day on la calle, on the street. It is a place that is a logical location for the everyday transaction of business for trade in the Americas.

Miami is the gateway to Latin America. It should be the gateway for the FTAA. I believe the administration should act right now in going ahead and determining that so as they negotiate between different cities in the hemisphere, the United States will be unified behind one city it is putting forth, which should be Miami, FL.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. CRAPO. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

#### FAREWELL AND THANK YOU TO THE SENATE PAGES

Mr. DASCHLE. Mr. President, I would like to say farewell to a wonderful group of young men and women who have served as Senate pages over the last 5 months and thank them for the contributions they make to the day-to-day operations of the Senate.

This particular group of pages has served with distinction and has done a marvelous job of balancing their responsibilities to their studies and to this body. Their final day as Senate pages is tomorrow, but I hope we will see some—or all—of them back in the Senate someday, as staffers or Senators.

I suspect few people understand how hard Senate pages work. On a typical day, pages are in school by 6:15 a.m. After several hours of classes each morning, pages then report to the Capitol to prepare the Senate Chamber for the day's session. Throughout the day—and sometimes into the night—pages are called upon to perform a wide array of tasks—from obtaining copies of documents and reports for Senators to use during debate, to running errands between the Capitol and the Senate office buildings, to lending a hand at our weekly conference luncheons.

Once we finish our business here for the day—no matter what time—the pages return to the dorm and prepare for the next day's classes and Senate session and, we hope, get some much-needed sleep.

Despite this rigorous schedule, these young people continually discharge their tasks efficiently and cheerfully. In fact, as one page put it, "We like working hard. When things get hectic, that's when we like it best."

This page class had the good fortune to witness some historic moments.

They saw President Bush present the Congressional Gold Medal to Dorothy Height, one of the giants of the modern civil rights movement in America.

They were present for important debates in this Chamber over such critical issues as the budget and the wars in Iraq and Afghanistan.

They've seen—and had their photos taken—with celebrities, including Governor Arnold Schwarzenegger.

Just yesterday, they saw another famous visitor, the actor Mike Myers—better known to some as "Austin Powers, International Man of Mystery."

I hope the close-up view that these exceptional young people have had of the Senate at work these last few months has made this institution a little bit less of a mystery. Our government "of the people, by the people, and for the people" requires the active involvement of informed citizens to work.

I understand that many, if not most, of this semester's pages have decided to volunteer on political campaigns—both Republican and Democratic—when they return home. I'm told the campaigns run the gamut from local school board candidates to United States Senate candidates.

I am sure I speak for all Senators when I say, we applaud your continued involvement in the democratic process. We are very grateful for your outstanding service to the Senate this semester. And we wish you well in all that you choose to do in your future.

I ask unanimous consent to print in the RECORD the names and hometowns of each of the Senate pages to whom we are saying goodbye today.

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

#### SENATE PAGES—SPRING SEMESTER 2004

Andrew Blais, Rhode Island; Katherine Buck, New Hampshire; Sam Cannon, Utah; Erin Chase, South Dakota; Eric Coykendall, Arizona; Julie Cyr, Vermont; Joe Galli, Maine; Watson Hemrick, Tennessee; Jennifer Hirsch, Arkansas; Garrett Jackson, Mississippi; Kara Johnson, Illinois; Ben Kappelman, Montana; Andrew Knox, Vermont; Adam Lathan, Alabama; Betsy Lefholz, South Dakota; Brittney Moraski, Michigan; Alex Ogden, North Carolina; Jaclyn Pfahler, Montana; Aaron Porter, Tennessee; Ingrid Price, Utah; Laura Pritchard, Virginia; Laura Refsland, Wisconsin; Ryan Smith, Kentucky; Kyra Waitley, Idaho; Nathanael Whipple, California; and Elizabeth Wright, Montana.

#### NATIONAL HUNGER AWARENESS DAY

Mr. SANTORUM. Mr. President, today in Palmyra, PA, volunteers at the Lebanon Valley Brethren Home will collect food and sell baked goods for the "Great American Bake Sale" to support their local food bank. In hundreds of small towns, suburban communities, and cities from New York to California, thousands of volunteers will help collect food, glean fields, prepare meals, and raise awareness as a part of National Hunger Awareness Day.

These dedicated volunteers and their compassionate acts represent a grassroots citizens' movement motivated to reduce hunger in America. These volunteers are the people who prepare the dinners and stock the shelves of the local charities that serve more than 9

million kids who lack basic food supplies. They are motivated by appalling statistics that show that more than 13 million children live in what the Federal Government deems "food insecure" households. And, of course, they are motivated by knowing the needs and faces of the vulnerable people in their communities.

Last year, an estimated 23 million low-income people—many of whom are from working families with children, are elderly, or have disabilities—received a meal or an emergency food box from one of the estimated 50,000 local hunger relief charities that dot the Nation's landscape. These charities, of which three-quarters are faith-based organizations, play an important and complementary role to State, local and Federal Government efforts to help low-income families achieve self-sufficiency. But for the family whose benefits have been exhausted, or the single mother who is waiting for the benefits to begin, or for those who simply don't want government help, these charities are the last line of defense against hunger.

Despite the selfless extraordinary work of these charities and their estimated one million volunteers, the need in many communities too often exceeds the available resources. At the same time, the United States throws away nearly 96 billion pounds of food each year.

Legislation I have sponsored, the Charity Aid, Recovery and Empowerment Act, or the CARE Act, would help close the gap between the need and available resources. The CARE Act provides farmers and ranchers, small businesses, and franchisees with a tax incentive that would allow these smaller business entities to enjoy the same tax incentives that large corporations receive when they donate food to charity. The CARE Act's food donation tax incentives will enable farmers with surplus crops to donate the food to a food bank or emergency shelter, recouping some of the cost of production and transportation—and preventing them from having to plow the crops back into the ground. The CARE Act gives a restaurant owner the incentive to donate surplus meals to a soup kitchen rather than throwing good food into a dumpster. America's Second Harvest, the Nation's food bank network, estimates that the CARE Act will help generate more than 878 million new meals for hungry people over the next 10 years.

This legislation, despite broad, bipartisan support for the food donation tax incentives and the other provisions in the act, is now stalled in the Senate, not being allowed to go to conference. The CARE Act is in jeopardy, and with its fortunes go the hopes of tens of thousands of people that serve America's most vulnerable families. We cannot allow partisan differences, unrelated to this legislation, to undo the promise that the CARE Act offers to millions of Americans. The CARE Act



should be allowed to go to a bipartisan conference and thereby ensure that no food bank, pantry or soup kitchen will have to turn away a hungry family, senior, or child because the cupboard is bare.

Mr. KENNEDY. Mr. President, today is National Hunger Awareness Day, and it is an opportunity for all of us in Congress to pledge a greater effort to deal effectively with this festering problem that shames our Nation and has grown even more serious in recent years.

The number of Americans living in hunger, or on the brink of hunger has increased every year during the current administration. It now includes 13 million children—400,000 more than when President Bush took office.

These Americans deserve higher priority by all in Congress. Day in and day out, the needs of millions of Americans living in poverty have been overlooked, and too often their voices have been silenced.

These are real people, struggling every day to get by. They are single mothers serving coffee at the local diner at 5 a.m. and cleaning houses in the afternoon, yet are still unable to afford both shelter and food. They are low-wage workers holding down two jobs, yet still forced to make impossible choices between feeding their family, paying the rent, and obtaining decent medical care. They are children who go to bed hungry every night whose parents can't afford to give them more than a single slim meal a day.

The World Food Summit in 1996 called global attention to this crisis and in response the Clinton administration pledged to begin an effort to cut hunger and food insecurity in half in the United States by 2010. In the boom of the Clinton years, we made progress toward that goal—hunger decreased steadily through 2000. We now have 6 years left to fulfill our commitment, and we must not fail.

The answer is a renewed commitment to reaching that goal. The fastest, most direct way to reduce hunger in the Nation is to improve and expand the current Federal nutrition programs. Sadly, it is difficult to persuade the current administration and the current Congress to fund important child nutrition programs such as the school breakfast and school lunch programs and the summer food program, but numerous groups throughout the Nation are doing their best to make a difference.

Project Bread in Massachusetts helps fund nearly 400 food pantries, soup kitchens, food banks and food salvage programs across the State, and also coordinates local efforts to develop effective solutions to reduce hunger.

Congress can also do better. The Senate Agriculture Committee approved a bipartisan child nutrition bill last month to strengthen and expand nutrition programs, and it deserves to be enacted into law as soon as possible.

A strong job market will also significantly reduce hunger. A major challenge in today's troubled economy is that it has been creating just one job

for every three out-of-work Americans. We need an economy that works for everyone, and a job creation plan that enables every American to afford a decent quality of life.

That means jobs that pay a living wage. Right now, we are sending the wrong message to low-income workers. We are telling them that hard work does not pay. We are saying that workers who play by the rules deserve little or even nothing in return. Why can't we all agree that no one who works for a living should have to live in poverty, constantly wondering where the next meal is coming from?

For too many adults of all ages, the fight against hunger is a constant ongoing struggle. It undermines their productivity, their earning power, and even their health. It keeps their children from concentrating and learning in school.

It makes no sense to allow the gap between rich and poor to grow wider. We can not ignore the poorest in our Nation, and all those who need our help the most. National Hunger Awareness Day is our chance to rededicate ourselves in Congress to this cause, and we can't afford to miss it.

Mr. SMITH. Mr. President. I rise today to speak about a problem impacting communities across the United States and throughout the world. As many of my colleagues know, today is National Hunger Awareness Day. It is a day meant to focus our attention on our friends, coworkers, classmates, and neighbors for whom putting food on the table continues to be a daily struggle. Sadly, for the nearly 35 million Americans who are "hungry" or "food insecure," hunger is more than a statistic, it is an insomnia within the American dream. This is a reality that the people of my home State of Oregon know far too well.

For the last several years, Oregon has been at or near the top of repeated nationwide studies of hunger and food insecurity in the United States. And I can tell you that as a member of this chamber and an Oregonian, the statistics on hunger and food insecurity continue to confound me. Despite all of our advances in agriculture technology and food distribution, children and families in my State and around the country will go to bed hungry tonight. The sad irony is that many of the communities most affected by hunger are the very ones that grow the food upon which the rest of us rely.

On the horizon, Oregon's economy appears to be brightening. While there are no quick fixes, I believe that solving hunger is within our grasp. Later today, Senator LINCOLN and I will be announcing the creation of the Senate Hunger Caucus. This caucus will serve as a forum to raise awareness and foster cooperation among business interests, community leaders, and local, State, and national non-profits to work with Congress to address hunger.

As policymakers, our job is to take the pieces of this puzzle and put them together in a way that leaves our communities whole and healthy. Govern-

ment cannot act alone to solve the problem but must work in concert with those who are best able to help. I believe the creation of the Senate caucus is an important step in focusing on this problem. I look forward to working with my colleagues in Congress and groups back in Oregon to address these issues.

In Oregon, we have been blessed with a number of organizations and individuals who have taken it upon themselves to help in this effort and assist their neighbors in need. Groups such as Birch Community Services and the Oregon Food Bank have shown themselves to be true assets to their communities. As an Oregonian, I can tell you that I am especially proud of how they have responded to what has been a difficult last couple of years in our State, and I look forward to continuing to work with them in the fight against hunger.

Mrs. LINCOLN. Mr. President, I rise today to bring attention to the fact that it is National Hunger Awareness Day and to raise the visibility of issues of hunger in America.

What is the face of hunger in America? A child. A mother. A father. A single working parent. A homeless person. A grandmother raising grandchildren. A grandfather. A senior citizen living off of social security. An unemployed person. A disabled worker. A military veteran. People of all races and ethnicities.

These are the faces of the almost 35 million Americans that live in households that are food insecure. Food insecurity is not isolated to one region. These 35 million Americans live in the small towns of New England, in the large cities of New York, Boston, Chicago and Atlanta. They live in the deltas of Arkansas, Louisiana and Mississippi and the plains of the Dakotas down to Kansas. There is food insecurity and hunger in the timber regions of Washington and Oregon and on the beaches of California. Food insecurity affects the States of the four corners down into Texas and Oklahoma. No region of this country is without hunger.

Today is National Hunger Awareness Day. I have come to the Senate floor to talk about hunger in America and to raise awareness about the complex issues surrounding hunger.

When many Americans think of hunger they often think of starving people in developing countries around the world, and the number of hungry people living around the world is staggering.

Eight hundred million people, including children, are hungry and food insecure in the world today. America must continue to lead in its generosity to aid the world's food insecure. But hunger is not just a distant problem for developing countries. Hunger exists among our own citizens here in America.

Because today is National Hunger Awareness Day, I will focus my remarks on the less recognized face of

hunger and that is the face of the Americans, our neighbors, and our fellow citizens who are hungry and food insecure.

What does food insecurity mean? Food insecurity is limited or uncertain access to nutritional food. Food insecurity is not knowing from where the next meal is coming.

Food insecurity is not unique among the homeless and unemployed. On the contrary, many food insecure households in America have at least one working adult. We need only compare the national unemployment numbers with the food insecurity numbers to see that they don't match up. There are far more food insecure individuals than there are unemployed people. America's working poor are finding it difficult to make ends meet and at times provide the most basic needs for their family—nutritious food.

Perhaps our most vulnerable food insecure individuals are our children and seniors. Due to the high costs of healthcare and living expenses, many seniors often find themselves choosing between medicine and groceries because they may not be able to afford both. Programs such as Meals on Wheels and local community senior programs are so important to the health of our seniors.

Children rely on parents to provide for their basic needs. Of the 35 million people who are food insecure in America, just over 13 million are children. This is the same number of children that are receiving free lunches through the National School Lunch Program. This vital program provides many children with the most nutritious meal they will receive in a given day. We must continue to find opportunities to fill in the gaps because the National School Lunch Program only covers Monday through Friday during the school year. The traditional three months of summer vacation from school is a critical time when many children are missing essential nutrition in their diets.

One example of a successful program in my home State of Arkansas is helping feed children outside of school. The Arkansas Rice Depot's Food For Kids program provides hungry children with a quick, high-energy snack during school and then provides a backpack filled with nutritious foods children can prepare for themselves at home. The Food For Kids program is serving 329 schools and 15,000 students in Arkansas. Founded in 1995, this program is the first of its kind in the Nation and now 20 cities across the Nation have established similar programs.

Throughout my remarks I have mentioned the word nutrition. In the fight to end hunger, providing access to nutritious food is key. Many Americans are now waking up to the long-term health complications caused by obesity. It may seem strange to talk about obesity and hunger at the same time but the reality is that people with limited access to money and food typically

consume the cheapest food that they can purchase in large quantities, and often these foods lack important nutrients for a balanced diet. We can fight obesity early on by educating children about nutrition and help provide opportunities for children to access nutritious foods at school and at after school programs. Additionally, through food assistance programs we must continue to encourage adults to access nutritious foods and help provide opportunities to learn about nutrition.

For Americans, hunger does not mean entire towns and villages full of starving people—people literally starving and dying because they cannot eat. Fortunately, we are able to provide the citizens most in need with access to some kind of food to meet basic needs through Federal and State assistance programs such as Food Stamps, WIC, the National School Lunch Program, and thousands of non-profit organizations, churches, faith-based groups, and dedicated individuals.

The challenges in America are to continue to find ways to provide Americans that are food insecure with access to nutritious meals and opportunities to gain skills to improve their economic situation and quality of life.

To that end, today, along with my friend from Oregon, Senator SMITH, I am pleased to announce the formation of the U.S. Senate Hunger Caucus. We are delighted that many of our colleagues are joining us in this bipartisan effort to work on national and international hunger issues. The Senate Hunger Caucus will be a vehicle through which Senators can work together to promote initiatives to help address the root causes of hunger and to help form partnerships with the many valuable organizations and programs that are committed to ending hunger.

Just a few hours ago, I was joined by my good friends, Senators SMITH and DOLE, at the D.C. Central Kitchen where we announced the formation of the Senate Hunger Caucus and discussed many of the key hunger issues in America. The D.C. Central Kitchen is located just a few blocks from the U.S. Capitol and is a nationally known food rescue organization. The D.C. Central Kitchen converts rescued or donated food into 4,000 meals each day, 365 days a year, which feed the hungry in the Washington metropolitan area. As a part of the D.C. Central Kitchen program, unemployed people are trained to gain job skills that enable them to find work in the culinary arts industry. The D.C. Central Kitchen is a great model for taking wasted food and turning it into nutritious meals and economic opportunities for people in need.

We were pleased to be joined at today's event by representatives of many of the national anti-hunger groups that we look forward to partnering with in this effort. Some of these groups include: America's Second Harvest, American School Food Service Asso-

ciation, Bread for the World, Congressional Hunger Center, Food Research and Action Center, Share Our Strength, the World Food Program and Heifer International.

At this time, I want to recognize many of the Arkansas groups working to fight hunger and encourage nutritious living, and they include: Arkansas Hunger Coalition, Arkansas Foodbank Network, Harvest Texarkana, Potluck, Inc., Arkansas Rice Depot, Northwest Arkansas Foodbank, Northeast Arkansas Foodbank, North Central Arkansas Foodbank, Southwest Arkansas, Food bank, Bradley County Helping Hand, Ozark Foodbank, Memphis Foodbank, Winrock, Heifer International, Arkansas School Food Service Association, Arkansas Advocates for Children and Families, Arkansas Community Action Agencies, Arkansas Farmers and Hunters Feeding the Hungry, local food pantries, churches and many others who work to feed Arkansans in need. Many of these groups are also using today as a time to talk about hunger and food insecurity.

In closing, it's easy for me to be passionate about the issue of hunger. As a farmer's daughter I was raised with an understanding of the value of having access to food—to good, safe and nutritious food. As the daughter of two compassionate, Christian parents I was taught to help others and to share my blessings with those in need. As a mother of two young boys I can empathize with the fear that a parent feels when they must answer a hungry child when there is no food to be eaten. Just the other day, one of my boys ran into the house and said "Mom, I'm starving." And I replied, "what would you like?" Later on I thought about the mothers whose children ask the same question but they don't have food to offer, they can't just reach into the cabinet to pull out food. It was a devastating thought and my heart goes out to the mothers and fathers who at times are not sure where the next meal is coming from.

My home State of Arkansas knows hunger. With almost 600,000 Arkansans living below the national poverty line, hunger, food insecurity, obesity and limited access to nutritious foods are key issues. With a State population of 2.6 million, approximately 380,000 Arkansans live in food insecure households.

I look forward to working with my colleagues in the Senate as well as hunger non-profit organizations in my State and across the Nation to find solutions to hunger problems plaguing our nation and world. And to dream of the day when globally, working together to harness our vast resources, we can end hunger.

#### LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY

and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

David Blair, also known as Steve Perry, was found dead by the Ketchikan, AK, police department on July 26, 2001. Terry Simpson, Jr., 19, and Joshua Anderson, 20, were arrested in response to a tip in which the informant said he overheard the two men bragging that they were planning to "beat up and rob Blair because he is a fag."

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

#### ADVANCING MEDICAL RESEARCH

Mr. BIDEN. Mr. President, I joined 56 of my Senate colleagues and over 200 in the House of Representatives in writing the President asking that he work with the Congress toward a policy that will enable important medical research to proceed utilizing stem cells from frozen embryos that were created to treat infertility problems and which are now slated to be discarded. Continued studies using stem cell technology offer hope for a better future for millions of people afflicted with a wide range of illnesses and conditions, including Alzheimer's disease, diabetes, Parkinson's disease, cancer and others.

Presently there are estimated to be more than 400,000 in vitro fertilized embryos that were developed to enable couples to have children, but that are now not needed for that purpose. These frozen embryos are likely to be destroyed. The President could hasten the progress of this important research by modifying his present policy to permit these embryos to be donated, with the consent of the couple, for stem cell research. I look forward to working with the President toward this goal.

#### PARTIAL-BIRTH ABORTION RULING

Mr. BROWNBACK. Mr. President, I rise to address the alarming decision handed down earlier this week by a District Court in California on partial birth abortion.

The judge's decision was wrong on many fronts. It is wrong on the medical facts, and it is wrong in its blatant disregard of Congressional findings. Most importantly, the decision is also wrong on the law. This ruling is unconstitutional, as well as violative of fundamental human rights, because it drives a wedge between biological humanity which prenatal human offspring undeniably have, and legal

personhood i.e., the right to the equal protection of the law. The repellant notion underlying *Roe v. Wade*—that there are "subhuman" members of the human species—conflicts directly with the very purposes of the thirteenth, fourteenth, and fifteenth amendments, which undid the great injustice of treating black Americans as slaves and property instead of as human beings entitled at law to full respect. I realize that the Supreme Court has not yet repudiated this holding of *Roe*, which it imposed upon the Nation in 1973, but this case decided by one district court in California is clearly going in a direction that contradicts everything we value about the Constitution and the principles under which this Nation and its people operate.

First, Judge Phyllis Hamilton dismisses the overwhelming medical evidence that it is never medically necessary—to save the life of the mother or any other reason—to perform the gruesome partial-birth abortion procedure—in which a young human is partially born, so that only the head remains in her mother, and then a sharp object pierces the back of the child's head and sucks the child's brain out, killing the child.

Think about that, a baby—a young human baby—is partially born, so that only her head remains in her mother's birth canal. Then an abortion-provider punctures the back of the child's head with a surgical instrument. Then the abortion provider suctions the young human's brains out, leaving the child dead, dead, dead.

There is no recourse for the young human. This is a cold-blooded murder. And if this District Court has its way, the young child will never receive justice for her gruesome murder.

Before I address Judge Hamilton's disregard of Congressional findings, I want to talk in particular about the issue of fetal pain, which Judge Hamilton alleges is "irrelevant."

I would submit that were we to see a puppy have its head punctured and brains sucked out, we would not consider it irrelevant. We would be moved to protect the puppy.

Yet, we are not talking about a dog; we are talking about a young human. And the judge in California says that pain is irrelevant when we are talking about a young human.

We are elected representatives. We have an obligation to defend the Constitution. This includes defending the right to life, liberty and the pursuit of happiness. First among these 3 is life. We have an obligation to defend the right to life for the most defenseless and helpless among us. Our laws should protect the sanctity and dignity of every innocent human life from the moment of conception.

Judge Hamilton notes that there is some debate within the medical com-

munity on the issue of fetal pain. Then she acknowledges that: "the position that Congress has taken [on pain experienced by unborn children] is neither incorrect nor entirely unsupported."

But then she disregards the Congressional finding that partial-birth abortion is never medically necessary and writes something incredibly callous: "[Pain experienced by unborn children] is, however, irrelevant to the question of whether the Act requires a health exception, as discussed in this court's conclusions of law."

Irrelevant? First, partial-birth abortion is never medically necessary, and since the gruesome partial-birth abortion procedure is never medically necessary, an essential reason for abolishing this dreadful form of death is the terrible pain inflicted on the unborn child.

Pain experienced by an unborn child is very relevant.

Just before the recess, I introduced the Unborn Child Pain Awareness Act, S. 2466, with nearly a quarter of the Members of this chamber as original cosponsors.

This legislation would require those who perform abortions on unborn children 20 weeks after fertilization to inform the woman seeking an abortion of the medical evidence that the unborn child feels pain.

The bill would also ensure that the woman, if she chooses to continue with the abortion procedure after being given the medical information, has the option of choosing anesthesia for the child, so that the unborn child's pain is less severe.

Women should not be kept in the dark; women have the right to know what their unborn child experiences during an abortion. Unborn children should be spared needless, deliberately-inflicted pain.

Many among us are unaware of the scientific, medical fact that unborn children can feel, but it is true. Not only can they feel, but their ability to experience pain is heightened. The highest density of pain receptors per square inch of skin in human development occurs in utero from 20 to 30 weeks gestation.

An expert report on fetal development, prepared for the partial birth abortion ban trials, notes that while unborn children are obviously incapable of verbal expressions, we know that they can experience pain based upon anatomical, functional, physiological and behavioral indicators that are correlated with pain in children and adults.

Unborn children can experience pain. This is why unborn children are often

administered anesthesia during in utero surgeries.

Think about the pain that unborn children can experience, and then think about the more gruesome abortion procedures. Of course, we have heard about partial birth abortion, but also consider the D&E abortion. During this procedure, commonly performed after 20 weeks—when there is medical evidence that the child can experience severe pain—the child is torn apart limb-from-limb. Think about how that must feel to a young human.

Pain is absolutely relevant to the subject at hand.

Oddly, one of Judge Hamilton's reasons for ruling against the partial-birth abortion ban is that: "[Fetal pain] appears to be irrelevant to the question of whether [partial-birth abortions] should be banned, because it is undisputed that if a fetus feels pain, the amount is no less and in fact might be greater in D&E by disarticulation than with the [partial-birth abortion] method."

Apparently, Judge Hamilton believes that fetal pain is irrelevant to the issue at hand because other abortions might be more painful. Clearly, Judge Hamilton's logic is flawed.

Judge Hamilton's decision crosses the line. What we have seen in this week's District Court decision is judicial bias and judicial activism at its extreme. Judge Hamilton egregiously reveals her own bias in favor of abortion when she writes: "The court found all of the plaintiffs' experts not only qualified to testify as experts, but credible witnesses based largely on their vast experience in abortion practice. However, of the four government witnesses who were qualified as experts in ob/gyn, all revealed a strong objection either to abortion in general or, at a minimum, to the D&E method of abortion. The court finds that their objections to entirely legal and acceptable abortion procedures color, to some extent, their opinions on the contested intact D&E procedure."

By her logic, those with moral objections to abortion are biased—or "colored"—in their views against abortion, but those who perform abortions for money are not at all biased—or "colored"—in their views favoring abortions.

Sadly, the action of this California District Court is simply the latest instance of arrogant judges riding roughshod over the democratic process and constitutional law alike in a quest to impose a radical social agenda on America—in this case abortion on demand for any reason or no reason.

We are a democracy, not a people ruled by judicial dictate.

This district court decision is yet another example of why we need to reign in an increasingly reckless judiciary one, by means of stripping courts of authority they have usurped from the people and their legislative representatives, and two, through impeachment, when necessary at both the Federal and State level.

Policy-making decisions—particularly those that have such sweeping social implications—must be made by the representatives of the people in a way that is respectful of long-established traditions and principles of our social order. When activist judges use their positions to achieve policy goals, they must be resolutely opposed.

As the partial-birth abortion ban litigation continues in Nebraska and New York, I remain hopeful that we will see much more restraint and reasonable rulings coming forth from the judiciary.

#### TENNESSEE VETERANS

Mr. ALEXANDER. Mr. President, I recently received an invitation to an annual reunion of Tennessee veterans who served together in the 236th Combat Engineers Battalion in Burma, India and China during World War II. Veterans of the 236th have been getting together every year for nearly 50 years, and the story of the reunions of the 236th is almost as interesting as those of the action they saw in northern Burma fighting the Japanese.

What began as a picnic at Memphis City Park in 1956 has evolved into an annual reunion of surviving members of the 236th, and their families, on the second Sunday in July in Nashville. Veterans from the 236th, who spent one of the most significant periods in history together, now sit around and reminisce about the experience that made them men, rekindle old friendships, and honor the memories of their fallen comrades. Meanwhile, their families swim, shop, and attend events together. In recent years however, only a handful of veterans of the 236th are still able to attend, so the group has elected their children to take over responsibility for holding the reunions, even after the last member of the 236th has passed on.

The 236th was created during World War II, an offspring of the 44th Engineer Combat Regiment at Camp McCoy, WI. After practicing maneuvers in Tennessee in 1943, the 236th was deployed to the China-Burma-India Theater, where they started work on the Ledo Road, a necessary allied supply route through harsh jungle terrain at the base of the Himalayan Mountains, and on the edge of Japanese-occupied territory.

Work on the Ledo Road was halted by a Japanese garrison, dug in, in the town of Myitkyina, along the path of the road. General Stillwell, Chief Commander of the China-Burma-India Theater, had tried to dislodge the Japanese from Myitkyina in mid May, 1944, and had succeeded in taking a nearby airstrip, but was repelled from the town by unexpectedly strong Japanese defenses. With these defenses and a front line force already weakened from fatigue, disease and wounds, Stillwell called up the 236th to the front lines. Men who had been used to driving trucks and operating heavy equipment

were suddenly picking up a rifle and heading into battle.

The Japanese had managed to assemble nearly 2,500 soldiers in Myitkyina in the final days of May to engage the 236th and another battalion of combat engineers, the 209th. The battle for Myitkyina raged for 2 months and the engineers, fighting alongside poorly trained Chinese soldiers, bore the brunt of the Japanese forces, defending against infantry attacks as well as artillery and mortar fire. The battle resulted in victory for the allies, but at a heavy price: 56 killed in action and another 142 wounded from the 236th alone. One of these casualties was SGT Fred Coleman, who threw himself on a grenade in order to save the lives of his comrades.

The members of the 236th distinguished themselves in the battle for Myitkyina and earned the praise of their commanders. Stillwell himself was impressed with the performance of the 236th, many of whom had not picked up a rifle since basic training: "hats off to the engineers!" And both battalions of combat engineers received the Presidential Unit Citation for their valiant efforts in battle.

Tennessee is the Volunteer State and the spirit of Tennessee is embodied in the 236th. From the battle of King's Mountain in the Revolutionary War, through the Mexican War, the Civil War, and our great World Wars, Tennesseans have answered the call. We have honored those volunteers, and we have honored them as veterans.

We should especially honor our Tennessee sons and daughters today because so many—thousands—are serving in the war against terrorism—men and women in active duty, the National Guard, and the reserves.

This summer, as we celebrate Armed Forces Day, Memorial Day, the dedication of the new World War II Memorial and the 60th anniversary of D-Day, we should not only remember the actions and sacrifices of the great men and women who have come before us, such as those of the 236th, but what their sacrifices have ensured for us: our freedom.

The best thing we can do this summer as we pay tribute to our veterans and soldiers is this: to try to show as much respect and honor to these great volunteers as they have always shown our country.

#### ROBERT A. BEAN: A LIFETIME OF CONTRIBUTION

Mr. PRYOR. Mr. President, I join the Senate community in mourning the loss of a long-time friend and colleague Robert A. Bean. Throughout his life, Bob was a hard worker, devoted to public service and a man of great integrity and character. Bob began his public service career as a congressional page at the young age of 15. Many promotions and two decades later, he continued to help the U.S. Senate run smoothly. During these years, Bob

forged countless friendships with those around him and made immeasurable contributions to the community.

Each and every day, Bob went above and beyond the call of duty to help Members of Congress, staff members and Capitol visitors find their way, whether it was through complex parliamentary procedure or to the nearest elevator in the Capitol. His vast knowledge of the Senate's operations was garnered from decades of public service. Following Bob's days as a page, he served in the Democratic cloakroom, and was later promoted to deputy sergeant-at-arms, deputy assistant under-secretary of legislative affairs at the Department of the Treasury, and Democratic staff director for the Committee on House Administration. Bob retired from the Hill in 2002, having accrued enough years of service to make him eligible for retirement. Too young and active, however, Bob returned to work just months later at the Jefferson Consulting Group, where he quickly made a name for himself.

My dad, former Senator David Pryor, first met Bob during page school and saw in him the same quality as everyone else: a passion to help others. Throughout the years, they remained close friends. Bob traveled to Arkansas to campaign several times for my dad, and later he joined me in Little Rock on the campaign trail. Even with all his qualifications and prestige, no job was too small. I remember him canvassing in the Arkansas heat, stuffing envelopes and hammering yard signs into the ground. And no job was too big or difficult. Following my campaign, Bob helped me coordinate inauguration events and setup my office, and he helped orient a number of my staff members who were new to Washington and the Senate. His willingness to do anything for anybody at anytime is what made Bob loved by so many.

Jim English, a former assistant Secretary of the Senate, said Bob was "the kind of person who would give you the shirt off his back. He was a man with loyalty to the Senate and to his friends."

Longtime friend Bill Norton who worked with Bob in the cloakroom and earlier as a page added, "Bob loved Congress as an institution; those were his happiest days."

While he took his work seriously, Bob was also known to enjoy his weekends with friends and family on the *Margaret B* while fishing on the Chesapeake. It was on such a day when Captain Bob was enjoying the afternoon on his boat, having just caught a 36-inch striper, when God chose to take Bob home.

Bob was also a devoted family man. As good as a friend he was to us, Bob was an even better son, brother and uncle. I want to express my deepest condolences to the Bean family: his mother Margaret; brothers, John, Kenneth and Brian; sister-in-law Patti; niece Rachel and nephew Christian.

Bob's commitment to service provides inspiration to us all. We will miss

Bob Bean. We will remember him well. We will celebrate his life, and we will try to live up to his dedication and generosity.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO FRENCHBURG JOB CORPS

• Mr. BUNNING. Mr. President, I pay tribute today to the Frenchburg Job Corps Center in Frenchburg, KY. On June 24, 2004 this center will celebrate a milestone anniversary. For 30 years the Frenchburg Job Corps Center has taught a variety of skills to our Kentucky workforce, helping the men and women of Kentucky to improve their job skills and their general well being.

I am grateful for all the work that the Frenchburg Center has done over the last 30 years. Their contribution to the Commonwealth of Kentucky should not be underestimated. Through the work of this center many men and women have been enabled to become valuable pillars of their local and state economies.

The skills that these men and women learned range from the culinary arts to apartment maintenance. But all of these skills have been of inestimable value when it comes to doing one of the most important things in life, providing for yourself, your family and your community.

I believe the Commonwealth would not be the same without the dedication of these men and women and I thank the Frenchburg Job Corps for its 30 years of dedication to the workforce of the Kentucky. •

##### TRIBUTE TO JIM AYERS

• Mr. ALEXANDER. Mr. President, I wish to honor the extraordinary efforts of one man who exemplifies the spirit which makes Tennessee the volunteer state.

That man is Jim Ayers of Parsons, TN. Parsons sits at the intersection of Highway 412 and 69, just west of the banks of the Tennessee River. It is the largest town in rural Decatur County. At 18, Jim left home to attend Memphis State University. Working 30 hours a week, he paid his way through college, graduating with a degree in business administration. Jim was the first in his family to earn a college degree. He went on to success in a number of industries—from banking and real estate to manufacturing and health care.

Many American success stories would end right there. For Jim, this was just the beginning.

In 1999 Decatur's Riverside High School graduated 129 students and sent 36 on to post-secondary education. That's 27 percent. This month 101 of 111, 90 percent, of students graduating from Riverside, will go on to 2 and 4-year colleges and universities.

The difference between 1999 and 2004? Jim Ayers.

You see, Jim realized the opportunities he had because his parents had motivated him to further his education. To perpetuate this encouragement, Jim created the Ayers Foundation Scholars Program. The program supplies counselors to assist every student with college counseling and planning and grants renewable scholarships of up to \$4,000 to any Decatur County student who wants to go on to college.

This year Jim's foundation disbursed \$578,000 to more than 300 young men and women attending 13 different schools. To meet any remaining tuition bills, counselors found an additional \$800,000 in Federal and State grants and other scholarships. Since its inception, the foundation has also spent in excess of \$175,000 to help 68 teachers from Decatur and Henderson counties to obtain masters degrees or plus 30 certification.

Last week at a dinner in honor of this first class of Ayers' foundation graduates, Jim announced the foundation will begin funding scholarships for students at Henderson County's Scotts Hill High School. In addition, Jim committed to extend funding for advanced degrees for teachers in Perry County.

Decatur's favorite son came home to make this a place where the American dream thrives.

Mr. President, I have spent a lot of time thinking about leadership, character, and education. Men like Jim serve as examples to us all of the opportunity education provides and the difference one man can make in the fabric of the American character.

Thank you for allowing me to honor my friend Jim Ayers. •

##### TRIBUTE TO LINDA KURZ

• Mr. BOND. Mr. President, Sieglinde Kurz received her Bachelor of Arts degree from Fontbonne College, St. Louis, Missouri in 1961 and her Masters Degree in Health Care Management from Northwestern University, Evanston, Illinois in 1976.

Linda Kurz started her career with Department of Veterans Affairs in November 1965 as a Research Chemist in Renal Hypertension Research at the St. Louis VA Medical Center.

Linda Kurz, during her government career was the Administrative Assistant to the Associate Director, Hines, Illinois; Associate Director, VA Medical Center, Tomah, Wisconsin; Associate Deputy Regional Director, Northeastern Region, Albany, NY; Associate Director, VA Medical Center, Marion, Illinois; Director, Construction Project Coordination and Budget, VA Headquarters, Washington, DC; Director, VA Medical Center, Marion, Illinois. She left the Marion VAMC to accept the position of Director at the St. Louis VAMC.

Linda Kurz served as Director of the St. Louis VA for 5 years and 8 months from May 1998 through January 2004, one of the largest and most complex VA facilities in the Nation.

Linda Kurz provided leadership for this dual division hospital, providing care for in excess of 36,000 veterans annually, within a primary service area of metropolitan St. Louis, including 9 counties in Missouri and 14 counties in West Central Illinois and lead a care team of 1900 full time employee equivalents.

Linda's lifetime achievements include: A leader in the health care management field, mentor for VHA Health Care Management Trainees, Executive Career Field Director Trainees and achieved the status of Diplomat in the American College of Healthcare Executives.

Linda Kurz, was listed as one of the top female directors in Missouri Hospital Association Newsletter, Summer 2003 Edition and in Who's Who Among Top Executives in 1998-1999 and during her tenure as Director St. Louis VA Medical Center was recognized in 1999, with the Vice-Presidential "Hammer and Scissors" award for her efforts in piloting the first Department of Veterans Affairs Canteen Integration.

During her tenure at the St. Louis VA, Linda has worked tirelessly to improve access to care for veterans and opened three health clinics; she supported her employees by providing educational opportunities for mid-level managers through programs such as mini-MBA and she promoted an open policy, communicating with staff at all levels by establishing employee and supervisory forums.

Linda Kurz will retire after 37 years of government service, having devoted countless hours and years to the welfare of the American Veterans.●

#### TRIBUTE TO MELISSA CENTRELLA

● Mr. CORZINE. Mr. President, today I wish to recognize and to remember an extraordinarily courageous young lady from New Jersey, Ms. Melissa Anne Centrella. It is with great sadness that I inform you that Melissa passed away 2 years ago. She was 25 years old when she died. In Melissa's short time here on Earth she displayed an uncommon grace and dignity which we all should emulate.

As a child, Melissa was like every young girl—she was cheerful, she loved her parents, and she loved to dance. However, Melissa was diagnosed at an early age with the rare disorder called dystonia. Dystonia is a neurological disorder characterized by powerful and painful involuntary muscle spasms that cause twisting of the body, repetitive muscle movements, and sustained postural deformities. Melissa lived with the constant pain of dystonia for 18 years. As the years passed, Melissa's life became more and more constrained. She was eventually confined to a wheelchair and then bedridden. Melissa passed away from complications of this disorder.

Melissa endured many painful medical procedures to assess and attempt to treat dystonia. She suffered through

a series of spinal taps, intrathecal pump implantations, and the preparations for deep brain stimulation surgery. Melissa, on several occasions, was overdosed with her medication leading to seizures and once to a 3-day coma. Through all the pain, she accepted her suffering with dignity and never once complained.

Melissa believed she was put on Earth for a reason, that God had a plan for her. That reason was to be a part of the mission to find a cure for dystonia, so that no one else would have to experience the torture that she experienced in her short life. Many in her position would have given up, but not Melissa. Melissa was relentless in pushing Claire, her mother, to establish the New Jersey Chapter of the Dystonia Medical Research Foundation, DMRF.

The chapter today holds many events to raise funds for dystonia research and promotes awareness of dystonia. Whenever Claire became depressed or understandably overcome with distress, Melissa would gently prod her along and remind her of their mission together as a family. Melissa was the only child of Claire and August Centrella. I would like to salute Claire Centrella and her family for picking up the mantle and running with it in memory of Melissa.

Melissa's body lost its battle; however, her soul battles on in her mother and the New Jersey Chapter to improve the quality of life for others with dystonia. Melissa Centrella's memory will live on in those of us she touched and in those who share her mission. Melissa will never be forgotten, and her mission will continue through her family's and friends' hard work and determination.●

● Mr. LAUTENBERG. Mr. President, I rise today to pay tribute and to remember a courageous young lady from New Jersey, Ms. Melissa Anne Centrella. Sadly, Melissa passed away 2 years ago, at the age of 25, from complications due to a disease known as dystonia. Much of Melissa's short life was dedicated to battling dystonia, which affects more than 300,000 people in North America.

Melissa was diagnosed at an early age with dystonia, which is the third most common movement disorder after Parkinson's disease and tremor. This neurological disease is characterized by powerful and painful involuntary muscle spasms that cause twisting of the body, repetitive muscle movements and sustained postural deformities. Although she endured many painful medical procedures to treat her dystonia, Melissa never once complained. Instead, she became a part of the effort to find a cure for dystonia, so no one else would have to experience the pain she suffered in her short life.

Along with her mother Claire, Melissa worked relentlessly to establish the New Jersey Chapter of the Dystonia Medical Research Foundation. The chapter today holds many events to raise funds for dystonia research and promotes awareness of

dystonia. I would like to salute the Centrella family for the work they have done to found and support the New Jersey Chapter of the foundation. Today, because of Melissa Centrella, her family and others who have fought alongside them against dystonia, we are closer than ever to a cure.

Mr. President, it is important that we recognize the fight against dystonia. Although there is not yet a cure for dystonia, we will continue the work of Melissa Centrella and remember her fight against this disease.●

#### THE 250TH ANNIVERSARY OF HAMPSHIRE COUNTY

● Mr. ROCKEFELLER. Mr. President, on this 3rd day of June, in the year 2004, I am honored to commemorate the 250th birthday of Hampshire County. This historically and culturally rich county showcases the best of West Virginia, and I am very proud to represent the citizens of this great county.

Hampshire County has a vibrant history beginning in the early 1700s, when tradesmen and hunters eager to begin a new life settled in the beautiful wilderness. Settlers, such as John and Job Pearsall, built houses in the area that would become known as Romney which has served as the county seat since 1762—some 200-plus years, which is longer than Washington, DC has served as our capital city.

The history of Hampshire County encompasses many of the great conflicts in our Nation's early history. It was the turmoil of the French and Indian War that prevented official organization of the county in 1757, despite actual creation several years earlier. In 1794, men from Hampshire County serving under GEN Daniel Morgan took part in overcoming the Whiskey Rebellion. These brave men volunteered to quell the rebellion. The county also endured the Civil War, and was frequently occupied by either Confederate or Union Armies. In fact, according to surviving records, Romney changed hands at least 56 times which is more frequently than any other city during the Civil War except for Winchester, VA.

Only a few years later, in 1870, Hampshire County became home to the State School for the Deaf and Blind through the efforts of Professor H.H. Johnson. The Romney Literary Society donated several buildings and land for the school, which was crucial to the decision regarding the school's location in Romney. The school now serves over 275 students on the 40-acre campus, and plays an integral role in the community.

Today, Hampshire County continues to be a great asset to the State of West Virginia and our country. Hampshire County remains a pristine example of West Virginia's natural beauty. Its many rivers and streams flow through the county and provide residents and visitors alike with recreational and



fishing opportunities. An area along the South Branch of the Potomac River, known as the Trough, is visited frequently by those hoping to view the bald eagles that occupy the area. Ice Mountain is another excellent location to observe eagles and the beautiful West Virginia scenery viewed from its peak. Ice Mountain contains small caves where ice can be found throughout the hot summer days. Hampshire County is a fine example of all West Virginia has to offer—its sense of history and culture, its fine citizens, and its natural beauty.

Since its beginning, courageous settlers, who returned time and again to Hampshire County, laid the foundation that is now a well-known trait of all West Virginians—loyalty to the State they love. I am proud to recognize Hampshire County, WV, on its 250th anniversary. ●

#### TRIBUTE TO LIEUTENANT COLONEL WILLIE J. BROWN

● Mr. MILLER. Mr. President, it is my pleasure to honor an extraordinary marine, LTC Willie J. Brown. Lieutenant Colonel Brown has served for 29 years, 4 months and 4 days in service to our Nation. He began his military service as an ensign in the Navy and later earned a commission as a second lieutenant in the U.S. Marine Corps. He has served in times of war and peace, and throughout he has given a full measure, as marines are renowned for doing. His awards include the Meritorious Service Medal, Navy and Marine Corps Achievement Medal, the Joint Meritorious Unit Award, a Meritorious Unit Commendation, the National Defense Service Medal with two stars, and the Sea Service Deployment Ribbon.

During Lieutenant Colonel Brown's last active duty assignment, he served as a legislative liaison officer in the Marine Corps' Office of Legislative Affairs. That office supports Members of Congress and the congressional committees on issues relating to the Marine Corps and the security of our Nation. In this position, Colonel Brown played a vital role in ensuring that responses to all inquiries and congressional requests for information and inquiries were provided quickly, accurately, and completely; thereby, allowing Members of this body the ability to readily address issues of national importance.

Some of Lieutenant Colonel Brown's many responsibilities included expert preparation of Marine Corps leadership for congressional testimony on high-interest military programs and assisting Members on congressional travel to visit military installations throughout the continental United States. His attention to detail in all matters was unsurpassed, and his complete grasp of the facets of naval warfare helped to ensure a bright future for our Marine Corps.

Prior to joining the Office of Legislative Affairs, Lieutenant Colonel Brown

spent the majority of his Marine Corps career in the aviation field. He started as a second lieutenant with the 2nd Marine Aircraft Wing and continued to rise through the ranks. He went on to become the commanding officer of Marine Aviation Logistics Squadron 26. Under his superb leadership, that squadron won the wing's "Squadron of the Year" award for three consecutive years. The commandant also recognized his squadron with the Marine Corps Quality Improvement Award for Excellence.

Lieutenant Colonel Brown is a learned, professional marine, as evidenced by his attendance at the School of Advanced Warfare, and the Marine Corps Command and Staff College. Further, he is a well-rounded, native Georgian who willingly serves his fellow man. While assigned as the special assistant to the Assistant Secretary of the Navy for Manpower and Reserve Affairs, he was awarded the Roy Wilkins Distinguished Service Award by the NAACP. This award is granted each year to one marine who has made personal sacrifices resulting in significant contributions in the areas of civil and human rights.

As a leader of marines, Lieutenant Colonel Brown has made a lasting contribution to the Marine Corps and will be sorely missed by those who have had the opportunity to serve with him. I join with his friends and family as he celebrates this richly deserved retirement. I wish him, his wife Cynthia, and their family my best as he enjoys every day of this new journey. *Semper Fidelis.* ●

#### SAMUEL JOHNSON

● Mr. FEINGOLD. Mr. President, I wish to pay tribute to the life of Samuel Johnson, an environmental champion, an inspired business leader and one of Wisconsin's greatest philanthropists.

Sam Johnson, who passed away on May 22, 2004, was known internationally for taking his 118-year-old family business called Johnson Wax and turning it into the consumer products giant, SC Johnson & Son, Inc. Sam was as generous as he was successful. He was beloved by his home community of Racine as well as the entire State of Wisconsin for his generous donations to the communities where he did business, and to the long list of organizations and causes that he served. Sam's generosity was instrumental in revitalizing his home community of Racine.

After attending Cornell and Harvard, Sam served as an Air Force intelligence officer. When Sam returned to Wisconsin, he joined the family business, helping make products like Pledge and Glade household names. Sam became the fourth generation to take over the family business in 1966 and helped it grow into four global businesses employing over 28,000 people before retiring in 2000 and leaving the business to a fifth generation.

Sam was widely recognized as a defender of the environment. In 1975, he proactively banned the use of harmful CFCs in aerosol products 3 years before the U.S. banned the ozone-harming substances. He served as chairman of the board for the Nature Conservancy, to which he donated \$1 million in 1994 and later donated 18,000 acres in Brazil. In 1993, *Fortune Magazine* called him "corporate America's leading environmentalist."

A few years ago, I had the distinct pleasure of participating in a project undertaken by Sam, as well as Fisk and Curt Johnson, two of his children. Sam and his sons took their piloting skills to Brazil to recreate and document a flight made by Sam's father, Herbert, in 1935, while searching for carnauba palm wax in Brazil. The documentary that resulted from the trip was a moving testimony to Sam's own troubles with alcoholism and distant relationship with his father. The film earned national attention and helped people across the country deal with their own problems with alcohol. I was deeply honored when I was asked to help host a screening of this incredible film.

That documentary was just one of the many achievements for which Sam Johnson will be remembered and just one of the many reasons he will be so deeply missed. I know that I am grateful for his lasting contributions to the State of Wisconsin, and for his unwavering commitment to the communities and causes he served so well. ●

#### REPORT TO CONGRESS CONCERNING THE EXTENSION OF WAIVER AUTHORITY FOR THE REPUBLIC OF BELARUS—PM 81

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

*To the Congress of the United States:*

I hereby transmit the document referred to in subsection 402(d)(1) of the Trade Act of 1974 (the "Act"), as amended, with respect to the continuation of a waiver of application of subsections (a) and (b) of section 402 of the Act to the Republic of Belarus. This document constitutes my recommendation to continue this waiver for a further 12-month period and includes my determination that continuation of the waiver currently in effect for Belarus will substantially promote the objectives of section 402 of the Act, and my reasons for such determination.

GEORGE W. BUSH.  
THE WHITE HOUSE, June 3, 2004.

#### REPORT TO CONGRESS CONCERNING THE EXTENSION OF WAIVER AUTHORITY FOR VIETNAM—PM 83

The PRESIDING OFFICER laid before the Senate the following message

from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

*To the Congress of the United States:*

I hereby transmit the document referred to in subsection 402(d)(1) of the Trade Act of 1974 (the "Act"), as amended, with respect to the continuation of a waiver of application of subsections (a) and (b) of section 402 of the Act to Vietnam. This document constitutes my recommendation to continue in effect this waiver for a further 12-month period and includes my determination that continuation of the waiver currently in effect for Vietnam will substantially promote the objectives of section 402 of the Act, and my reasons for such determination.

GEORGE W. BUSH.

THE WHITE HOUSE, June 3, 2004.

#### REPORT TO CONGRESS CONCERNING THE EXTENSION OF WAIVER AUTHORITY FOR TURKMENISTAN—PM 82

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

*To the Congress of the United States:*

I hereby transmit the document referred to in subsection 402(d)(1) of the Trade Act of 1974 (the "Act"), as amended, with respect to the continuation of a waiver of application of subsections (a) and (b) of section 402 of the Act to Turkmenistan. This document constitutes my recommendation to continue this waiver for a further 12-month period and includes my determination that continuation of the waiver currently in effect for Turkmenistan will substantially promote the objectives of section 402 of the Act, and my reasons for such determination.

GEORGE W. BUSH.

THE WHITE HOUSE, June 3, 2004.

#### MESSAGES FROM THE HOUSE

At 11:17 a.m., a message from the House of Representatives, delivered by Mr. Chiappardi, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 28. Joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

At 12:19 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3908. An act to provide for the conveyance of the real property located at 1081 West Main Street in Ravenna, Ohio.

H.R. 4109. An act to allow seniors to file their Federal income tax on a new Form 1040S.

The message also announced that the House has agreed to the following con-

current resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 413. Concurrent resolution honoring the contributions of the women, symbolized by "Rosie the Riveter", who served on the homefront during World War II, and for other purposes.

The message further announced that the House agree to the amendment of the Senate to the bill (H.R. 1086) to encourage the development and promulgation of voluntary consensus standards by providing relief under the anti-trust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes.

The message also announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 28. Joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. STEVENS).

At 6:00 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 444. An act to amend the Workforce Investment Act of 1998 to establish a Personal Reemployment Accounts grant program to assist Americans in returning to work; to reauthorize title II of the Higher Education Act of 1965; to amend Title VII of the Higher Education Act of 1965 to ensure graduate opportunities in postsecondary education; and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 3866. An act to amend the Controlled Substances Act to provide increased penalties for anabolic steroid offenses near sports facilities, and for other purposes.

H.R. 4478. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through July 23, 2004, and for other purposes.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1261) to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes and asks for a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House: From the committee on Education and the Workforce, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. BOEHNER, Mr. PETRI, Mr. McKEON, Mr. CASTLE, Mr. ISAKSON, Mr. PORTER, Mr. KILDEE, Mr. HINOJOSA, Mr. TIERNEY, and Ms. MCCOLLUM.

The message further announced that the House disagree to the amendment of the Senate to the bill (H.R. 3550) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House: From the Committee on Transportation and Infrastructure, for consideration of the House bill (except title IX) and the Senate amendment (except title V), and modifications committed to conference: Messrs. YOUNG of Alaska, PETRI, BOEHLERT, COBLE, DUNCAN, MICA, HOEKSTRA, EHLERS, BACHUS, LATOURETTE, GARY G. MILLER of California, REHBERG, BEAUPREZ, OBERSTAR, RAHALL, LIPINSKI, DEFazio, COSTELLO, Ms. NORTON, Messrs. NADLER, MENENDEZ, Ms. CORRINE BROWN of Florida, Mr. FILNER, and Ms. EDDIE BERNICE JOHNSON of Texas.

From the Committee on the Budget, for consideration of sections 8001–8003 of the House bill, and title VI of the Senate amendment, and modifications committed to conference: Messrs. NUSSLE, SHAYS, and SPRATT.

From the Committee on Education and the Workforce, for consideration of sections 1602 and 3030 of the House bill, and sections 1306, 3013, 3032, and 4632 of the Senate amendment, and modifications committed to conference: Mr. BALLENGER, Mrs. BIGGERT, and Mr. GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of provisions in the House bill and Senate amendment relating to Clean Air Act provisions of transportation planning contained in section 6001 of the House bill, and sections 3005 and 3006 of the Senate amendment; and sections 1202, 1824, 1828, and 5203 of the House bill, and sections 1501, 1511, 1522, 1610–1619, 3016, 3023, 4108, 4151, 4152, 4155–4159, 4162, 4172, 4173, 4424, 4481, 4482, 4484, 4662, 8001, and 8002 of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, PICKERING, and DINGELL.

From the Committee on Government Reform, for consideration of section 1802 of the Senate amendment, and modifications committed to conference: Messrs. TOM DAVIS of Virginia, SCHROCK, and WAXMAN.

From the Committee on the Judiciary, for consideration of sections 1105, 1207, 1602, 1812, 2011, 3023, 4105, 4108, 4201, 4202, 4204, 5209, 5501, 6001, 6002, 7012, 7019–7022, and 7024 of the House bill, and sections 1512, 1513, 1802, 3006, 3022, 3030, 4104, 4110, 4174, 4226, 4231, 4234, 4265, 4307, 4308, 4315, 4424, 4432, 4440–4442, 4445, 4447, 4462, 4463, 4633, and 4661 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas, and CONYERS.

From the Committee on Resources, for consideration of sections 1117, 3021, 6002, and 6003 of the House bill, and sections 1501, 1502, 1505, 1511, 1514, 1601,

1603, 3041, and 4521–4528 of the Senate amendment, and modifications committed to conference: Messrs. POMBO, GIBBONS, and KIND.

From the Committee on Rules, for consideration of sections 8004 and 8005 of the House bill, and modifications committed to conference: Messrs. DREIER, SESSIONS, and FROST.

From the Committee on Science, for consideration of sections 2001, 3013, 3015, 3034, 4112, and title V of the House bill, and title II, sections 3014, 3015, 3037, 4102, 4104, 4237, and 4461 of the Senate amendment, and modifications committed to conference: Messrs. GILCHREST, NEUGEBAUER, and GORDON.

From the Committee on Ways and Means, for consideration of title IX of the House bill, and title V of the Senate amendment, and modifications to conference: Messrs. THOMAS, MCCRERY, and RANGEL.

For consideration of the House bill and Senate amendment, and modifications committed to conference: Mr. DELAY.

### MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 444. An act to amend the Workforce Investment Act of 1998 to establish a Personal Reemployment Accounts grant program to assist Americans in returning to work; to reauthorize title II of the Higher Education Act of 1965; to amend title VII of the Higher Education Act of 1965 to ensure graduate opportunities in postsecondary education; and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 3908. An act to provide for the conveyance of the real property located at 1081 West Main Street in Ravenna, Ohio; to the Committee on Health, Education, Labor, and Pensions.

H.R. 3866. An act to amend the Controlled Substances Act to provide increased penalties for anabolic steroid offenses near sports facilities, and for other purposes; to the Committee on the Judiciary.

H.R. 4109. An act to allow seniors to file their Federal income tax on a new Form 1040S; to the Committee on Finance.

### MEASURES PLACED ON THE CALENDAR

The following concurrent resolution was read, and placed on the calendar:

H. Con. Res. 413. Concurrent resolution honoring the contributions of the women, symbolized by "Rosie the Riveter", who served on the homefront during World War II, and for other purposes.

### MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2498. A bill to provide for a 10-year extension of the assault weapons ban.

### ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, June 3, 2004, she had pre-

sented to the President of the United States the following enrolled joint resolution:

S.J. Res. 28. Joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-7740. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the report of a rule entitled "Optional Rider for Proof of Additional NVOCC Financial Responsibility" (FMC Doc. No. 04-02) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7741. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Re-issuance of the NASA FAR Supplement Subchapters A and B Consistent with the Federal Acquisition Regulations System Guidance and Policy" (RIN2700-AC65) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7742. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Government Property—Instructions for Preparing NASA Form 1018" (RIN2700-AC73) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7743. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closing Directed Fishing for Groundfish with Non-Pelagic Trawl Gear in the Red King Crab Savings Subarea (RKCSS) of the Bering Sea and Aleutian Islands Management Area" received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7744. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "NASA Grant and Cooperative Agreement Handbook—Grant and Cooperative Agreement Announcement Numbering" (RIN2700-AC98) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7745. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Re-Issuance of NASA FAR Supplement Parts 1813 through 1817" (RIN2700-AC83) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7746. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Re-issuance of NASA FAR Supplement Subchapter D" (RIN2700-AC84) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7747. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "NASA Grant and Co-

operative Agreement Handbook—Certifications, Disclosures, and Assurances" (RIN2700-AC96) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7748. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Export Administration Regulations Based on the 2003 Missile Technology Control Regime Plenary Agreements" (RIN0694-AD01) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7749. A communication from the Chair, National Oceanographic Partnership Program, transmitting, pursuant to law, the Program's March 2004 Annual Report; to the Committee on Commerce, Science, and Transportation.

EC-7750. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Protective Equipment Export Licensing Jurisdiction" (RIN0694-AC64) received on June 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC-7751. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Nineteenth Annual Report of Accomplishments under the Airport Improvement Program (AIP) for Fiscal Year 2003; to the Committee on Commerce, Science, and Transportation.

EC-7752. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Iowa Regulatory Program" (IA-013-FOR) received on June 1, 2004; to the Committee on Energy and Natural Resources.

EC-7753. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Clarification of Substituted Federal Enforcement for Parts of Missouri's Permanent Regulatory Program and Findings on the Status of Missouri's Permanent Regulatory Program; Correction" received on June 1, 2004; to the Committee on Energy and Natural Resources.

EC-7754. A communication from the Chairman, Inland Waterways Users Board, transmitting, pursuant to law, a report relative to the investment priorities of the Inland and Intracoastal Waterway transportation industry; to the Committee on Environment and Public Works.

EC-7755. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report relative to the Agency's Fiscal Year 2001 implementation of the Waste Isolation Pilot Plant (WIPP) Land Withdrawal Act (LWA); to the Committee on Environment and Public Works.

EC-7756. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report relative to a lease prospectus for the Department of the Navy in Northern Virginia; to the Committee on Environment and Public Works.

EC-7757. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Primary Drinking Water Regulations: Analytical Method for Uranium" (FRL7668-9) received on June 1, 2004; to the Committee on Environment and Public Works.

EC-7758. A communication from the Deputy Associate Administrator, Environmental

Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Rule-making on Section 126 Petitions from New York and Connecticut Regarding Sources in Michigan; Revision of Definition of Applicable Requirement for Title V Operating Permit Programs" (FRL7669-6) received on June 1, 2004; to the Committee on Environment and Public Works.

EC-7759. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation Implementation Plans; Illinois" (FRL7666-1) received on June 1, 2004; to the Committee on Environment and Public Works.

EC-7760. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans for California—San Joaquin Valley PM-10 Nonattainment Area; Serious Area Plan for Attainment of the 24-Hour and Annual PM-10 Standards" (FRL7663-8) received on June 1, 2004; to the Committee on Environment and Public Works.

EC-7761. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Emissions from Commercial and Industrial Solid Waste Incinerator Units" (FRL7666-5) received on June 1, 2004; to the Committee on Environment and Public Works.

EC-7762. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Determination To Extend Deadline for Promulgation of Action on Section 126 Petition From North Carolina" (FRL7667-3) received on June 1, 2004; to the Committee on Environment and Public Works.

EC-7763. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion" (FRL7667-5) received on June 1, 2004; to the Committee on Environment and Public Works.

EC-7764. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Determination that State Has Corrected a Deficiency in the California State Implementation Plan, Ventura County Air Pollution Control District" (FRL7665-3) received on June 1, 2004; to the Committee on Environment and Public Works.

EC-7765. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, E. Dorado County Air Pollution Control District, Feather River Air Quality Management District, Kern County Air Pollution Control District, Sacramento Metropolitan Air Quality Management District, San Bernardino County Air Pollution Control District, Santa Barbara County Air Pollution Control District, and Yolo-Solano Air Pollution Control District" (FRL7662-2) received on June 1, 2004; to the Committee on Environment and Public Works.

EC-7766. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation entitled the "U.S.—Russia Polar Bear Agreement Implementa-

tion Act of 2004"; to the Committee on Environment and Public Works.

EC-7767. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to Fiscal Year 2003 Competitive Sourcing Efforts; to the Committee on Environment and Public Works.

EC-7768. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to the Commission's licensing and regulatory duties; to the Committee on Environment and Public Works.

EC-7769. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, two documents related to the Agency's programs; to the Committee on Environment and Public Works.

EC-7770. A communication from the Acting Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Withdrawal of Regulations Governing Incidental Take Permit Revocation" (RIN1018-AT64) received on May 20, 2004; to the Committee on Environment and Public Works.

EC-7771. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Coordinated Issue: Foreign Sales Corporations—Advance Payment Transactions" received on June 1, 2004; to the Committee on Finance.

EC-7772. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Uniform Capitalization of Interest Expense in Safe Harbor Sale and Leaseback Transactions" (RIN1545-BB62) received on June 1, 2004; to the Committee on Finance.

EC-7773. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, the 2004 Annual Report of the Supplemental Security Income Program; to the Committee on Finance.

EC-7774. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, a report relative to Fiscal Year 2003 Sourcing Efforts; to the Committee on Finance.

EC-7775. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—June 2004" (Rev. Rul. 2004-54) received on June 1, 2004; to the Committee on Finance.

EC-7776. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Information Reporting Regarding Royalties Under Section 6050N" (Rev. Rul. 2004-46) received on June 1, 2004; to the Committee on Finance.

EC-7777. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Title II Cost of Living Increases in Primary Insurance Amounts" (RIN0969-AF14) received on June 1, 2004; to the Committee on Finance.

EC-7778. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to methods employed by the Government of Cuba to comply with the United States-Cuba September 1994 "Joint Communique"; to the Committee on Foreign Relations.

EC-7779. A communication from the Assistant Secretary for Legislative Affairs, De-

partment of State, transmitting, pursuant to law, a report relative to methods employed by the Government of Cuba to comply with the United States-Cuba September 1994 "Joint Communique"; to the Committee on Foreign Relations.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1129. A bill to provide for the protection of unaccompanied alien children, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1887. A bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices.

S. 2363. A bill to revise and extend the Boys and Girls Clubs of America.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Con. Res. 5. A concurrent resolution expressing the support for the celebration in 2004 of the 150th anniversary of the Grand Excursion of 1854.

## 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 Mrs. DOLE (for herself, Mr. DODD, Mr. LUGAR, and Mr. ALEXANDER):

S. 2494. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for the transportation of food for charitable purposes; to the Committee on Finance.

By Mr. BREAUX:

S. 2495. A bill to strike limitations on funding and extend the period of authorization for certain coastal wetland conservation projects; to the Committee on Environment and Public Works.

By Mr. BAYH:

S. 2496. A bill to provide for the relief of Helen L. O'Leary; to the Committee on Armed Services.

By Mr. LIEBERMAN:

S. 2497. A bill to amend the securities laws to provide for enhanced mutual fund investor protections, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. FEINSTEIN (for herself, Mr. WARNER, Mr. SCHUMER, Mr. DEWINE, Mr. LEVIN, Mr. CHAFEE, Mr. DODD, Mr. JEFFORDS, Mrs. BOXER, Mrs. CLINTON, Mr. REED, and Mr. LAUTENBERG):

S. 2498. A bill to provide for a 10-year extension of the assault weapons ban; read the first time.

By Mr. TALENT:

S. 2499. A bill to modify the boundary of the Harry S Truman National Historic Site in the State of Missouri, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LUGAR:

S. 2500. A bill to amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries, and for other purposes; to the Committee on Foreign Relations.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 2501. A bill to designate the facility of the United States Postal Service located at 73 South Euclid Avenue in Montauk, New York, as the "Perry B. Duryea, Jr. Post Office"; to the Committee on Governmental Affairs.

By Mr. CRAIG:

S. 2502. A bill to allow seniors to file their Federal income tax on a new Form 1040S; to the Committee on Finance.

By Mr. KYL:

S. 2503. A bill to make permanent the reduction in taxes on dividends and capital gains; to the Committee on Finance.

By Mr. COCHRAN (for himself, Mr. FRIST, and Mr. LEAHY):

S.J. Res. 38. A joint resolution providing for the appointment of Eli Broad as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mrs. DOLE (for herself and Mr. HARKIN):

S. Con. Res. 114. A concurrent resolution concerning the importance of the distribution of food in schools to hungry or malnourished children around the world; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 309

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 309, a bill to enable the United States to maintain its leadership in aeronautics and aviation by instituting an initiative to develop technologies that will significantly lower noise, emissions, and fuel consumption, to reinvigorate basic and applied research in aeronautics and aviation, and for other purposes.

S. 556

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 556, a bill to amend the Indian Health Care Improvement Act to revise and extend that Act.

S. 557

At the request of Ms. COLLINS, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 557, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 955

At the request of Mr. ALLEN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 955, a bill to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations.

S. 1143

At the request of Mrs. HUTCHISON, the name of the Senator from Louisiana

(Ms. LANDRIEU) was added as a cosponsor of S. 1143, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 1292

At the request of Ms. LANDRIEU, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1292, a bill to establish a servitude and emancipation archival research clearinghouse in the National Archives.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Connecticut (Mr. LIEBERMAN) 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. 1411

At the request of Mr. CORZINE, his name was added as a cosponsor of S. 1411, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families, and for other purposes.

S. 1428

At the request of Mr. MCCONNELL, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1428, a bill to prohibit civil liability actions from being brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for damages or injunctive relief for claims of injury resulting from a person's weight gain, obesity, or any health condition related to weight gain or obesity.

S. 1476

At the request of Mr. HARKIN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1476, a bill to amend the Internal Revenue Code of 1986 to encourage investment in facilities using wind to produce electricity, and for other purposes.

S. 1545

At the request of Mr. HATCH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1545, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents.

S. 1559

At the request of Mr. KENNEDY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1559, a bill to amend the Public Health

Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes.

S. 1630

At the request of Mrs. CLINTON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral services, and for other purposes.

S. 1666

At the request of Mr. COCHRAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1666, a bill to amend the Public Health Service Act to establish comprehensive State diabetes control and prevention programs, and for other purposes.

S. 1748

At the request of Mr. DEWINE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1748, a bill to establish a program to award grants to improve and maintain sites honoring Presidents of the United States.

S. 1861

At the request of Mr. LUGAR, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1861, a bill to provide a framework for consideration by the legislative and executive branches of proposed unilateral economic sanctions in order to ensure coordination of United States policy with respect to trade, security, and human rights.

S. 1900

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1900, a bill to amend the African Growth and Opportunity Act to expand certain trade benefits to eligible sub-Saharan African countries, and for other purposes.

S. 1909

At the request of Mr. COCHRAN, the names of the Senator from Montana (Mr. BURNS) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 1909, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1934

At the request of Ms. LANDRIEU, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1934, a bill to establish and Office of Intercountry Adoptions within the Department of State, and to reform United States laws governing intercountry adoptions.

S. 2015

At the request of Ms. CANTWELL, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 2015, a bill to prohibit energy market manipulation.

S. 2062

At the request of Mr. GRASSLEY, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of

S. 2062, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 2141

At the request of Mr. LUGAR, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2141, a bill to amend the Farm Security and Rural Investment Act of 2002 to enhance the ability to produce fruits and vegetables on soybean base acres.

S. 2152

At the request of Mr. MILLER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2152, a bill to amend title 10, United States Code, to provide eligibility for reduced non-regular service military retired pay before age 60, and for other purposes.

S. 2192

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 2192, a bill to amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises.

S. 2195

At the request of Mr. BIDEN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2195, a bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

S. 2214

At the request of Mr. BURNS, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2214, a bill to designate the facility of the United States Postal Service located at 3150 Great Northern Avenue in Missoula, Montana, as the "Mike Mansfield Post Office".

S. 2236

At the request of Ms. CANTWELL, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2236, a bill to enhance the reliability of the electric system.

S. 2353

At the request of Mr. CRAIG, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2353, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.

S. 2363

At the request of Mr. LEAHY, the names of the Senator from Maryland (Mr. SARBANES), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 2363, *supra*.

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2363, *supra*.

At the request of Mr. SHELBY, his name was added as a cosponsor of S. 2363, *supra*.

At the request of Mr. HATCH, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Mississippi (Mr. LOTT) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 2363, *supra*.

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 2363, *supra*.

S. 2411

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. 2411, a bill to amend the Federal Fire Prevention and Control Act of 1974 to provide financial assistance for the improvement of the health and safety of firefighters, promote the use of life saving technologies, achieve greater equity for departments serving large jurisdictions, and for other purposes.

S. 2425

At the request of Mr. BYRD, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2434

At the request of Mr. HATCH, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2434, a bill to establish the Commission to Study the Potential Creation of a National Museum of the American Latino Community to develop a plan of action for the establishment and maintenance of a National Museum of the American Latino Community in Washington, D.C., and for other purposes.

S. 2439

At the request of Mrs. HUTCHISON, the names of the Senator from Illinois (Mr. FITZGERALD) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2439, a bill to award a congressional gold medal to Michael Ellis DeBakey, M.D.

S. 2449

At the request of Mr. DASCHLE, the names of the Senator from Washington (Mrs. MURRAY), the Senator from Idaho (Mr. CRAIG) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 2449, a bill to require congressional renewal of trade and travel restrictions with respect to Cuba.

S. 2451

At the request of Mr. DASCHLE, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2451, a bill to amend the Agricultural Marketing Act of 1946 to restore the application date for country of origin labeling.

S. 2461

At the request of Mr. DEWINE, the names of the Senator from Maine (Ms. COLLINS), the Senator from Georgia (Mr. MILLER), the Senator from Iowa

(Mr. HARKIN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2461, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 2463

At the request of Mr. BROWNBACK, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2463, a bill to terminate the Internal Revenue Code of 1986.

S. 2468

At the request of Ms. COLLINS, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 2468, a bill to reform the postal laws of the United States.

S. CON. RES. 113

At the request of Mr. SMITH, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. Con. Res. 113, a concurrent resolution recognizing the importance of early diagnosis, proper treatment, and enhanced public awareness of Tourette Syndrome and supporting the goals and ideals of National Tourette Syndrome Awareness Month.

S. RES. 221

At the request of Mr. SARBANES, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. Res. 221, a resolution recognizing National Historically Black Colleges and Universities and the importance and accomplishments of historically Black colleges and universities.

S. RES. 330

At the request of Mr. WYDEN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. Res. 330, a resolution expressing the sense of the Senate that the President should communicate to the members of the Organization of Petroleum Exporting Countries ("OPEC") cartel and non-OPEC countries that participate in the cartel of crude oil producing countries the position of the United States in favor of increasing world crude oil supplies so as to achieve stable crude oil prices.

S. RES. 357

At the request of Mr. CAMPBELL, the names of the Senator from California (Mrs. BOXER) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. Res. 357, a resolution designating the week of August 8 through August 14, 2004, as "National Health Center Week".

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN:

S. 2497. A bill to amend the securities laws to provide for enhanced mutual fund investor protections, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. LIEBERMAN. Mr. President, today I am introducing legislation that



would bring needed changes to our financial markets so that the interests of America's small individual investors are protected and defended.

The recent revelations about unethical and illegal practices in the mutual fund industry have been deeply disturbing—to me and to ordinary investors throughout the country. In November 2003, the Governmental Affairs Committee's Subcommittee on Financial Management, the Budget, and International Security heard testimony from the Director of the Securities and Exchange Commission's (SEC's) Enforcement Division about a survey of fund practices that the SEC had just completed. The survey found that half of the largest 88 mutual funds had permitted a practice called market-timing, which allows some investors to trade quickly in and out of the funds, even though many of those funds had explicit policies against such trading because of its detrimental impact on other investors in the fund. The survey also found that a full one-quarter of the brokerage firms it looked at indicated that they had allowed certain customers to engage in late-trading, an illegal practice that allows favored investors to execute trades based on that day's price after the market had closed, when new information had come to light. Perhaps most shocking, the survey found that, in some cases, fund company officials profited personally at the expense of their customers by market-timing their own funds. In a later hearing, we learned about the problem of excessive fees at some funds and the fact that such fees may not be prominently disclosed to investors or, as is the case with some types of fees, not disclosed at all.

These concerns are of particular importance because, in a very real sense, mutual fund investments are investments in the American dream. They hold the nest eggs, the retirement savings, and the college funds for millions of America's working families. But they also feed capital into today's economy, fueling the engine that creates and maintains American jobs. Mutual funds are where so many Americans put their money: 95 million people, at last count, own shares in these funds. Indeed, in the wake of the Enron scandal, when investigators uncovered widespread deceptions and conflicts of Wall Street stock analysts, conventional wisdom said average investors would find safe haven in mutual funds rather than in individual stocks. It is therefore particularly—and—ironically disheartening to see the scandals and breaches of trust that have now afflicted the mutual fund industry.

The recent revelations about mutual funds, however, provides us with the opportunity and the responsibility to accomplish real, structural reform in the fund industry. That is why I have joined with Senator AKAKA and Senator FITZGERALD in introducing S. 1822, the Mutual Fund Transparency Act, and why I have also joined Senators

CORZINE and DODD in introducing S. 1971, the Mutual Fund Investor Confidence Restoration Act. Both of these bills take on many of the significant mutual fund problems that have come to light in recent months. Together, they bar late trading and discourage market timing; reform mutual fund governance rules to require that the chairman and 75 percent of board members of mutual fund companies be independent and strengthen the definition of independent; require far more extensive disclosure of fund fees and expenses; and work to increase financial literacy.

But beyond these important, basic reforms, we need to craft new approaches that address the changing nature of this country's investor class. In the last two decades, a near-revolutionary expansion in the number of people participating in the financial markets has occurred. Since 1980, we've seen the share of U.S. households owning mutual funds soar from less than 6 percent to nearly 50 percent in 2002. The number of families owning stocks, directly or indirectly through funds, has increased 60 percent in the last fifteen years and, as of 2001, exceeded half of all families. Along with this phenomenon, and contributing to it, we've seen individuals increasingly taking responsibility for investing their own retirement money—a responsibility that was once entrusted to professionals. It used to be that employees were typically enrolled in so-called "defined benefit" pension plans that guaranteed them certain income and for which the employer took responsibility for investing the money properly. Now individuals are more frequently given responsibility for investing their retirement savings themselves through 401(k) plans. In fact, since 1983, the number of defined-benefit plans has declined over 70 percent, while participation in 401(k) plans has been increasing. Forty-eight million Americans now have 401(k) plans.

Neither changes in the law, nor changes by federal regulators, however, have kept pace with the increasing participation and the increasing responsibilities of small investors. When the Investment Company Act was enacted in 1940, it brought sweeping changes, and, for the first time, Federal regulation, to the fund industry, which had been fraught with fraud and abuse in the 1920's. The 1940 Act and the other securities laws passed in the wake of the 1929 stock market crash were instrumental in restoring investor confidence and in establishing the basic disclosure regime that continues to undergird securities regulation today. But the 1940 Act remains much as it was when it was enacted, and disclosure requirements that once appeared radical now often result in forms of technical compliance that little serve average investors who have neither the time nor guidance to find their way through the verbiage of fund disclosures. Nor has the SEC, created in the

same era and charged with protecting investors, adequately kept up with the shifting makeup and needs of contemporary investors. To its credit, the SEC in recent months has made a number of changes and proposals specifically to address the problems uncovered in the mutual fund industry, and in the 1990's it undertook a serious effort to ensure that more securities documents were written in "plain English." The Commission, however, has not accomplished the more fundamental reorientation that I believe is called for—and that indeed I did call for in the aftermath of the Enron scandal—to an agency that does not merely regulate and punish the securities industry but affirmatively and proactively seeks ways to assist and protect ordinary investors.

The Small Investor Protection Act that I am introducing today would bring about these needed changes by ensuring that the SEC is more routinely attuned to the needs of average investors. In doing so, this bill serves as an important complement to, though surely not a replacement for, the other mutual fund reform legislation I have cosponsored. And I am pleased that the bill has the support of the Consumer Federation of America, Fund Democracy, Inc., Public Citizen's Congress Watch, Consumer Action and Consumers Union.

To accomplish the goal of better protecting small investors, the bill would take the following four steps:

1. Create a Division of the Investor. Too often in recent years, the interests of ordinary investors have not seemed to be the driving force behind the Commission's regulatory actions. Wall Street's representatives regularly meet with Commission staff to comment on each new Commission proposal but the voice of the small investor has been harder to hear. To ensure that the voices of small investors are heard, my bill would create a separate division within the Commission—coequal with the other four major divisions at the SEC—to provide for a permanent and institutionalized advocate for the interests of ordinary investors. The Division of the Investor would be responsible for such things as providing the small investor's perspective on new rule and policy proposals, identifying new issues of particular concern to small investors, and serving as a conduit for the concerns of outside advocates for small investors.

2. Establish an Office of Risk Assessment. As part of the Governmental Affairs Committee's investigation into the Enron scandal, former Senator Thompson and I released a bipartisan staff report concluding, among other things, that the SEC needed to move away from simply reacting to cases of financial fraud to actively rooting out fraud. In other words, the SEC needed to "reconceptualize its role as a more proactive force in protecting the marketplace against financial fraud." This conclusion has only been reinforced by

the fact that the recent and widespread problems in the mutual fund industry were apparently not identified by the Commission but were uncovered by others. I am therefore very encouraged that Chairman Donaldson has announced the creation of an Office of Risk Assessment to gather and analyze data on new trends and risks and identify new areas of concern for the Commission. This effort, in my view, is critical to protecting small investors because it will increase the likelihood that practices detrimental to small investors will be proactively identified and addressed before they reach scandalous proportions. To ensure the SEC continues to pursue this important function, my bill would provide formal legislative recognition to the Office of Risk Assessment and institutionalize its responsibilities.

3. Require Consumer Research to Gauge Whether Disclosures are Easily Understood by Consumers. The disclosure of information to investors is fundamental to securities regulation in the U.S. With respect to mutual funds, for instance, the SEC requires a wide array of disclosures to be made in prospectuses, annual reports to shareholders, advertising, and in other media. None of these disclosures, however, is likely to serve its intended purpose if ordinary investors can't understand them. There is little empirical evidence on whether investors do in fact understand the disclosures being made. Although the SEC has from time-to-time engaged in consumer research, such as surveys, focus groups, etc., it does not routinely or systematically test its proposed disclosures to determine if they are likely to be understood by ordinary investors. My bill would change that by requiring that the Commission consider empirical consumer research to determine whether a proposed disclosure—including its wording, format, and the context in which it appears—is likely to improve the understanding of ordinary investors.

4. Require Investment Companies to Provide Brief, Easy-to-Understand Disclosures of Mutual Fund Characteristics. All too often, the important details of a mutual fund purchase are lost among the pages and pages an investor receives from his or her investment company. That is why the Small Investor Protection Act would also require investment companies to provide purchasers with a brief summary that will clearly and succinctly outline the relevant characteristics of a mutual fund. Ideally, this summary would be on a single page, and it could not exceed four pages; it would include information such as expenses and risks associated with the fund, as well as the degree to which the fund is diversified. By providing this information in an easy-to-understand format, the Act would help investors make decisions about which funds are best suited to their particular needs and financial goals.

If enacted, these proposals, taken as a whole, would go a long way towards reorienting the regulation of our financial markets to better address the needs of the small investors who have become such an integral part of our economy and for whom investments in the market have become such a large part of their economic security. These proposals would ensure that the concerns of ordinary investors receive as much prominence in regulatory decisions as the concerns of Wall Street giants, that average investors receive relevant information in a form they can understand, and that they are better protected from existing conflicts of interest.

In short, this legislation would help level the playing field for small investors. That is something that we need to do to restore confidence to our financial markets, which have been damaged by more than two years of scandals, and that we must do because it is the right thing for the millions of Americans who are saving and investing to provide a better future for themselves and their children. They deserve nothing less.

I ask unanimous consent that a letter in support of this legislation from Consumer Federation of America, Fund Democracy, Inc., Public Citizen's Congress Watch, Consumer Action and Consumers Union be printed in the RECORD.

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

CONSUMER FEDERATION OF AMERICA,  
FUND DEMOCRACY, INC., PUBLIC  
CITIZEN'S CONGRESS WATCH, CON-  
SUMER ACTION, CONSUMERS UNION,  
May 18, 2004.

Hon. JOSEPH I. LIEBERMAN,  
U.S. Senate, Washington, DC.

DEAR SENATOR LIEBERMAN: We are writing on behalf of Consumer Federation of America, Fund Democracy, Public Citizen, Consumer Action, and Consumers Union, to express our strong support for your draft bill to give greater prominence to the concerns of individual investors, particularly small investors, in the policy and rulemaking of the Securities and Exchange Commission.

The last several decades have seen a dramatic expansion of the investor class. Many of these new investors are middle class workers with little financial sophistication and less experience with the securities markets. The major laws that govern our markets were not written with these investors in mind. Although the laws have been continually updated and revised to address changing market conditions, individual investors often find it difficult to have their voices heard during those policy debates.

The recent mutual fund reform efforts offer a number of examples of how policies are often developed with little apparent thought to the needs of average, unsophisticated investors. One such example involves the Securities and Exchange Commission's efforts to improve mutual fund cost disclosure. Among other reforms they advocated, investor advocates argued in favor of individualized cost disclosure on mutual fund account statements on the grounds that this was the place where the disclosures were most likely to be seen by average investors and their impact understood. The SEC quick-

ly rejected that approach, however, echoing industry arguments that the disclosures would be too costly.

In reaching its conclusion, the Commission gave little apparent consideration to how the account statement disclosures might be provided. In fact, one mutual fund company, MFS, has since announced that it has found an economical way to do so. This suggests that, had the SEC not been so quick to dismiss the views of investor advocates, it might have been equally successful in finding a cost-effective way to provide account statement cost disclosures. Instead, the Commission opted for new hypothetical disclosures in annual and semi-annual reports. Again, despite serious questions raised by investor advocates, the Commission appears to have made no effort to determine whether their alternative approach would be effective in reaching the unsophisticated investors who are not well served by the current disclosure system.

Your legislation would help to rectify this situation through several means. First, it would create an office with a formally recognized role representing the interests of individual investors, and small investors in particular, in identifying areas of concern or where additional protections are needed, analyzing rule proposals, and serving as a liaison between investor organizations and the Commission. In particular, the provision requiring that the views of the Director of the Division of the Investor be included, in summary form, in all rule proposals should help to give real clout to this office as those rule proposals are being developed.

We also support the requirement that the Commission consider content, format, and placement when developing new disclosure proposals to ensure that they are likely to be effective. Too often, disclosures investors receive read as though they had been written by lawyers to communicate with other lawyers. Your legislation should help to ensure that new disclosures are written with an eye toward how to convey information effectively to average investors. We would like to see this provision expanded, to require a review over several years of all existing disclosures in light of the same considerations.

The bill's specific requirement for pre-sale disclosure covering key information about mutual funds would also benefit investors by giving them the bare minimum information they need to make an informed decision, at a time when it is useful to them in making their purchase decision, and in a form they are able to understand. Investor advocates have long advocated such an approach, and our organizations have recently reiterated our support for simplified pre-sale disclosure as part of a comprehensive mutual fund reform agenda.

Finally, our organizations have applauded Chairman Donaldson for his publicly stated commitment to improving the Commission's risk assessment practices. Your legislation supports that goal by codifying it. This will help to ensure that this important initiative does not get left by the wayside once new leadership, with new priorities, takes over the agency.

Small investors play a crucial role in our markets. They should be given equally prominent consideration in the policies that govern those markets. Your legislation would help to bring that about. We look forward to working with you to win its passage.

Respectfully submitted,

BARBARA ROPER,  
Director of Investor  
Protection.

TRAVIS PLUNKETT,  
Legislative Director  
Consumer Federa-  
tion of America.

FRANK CLEMENTE,  
Director Public Citi-  
zen's Congress  
Watch.  
SALLY GREENBERG,  
Senior Counsel Con-  
sumers Union.  
MERCER BULLARD,  
Founder and President  
Fund Democracy,  
Inc.  
KENNETH MCELDOWNEY,  
Executive Director  
Consumer Action.

By Mr. LUGAR:

S. 2500. A bill to amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise to introduce the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2004.

The unprecedented AIDS orphan crisis in sub-Saharan Africa has profound implications for political stability, development, and human welfare that extend far beyond the region. Sub-Saharan African nations stand to lose generations of educated and trained professionals who can contribute meaningfully to their countries' development. Orphaned children, many of whom are homeless, are more likely to resort to prostitution and other criminal behavior to survive. Most frighteningly, these uneducated, poorly socialized, and stigmatized young adults are extremely vulnerable to being recruited into criminal gangs, rebel groups, or extremist organizations that offer shelter and food and act as "surrogate" families. It is imperative that the international community respond to this crisis that threatens stability within individual countries, the region, and around the world.

An estimated 110 million orphans live in sub-Saharan Africa, Asia, Latin America, and the Caribbean. The HIV/AIDS pandemic is rapidly expanding the orphan population. Currently an estimated 14 million children have been orphaned by AIDS, most of whom live in sub-Saharan Africa. This number is projected to soar to more than 25 million by 2010. The pandemic is orphaning generations of African children and is compromising the overall development prospects of their countries.

Most orphans in the developing world live in extremely disadvantaged circumstances. Poor communities in the developing world struggle to meet the basic food, clothing, health care, and educational needs of orphans. Experts recommend supporting community-based organizations to assist these children. Such an approach enables the children to remain connected to their communities, traditions, rituals, and extended families.

My bill seeks to improve assistance to orphans and other vulnerable children in developing countries. It would require the United States Government

to develop a comprehensive strategy for providing such assistance and would authorize the President to support community-based organizations that provide basic care for orphans and vulnerable children.

Orphans are less likely to be in school, and more likely to be working full time. Yet only education can help children acquire the knowledge and develop the skills they need to build a better future. Studies have shown that school food programs provide an incentive for children to stay in school. School meals provide basic nutrition to children who otherwise do not have access to reliable food.

For many children, the primary barrier to an education is the expense of school fees, uniforms, supplies, and other costs. My bill aims to improve enrollment and access to primary school education by supporting programs that reduce the negative impact of school fees and other expenses. It also would reaffirm our commitment to international school lunch programs.

Many children who lose one or both parents often face difficulty in asserting their inheritance rights. Even when the inheritance rights of women and children are spelled out in law, such rights are difficult to claim and are seldom enforced. In many countries it is difficult or impossible for a widow—even if she has small children—to claim property after the death of her husband. This often leaves the most vulnerable children impoverished and homeless. My bill seeks to support programs that protect the inheritance rights of orphans and widows with children.

The AIDS orphan crisis in sub-Saharan Africa has implications for political stability, development, and human welfare that extend far beyond the region, affecting governments and people worldwide. Every 14 seconds another child is orphaned by AIDS. Turning the tide on this crisis will require a coordinated, comprehensive, and swift response. I am hopeful that Senators will join me in backing this legislation.

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. 2500

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2004".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) More than 110,000,000 orphans live in sub-Saharan Africa, Asia, Latin America, and the Caribbean. These children often are disadvantaged in numerous and devastating ways and most households with orphans cannot meet the basic needs of health care, food, clothing, and educational expenses.

(2) It is estimated that 121,000,000 children worldwide do not attend school and that the

majority of such children are young girls. According to the United Nations Children's Fund (UNICEF), orphans are less likely to be in school and more likely to be working full time.

(3) School food programs, including take-home rations, in developing countries provide strong incentives for children to remain in school and continue their education. School food programs can reduce short-term hunger, improve cognitive functions, and enhance learning, behavior, and achievement.

(4) The lack of financial resources prevents many orphans and other vulnerable children in developing countries from attending school because of the requirement to pay school fees and other costs of education. Providing children with free primary school education, while simultaneously ensuring that adequate resources exist for teacher training and infrastructure, would help more orphans and other vulnerable children obtain a quality education.

(5) The trauma that results from the loss of a parent can trigger behavior problems of aggression or emotional withdrawal and negatively affect a child's performance in school and the child's social relations. Children living in families affected by HIV/AIDS or who have been orphaned by AIDS often face stigmatization and discrimination. Providing culturally appropriate psychological counseling to such children can assist them in successfully accepting and adjusting to their circumstances.

(6) Orphans and other vulnerable children in developing countries routinely are denied their inheritance or encounter difficulties in claiming the land and other property which they have inherited. Even when the inheritance rights of women and children are spelled out in law, such rights are difficult to claim and are seldom enforced. In many countries it is difficult or impossible for a widow, even if she has young children, to claim property after the death of her husband.

(7) The HIV/AIDS pandemic has had a devastating affect on children and is deepening poverty in entire communities and jeopardizing the health, safety, and survival of all children in affected areas.

(8) The HIV/AIDS pandemic has increased the number of orphans worldwide and has exacerbated the poor living conditions of the world's poorest and most vulnerable children. AIDS has created an unprecedented orphan crisis, especially in sub-Saharan Africa, where children have been hardest hit. An estimated 14,000,000 orphans have lost 1 or both parents to AIDS. By 2010, it is estimated that over 250,000,000 children will have been orphaned by AIDS.

(9) Although a number of organizations seek to meet the needs of orphans or other vulnerable children, extended families and local communities continue to be the primary providers of support for such children.

(10) The HIV/AIDS pandemic is placing huge burdens on communities and is leaving many orphans with little support. Alternatives to traditional orphanages, such as community-based resource centers, continue to evolve in response to the massive number of orphans that has resulted from the pandemic.

(11) The AIDS orphans crisis in sub-Saharan Africa has implications for political stability, human welfare, and development that extend far beyond the region, affecting governments and people worldwide, and this crisis requires an accelerated response from the international community.

(12) Although, section 403(b) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7673(b)) establishes the requirement that not less than 10 percent of amounts appropriated

for HIV/AIDS assistance for each of fiscal years 2006 through 2008 shall be expended for assistance for orphans and other vulnerable children affected by HIV/AIDS, there is an urgent need to provide assistance to such children prior to 2006.

(13) Numerous United States and indigenous private voluntary organizations, including faith-based organizations, provide assistance to orphans and other vulnerable children in developing countries. Many of these organizations have submitted applications for grants to the United States Agency for International Development to provide increased levels of assistance for orphans and other vulnerable children in developing countries.

(14) Increasing the amount of assistance that is provided by the Administrator of the United States Agency for International Development through United States and indigenous private voluntary organizations, including faith-based organizations, will provide greater protection for orphans and other vulnerable children in developing countries.

(15) It is essential that the United States Government adopt a comprehensive approach for the provision of assistance to orphans and other vulnerable children in developing countries. A comprehensive approach would ensure that important services, such as basic care, mental health and related services, school food programs, increased educational opportunities and employment training and related services, and the protection and promotion of inheritance rights for such children, are made more accessible.

(16) Assistance for orphans and other vulnerable children can best be provided by a comprehensive approach of the United States Government that—

(A) ensures that Federal agencies and the private sector coordinate efforts to prevent and eliminate duplication of efforts and waste in the provision of such assistance; and

(B) to the maximum extent possible, focuses on community-based programs that allow orphans and other vulnerable children to remain connected to the traditions and rituals of their families and communities.

### **SEC. 3. ASSISTANCE FOR ORPHANS AND OTHER VULNERABLE CHILDREN IN DEVELOPING COUNTRIES.**

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following section:

#### **“SEC. 135. ASSISTANCE FOR ORPHANS AND OTHER VULNERABLE CHILDREN.**

“(a) FINDINGS.—Congress finds the following:

“(1) There are more than 110,000,000 orphans living in sub-Saharan Africa, Asia, Latin America, and the Caribbean.

“(2) The HIV/AIDS pandemic has created an unprecedented orphan crisis, especially in sub-Saharan Africa, where children have been hardest hit. The pandemic is deepening poverty in entire communities, and is jeopardizing the health, safety, and survival of all children in affected countries. It is estimated that 14,000,000 children have lost one or both parents to AIDS.

“(3) The orphans crisis in sub-Saharan Africa has implications for human welfare, development, and political stability that extend far beyond the region, affecting governments and people worldwide.

“(4) Extended families and local communities are struggling to meet the basic needs of orphans and vulnerable children by providing food, health care, education expenses, and clothing.

“(5) Providing assistance to such children is an important expression of the humanitarian concern and tradition of the people of the United States.

“(b) DEFINITIONS.—In this section:

“(1) AIDS.—The term ‘AIDS’ has the meaning given the term in section 104A(g)(1) of this Act.

“(2) CHILDREN.—The term ‘children’ means persons who have not attained the age of 18.

“(3) HIV/AIDS.—The term ‘HIV/AIDS’ has the meaning given the term in section 104A(g)(3) of this Act.

“(4) ORPHAN.—The term ‘orphan’ means a child deprived by death of one or both parents.

“(c) ASSISTANCE.—The President is authorized to provide assistance for programs in developing countries to provide basic care and services for orphans and other vulnerable children. Such programs should provide assistance—

“(1) to support families and communities to mobilize their own resources through the establishment of community-based organizations to provide basic care for orphans and other vulnerable children;

“(2) for school food programs, including the purchase of local or regional foodstuffs where appropriate;

“(3) to reduce barriers to access to primary education through the elimination of school fees where appropriate, helping to otherwise cover costs of education, and improving the quality of teaching and education infrastructure;

“(4) to provide employment training and related services for orphans and other vulnerable children who are of legal working age;

“(5) to protect and promote the inheritance rights of orphans, other vulnerable children, and widows with children; and

“(6) to provide culturally appropriate mental health treatment and related services to orphans and other vulnerable children.

“(d) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to the President to carry out this section such sums as may be necessary for each of the fiscal years 2005 and 2006.

“(2) AVAILABILITY OF FUNDS.—Amounts made available under paragraph (1) are authorized to remain available until expended and are in addition to amounts otherwise available for such purposes.

“(3) RELATIONSHIP TO OTHER LAWS.—Amounts made available for assistance pursuant to this subsection, and amounts made available for such assistance pursuant to any other provision of law, may be used to provide such assistance notwithstanding any other provision of law.”.

### **SEC. 4. STRATEGY OF THE UNITED STATES.**

(a) REQUIREMENT FOR STRATEGY.—Not later than 180 days after the date of enactment of this Act, the President shall develop a strategy for coordinating and implementing assistance programs for orphans and vulnerable children.

(b) CONTENT.—The strategy required by subsection (a) shall include—

(1) the identity of each agency or department of the Federal Government that is providing assistance for orphans and vulnerable children in foreign countries;

(2) a description of the efforts of the head of each such agency or department to coordinate the provision of such assistance with other agencies or departments of the Federal Government or nongovernmental entities;

(3) a description of a coordinated strategy to provide the assistance authorized in section 135 of the Foreign Assistance Act of 1961, as added by section 3 of this Act; and

(4) an analysis of additional coordination mechanisms or procedures that could be implemented to carry out the purposes of such section.

Mr. CRAIG:

S. 2502. A bill to allow seniors to file their Federal income tax on a new Form 1040S; to the Committee on Finance.

Mr. CRAIG. Mr. President, today I am introducing the Simple Tax for Seniors Act. This bill would allow seniors age 65 and older with Social Security and pension income to file a short form similar to the 1040EZ Internal Revenue Service form.

Under current IRS rules, millions of Americans are prohibited from using the 1040EZ short form simply because they are age 65 or older. Many currently file using only the standard deduction.

The Simple Tax for Seniors Act would crate the new 1040S form, allowing seniors who receive pension income to avoid filing the burdensome and complicated itemized deduction forms. As many as 11 million seniors would be able to file in the first year, in less time, on a simplified, two-page form. Seniors no longer would be forced annually to disclose more information on their retirement savings and pension plan than necessary.

The Simple Tax for Seniors Act makes no change in the tax code itself, so taxpayers using the new form would pay the same amount as under Standard Form 1040.

This is common sense legislation. It is a win for seniors because it will make life easier and it is a win for taxpayers since it will cost less to process the new form. It is also non-controversial. On Tuesday, the House of Representatives passed similar legislation by a vote of 418–0.

I invite my colleagues to cosponsor this sensible legislation. I ask unanimous consent that the text of the bill appear with this statement in the RECORD.

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

S. 2502

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Simple Tax for Seniors Act of 2004”.

#### **SEC. 2. FORM 1040S FOR SENIORS.**

(a) IN GENERAL.—The Secretary of the Treasury (or the Secretary’s delegate) shall make available a form, to be known as “Form 1040S”, for use by individuals to file the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986. Such form shall be as similar as practicable to Form 1040EZ, except that—

(1) the form shall be available to individuals who have attained age 65 as of the close of the taxable year,

(2) the form may be used even if income for the taxable year includes—

(A) social security benefits (as defined in section 86(d) of the Internal Revenue Code of 1986),

(B) distributions from qualified retirement plans (as defined in section 4974(c) of such Code), annuities or other such deferred payment arrangements,

(C) interest and dividends, or

(D) capital gains and losses taken into account in determining adjusted net capital gain (as defined in section 1(h)(3)), and

(3) the form shall be available without regard to the amount of any item of taxable income or the total amount of taxable income for the taxable year.

(b) **EFFECTIVE DATE.**—The form required by subsection (a) shall be made available for taxable years beginning after December 31, 2004.

By Mr. KYL:

S. 2503. A bill to make permanent the reduction in taxes on dividends and capital gains; to the Committee on Finance.

Mr. KYL. Mr. President, I join my colleagues in celebrating the first anniversary of the Jobs and Growth Tax Reconciliation Act of 2003, which was signed into law by President Bush on May 28, 2003. Also, I want to announce that today I am introducing legislation to make the dividends and long-term capital gains tax cuts permanent.

It has been one year since Congress and President Bush joined together to enact pro-growth, supply-side tax cuts. Now, since some in the Senate are proposing that we repeal the tax cuts—this would be one of the largest tax increases in history—let's review the impact these cuts have had on our economy.

The 2003 tax cuts have triggered the fastest growing economy in two decades. Real gross domestic product grew at an annual rate of 8.2 percent in the third quarter of 2003, 4.1 percent in the fourth quarter, and 4.4 percent in the first quarter of 2004. If we sustain this pace, our economy will double in 13 years. When the tax cuts were enacted last year, the national unemployment rate was 6.3 percent. Today, it has dropped nearly 11 percent to 5.6 percent, which is lower than the average unemployment rate of the 1970s, 1980s, and 1990s. A growing economy means good, high-paying jobs and a better quality of life for all Americans.

I want to draw my colleagues' attention to research published by the National Bureau of Economic Research (NBER)—the Nation's leading non-profit economic research organization. This study demonstrates that the 2003 tax cuts corrected a terrible mistake we made in 2001 when we phased in the marginal rate cuts. The phase-in of the 2001 tax cuts prompted workers and firms to delay work until the tax cuts were fully implemented. Employment, output, and investment actually fell in response to the phased-in tax cuts.

The NBER study found that, "Just as the phased-in nature of the 2001 tax law may have delayed production and employment, the immediate tax relief included in the 2003 law may have contributed towards the increased pace of economic activity in the second half of 2003." I am confident that, as more economic data comes in and as the 2003 tax cuts are studied further, we will find that the 2003 tax cuts are directly responsible for the economic growth we are seeing today.

The NBER study demonstrates that individuals really do delay economic activity in anticipation of lower future tax rates. It also corroborates the theory that high marginal tax rates cause individuals to restrict economic activity in order to minimize the tax burden imposed on their next dollar earned. Because the tax cuts were accelerated in 2003, individuals had an incentive to work harder and longer immediately because their next dollar of income would be taxed at a lower rate.

Among the taxpayers benefited by the reductions in the individual rate are America's small businesses. The top individual rate is often called the small business rate because most small businesses are organized as pass-through entities, which pay at individual rates. Owners of pass-through entities, including small business owners and entrepreneurs, comprise more than two-thirds, about 500,000, of the 750,000 tax returns that benefited from speeding up the reduction in the top tax bracket. These small business owners received 79 percent, about \$10.4 billion, of the \$13.3 billion in tax relief from accelerating the reduction in the top tax bracket to 35 percent.

The task for us now is to make the individual rate reductions permanent. If Congress fails to act, the tax cuts will expire at the end of 2010. The bottom rate would increase from 10 percent to 15 percent, an increase of 33 percent; the top rate would increase from 35 percent to 39.6 percent, an increase of 11 percent. The effect such tax increases would have on our economy would be devastating.

Not only did Congress and President Bush work together to bring down individual income tax rates, but we also reduced the tax on dividend distributions and long-term capital gains. Before the 2003 tax cuts, our tax code actually discouraged dividend payouts. The 2003 tax cut lowered the tax rate imposed on dividends from 38.6 percent to 15 percent through 2008. Before 2003, corporate earnings were taxed once at the corporate level, 35 percent, and again at the individual rate, as high as 38.6 percent, meaning they were double-taxed. It made no sense for investors to seek out dividend-paying stocks, from a tax perspective.

While dividends are still double-taxed, the tax penalty is greatly reduced. This has made dividend-paying stocks more attractive to investors, which has helped companies raise capital to expand and grow their businesses. Further, because dividends must be paid from cash, companies that pay dividends must have actual profits, thus making it more difficult for companies to hide financial mismanagement.

Some of my colleagues want to repeal the dividend tax cut. This is obviously misguided, since we have strong evidence that the dividend tax cut has worked. Since the 2003 tax cut was signed into law, 374 companies on the S&P 500 pay dividends—an increase of

22 companies. Companies have increased dividend payments to shareholders by 40 percent, reversing a two-decade decline. The Dow Jones Industrial index has risen more than 1,400 points since the 2003 tax cuts were signed into law.

Similarly the capital gains tax cut has also encouraged economic growth. It reduced the tax imposed on long-term capital gains from 20 percent to 15 percent. This has made it more attractive for individuals to risk their hard-earned money by investing it in businesses. The result is that it is easier for businesses to raise needed capital to expand and create new jobs. Stock market gains, the strong GDP we have experienced, and falling unemployment all indicate that the economy has recovered.

Now, to help our economy to continue to grow and create new jobs, the dividend and capital gains tax cuts must be made permanent. If we allow the dividend rate to return to the individual rate, we will increase taxes on dividends by 62 percent. Allowing the capital gains rate to return to 20 percent will be a 25 percent tax increase. We must make the 15 percent rate for each permanent, and then we must work to reduce both the dividends and the capital gains rates to zero, so that we eliminate the double-taxation of corporate earnings. The Senate bill actually would have brought the dividend tax rate to zero for three years, but the agreement that we worked out with the House was to tax dividends at 15 percent. The dividends and capital gains tax relief will expire in 2009.

The most important thing we can do next year is make the 2003 tax cuts permanent. Today I am introducing legislation that will make the dividends and capital gains tax relief permanent. I will work to make the individual income tax rate cuts permanent as well. To allow the tax cuts to expire—or worse, to seek to higher taxes at the very time our economy has pulled out of the recession and is growing strong—would be unthinkable.

By Mr. COCHRAN (for himself, Mr. FRIST, and Mr. LEAHY):

S.J. Res. 38. A joint resolution providing for the appointment of Eli Broad as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

Mr. COCHRAN. Mr. President, today I am introducing a Senate Joint Resolution appointing a citizen regent to the Board of Regents of the Smithsonian Institution. I am pleased that my fellow Smithsonian Institution Regents, Senators FRIST and LEAHY, are cosponsors.

The Smithsonian Institution Board of Regents recently recommended the following distinguished individual for appointment to a 6-year term on the on the Board: Eli Broad of California.

I ask unanimous consent that his biography and the text of the joint resolution be printed in the RECORD.

There being no objection, the biography and the joint resolution were ordered to be printed in the RECORD, as follows:

ELI BROAD

Eli Broad is a renowned business leader who built two Fortune 500 companies from the ground up over a five-decade career in business. He is chairman of AIG Retirement Services Inc. (formerly SunAmerica Inc.) and founder-chairman of KB Home (formerly Kaufman and Broad Home Corporation).

Today, he is focused on philanthropy. The Broad family's commitment to philanthropy and community is both deep and wide-ranging. It includes ongoing leadership roles in art, education, science and civic development.

Avid supporters of contemporary art, Mr. Broad and his wife, Edythe, have created one of the worlds finest collections. Since 1984, The Broad Art Foundation has operated an active "lending library" of its extensive collection to more than 400 museums and university galleries worldwide. In 2001-2003, an exhibition of the Broads' collection was shown at the Los Angeles County Museum of Art, the Corcoran Gallery of Art in Washington, DC, the Museum of Fine Arts in Boston; and the Guggenheim Museum in Bilbao, Spain. Mr. Broad was the founding chairman of the board of trustees of The Museum of Contemporary Art in Los Angeles, and is currently a trustee and member of the executive committee of the Los Angeles County Museum of Art, where the Broads recently announced a major gift to build The Broad Contemporary Art Museum.

In 1999, the Broads founded The Broad Foundation, whose mission is to dramatically improve urban public education through governance, management and labor relations. In its first five years, the Foundation has committed over \$400 million to support new ideas and innovative leadership in the nation's largest urban school systems. The Foundation also has launched four national flagship initiatives—The Broad Prize for Urban Education, The Broad Center for Superintendents, The Broad Residency in Urban Education and The Broad Institute for School Boards. Mr. Broad has said, "I can imagine no more important contribution to our country's future than a long-term commitment to improving urban K-12 public schools."

In 2001, The Eli and Edythe L. Broad Foundation created the Broad Medical Research Program, which seeks to stimulate innovative research that will lead to progress in the prevention, therapy or understanding of inflammatory bowel disease.

In June 2003, in an unprecedented partnership with the Massachusetts Institute of Technology, Harvard University and Whitehead Institute, the Broads announced the founding gift to create The Eli and Edythe Broad Institute for biomedical research. The Institute's aim is to realize the promise of the human genome to revolutionize clinical medicine and to make knowledge freely available to scientists around the world.

The Broads have been tireless advocates of Los Angeles, their adopted hometown. Committed to the belief that all great cities need a vibrant center, Mr. Broad is currently leading the effort to turn Los Angeles' Grand Avenue into a truly "grand avenue," to rival the main boulevards of the world's greatest cities. In 1996, he and Mayor Richard Riordan took on the task of raising sufficient funds to build the Frank Gehry-designed Walt Disney Concert Hall, which opened to worldwide acclaim in October 2003.

Strong believers in higher education, the Broad Foundations have made a major contribution to the School of Arts and Architec-

ture at UCLA toward the construction of The Broad Art Center, designed by Richard Meier. Mr. Broad is a member of the board of trustees of CalTech, where the Broads gave the cornerstone gift to create the Broad Center for the Biological Sciences, designed by James Freed. Mr. Broad also served as chairman of the board of trustees of Pitzer College and vice chairman of the board of trustees of the California State University system. In 1991, the Broads endowed The Eli Broad College of Business and The Eli Broad Graduate School of Management at Michigan State University, from which Mr. Broad graduated cum laude in 1954.

S.J. RES. 38

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in accordance with section 5581 of the Revised Statutes (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, resulting from the death of Barber B. Conable, Jr., is filled by the appointment of Eli Broad of California. The appointment is for a term of 6 years, beginning upon the date of enactment of this joint resolution.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 114—CONCERNING THE IMPORTANCE OF THE DISTRIBUTION OF FOOD IN SCHOOLS TO HUNGRY OR MALNOURISHED CHILDREN AROUND THE WORLD

Mrs. DOLE (for herself and Mr. HARKIN) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 114

Whereas there are more than 300,000,000 chronically hungry and malnourished children in the world;

Whereas more than half of these children go to school on an empty stomach, and almost as many do not attend school at all, but might if food were available;

Whereas the distribution of food in schools is one of the simplest and most effective strategies to fight hunger and malnourishment among children;

Whereas when school meals are offered to hungry or malnourished children, attendance rates increase significantly, particularly for girls;

Whereas the distribution of food in schools encourages better school attendance, thereby improving literacy rates and fighting poverty;

Whereas improvement in the education of girls is one of the most important factors in reducing child malnutrition in developing countries;

Whereas girls who attend schools tend to marry later in life and have fewer children, thereby helping them escape a life of poverty;

Whereas by improving literacy rates and increasing job opportunities, education addresses several of the root causes of terrorism;

Whereas the distribution of food in schools increases attendance of children who might otherwise be susceptible to recruitment by groups that offer them food in return for their attendance at extremist schools or participation in terrorist training camps;

Whereas the Global Food for Education Initiative pilot program, established in 2001, donated surplus United States agricultural

commodities to the United Nations World Food Program and other recipients for distribution to nearly 7,000,000 hungry and malnourished children in 38 countries;

Whereas a recent Department of Agriculture evaluation found that the pilot program created measurable improvements in school attendance (particularly for girls), increased local employment and economic activity, produced greater involvement in local infrastructure and community improvement projects, and increased participation by parents in the schools and in the education of their children;

Whereas the Farm Security and Rural Investment Act of 2002 (Public Law 107-171, 116 Stat. 134) replaced the pilot program with the McGovern-Dole International Food for Education and Child Nutrition Program, which was named after former Senators George McGovern and Robert Dole for their distinguished work to eradicate hunger and poverty around the world; and

Whereas the McGovern-Dole International Food for Education and Child Nutrition Program provides food to nearly 2,000,000 hungry or malnourished children in 21 countries: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) expresses its grave concern about the continuing problem of hunger and the desperate need to feed hungry and malnourished children around the world;

(2) recognizes that the global distribution of food in schools to children around the world increases attendance, particularly for girls, improves literacy rates, and increases job opportunities, thereby helping to fight poverty;

(3) recognizes that education of children around the world addresses several of the root causes of international terrorism;

(4) recognizes that the world will be safer and more promising for children as a result of better school attendance;

(5) expresses its gratitude to former Senators George McGovern and Robert Dole for supporting the distribution of food in schools around the world to children and for working to eradicate hunger and poverty around the world;

(6) commends the Department of Agriculture, the Agency for International Development, the Department of State, the United Nations World Food Program, private voluntary organizations, non-governmental organizations, and cooperatives for facilitating the distribution of food in schools around the world;

(7) expresses its continued support for the distribution of food in schools around the world;

(8) supports expansion of the McGovern-Dole International Food for Education and Child Nutrition Program; and

(9) requests the President to work with the United Nations and its member states to expand international contributions for the distribution of food in schools around the world.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3261. Mr. CANTWELL (for herself, Mr. HOLLINGS, Mrs. MURRAY, Mrs. CLINTON, Mrs. FEINSTEIN, Mr. LAUTENBERG, and Mr. SCHUMER) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

SA 3262. Mr. CRAPO (for himself, Mr. CRAIG, Mr. ALEXANDER, and Mr. GRAHAM, of



South Carolina) submitted an amendment intended to be proposed by him to the bill S. 2400, *supra*; which was ordered to lie on the table.

SA 3263. Mr. KENNEDY (for himself, Mrs. FEINSTEIN, Mr. REED, Mr. LAUTENBERG, and Mr. FEINGOLD) proposed an amendment to the bill S. 2400, *supra*.

SA 3264. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 2400, *supra*; which was ordered to lie on the table.

SA 3265. Ms. SNOWE (for herself, Mr. ALLEN, and Mr. COLEMAN) submitted an amendment intended to be proposed by her to the bill S. 2400, *supra*; which was ordered to lie on the table.

SA 3266. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, *supra*; which was ordered to lie on the table.

SA 3267. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, *supra*; which was ordered to lie on the table.

SA 3268. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, *supra*; which was ordered to lie on the table.

SA 3269. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, *supra*; which was ordered to lie on the table.

SA 3270. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, *supra*; which was ordered to lie on the table.

SA 3271. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, *supra*; which was ordered to lie on the table.

SA 3272. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2400, *supra*; which was ordered to lie on the table.

SA 3273. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, *supra*; which was ordered to lie on the table.

SA 3274. Mrs. DOLE (for Mr. ROBERTS) proposed an amendment to the bill S. 2400, *supra*.

SA 3275. Mrs. DOLE (for Mr. LEVIN) proposed an amendment to the bill S. 2400, *supra*.

SA 3276. Mrs. DOLE (for Mr. LIEBERMAN) proposed an amendment to the bill S. 2400, *supra*.

SA 3277. Mrs. DOLE (for Mr. MILLER) proposed an amendment to the bill S. 2400, *supra*.

SA 3278. Mrs. DOLE (for Mr. STEVENS (for himself and Mr. INOUE)) proposed an amendment to the bill S. 2400, *supra*.

SA 3279. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2400, *supra*; which was ordered to lie on the table.

SA 3280. Mr. INHOFE (for himself, Mr. BINGAMAN, Ms. COLLINS, Mr. DORGAN, Ms. CANTWELL, Mr. KOHL, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 2400, *supra*; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 3261.** Ms. CANTWELL (for herself, Mr. HOLLINGS, Mrs. MURRAY, Mrs. CLINTON, Mrs. FEINSTEIN, Mr. LAUTENBERG, and Mr. SCHUMER) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the De-

partment of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

Beginning on page 384, strike line 3 and all that follows through page 391, line 7, and insert the following:

#### **SEC. 3117. ANNUAL REPORT ON EXPENDITURES FOR SAFEGUARDS AND SECURITY.**

(a) ANNUAL REPORT REQUIRED.—Subtitle C of title XLVII of the Atomic Energy Defense Act (50 U.S.C. 2771 et seq.) is amended by adding at the end the following new section:

#### **“SEC. 4732. ANNUAL REPORT ON EXPENDITURES FOR SAFEGUARDS AND SECURITY.**

“The Secretary of Energy shall submit to Congress each year, in the budget justification materials submitted to Congress in support of the budget of the President for the fiscal year beginning in such year (as submitted under section 1105(a) of title 31, United States Code), the following:

“(1) A detailed description and accounting of the proposed obligations and expenditures by the Department of Energy for safeguards and security in carrying out programs necessary for the national security for the fiscal year covered by such budget, including any technologies on safeguards and security proposed to be deployed or implemented during such fiscal year.

“(2) With respect to the fiscal year ending in the year before the year in which such budget is submitted, a detailed description and accounting of—

“(A) the policy on safeguards and security, including any modifications in such policy adopted or implemented during such fiscal year;

“(B) any initiatives on safeguards and security in effect or implemented during such fiscal year;

“(C) the amount obligated and expended for safeguards and security during such fiscal year, set forth by total amount, by amount per program, and by amount per facility; and

“(D) the technologies on safeguards and security deployed or implemented during such fiscal year.”.

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 4731 the following new item:

“Sec. 4732. Annual report on expenditures for safeguards and security.”.

#### **SEC. 3118. AUTHORITY TO CONSOLIDATE COUNTERINTELLIGENCE OFFICES OF DEPARTMENT OF ENERGY AND NATIONAL NUCLEAR SECURITY ADMINISTRATION WITHIN NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

(a) AUTHORITY.—The Secretary of Energy may consolidate the counterintelligence programs and functions referred to in subsection (b) within the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration and provide for their discharge by that Office.

(b) COVERED PROGRAMS AND FUNCTIONS.—The programs and functions referred to in this subsection are as follows:

(1) The functions and programs of the Office of Counterintelligence of the Department of Energy under section 215 of the Department of Energy Organization Act (42 U.S.C. 7144b).

(2) The functions and programs of the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration under section 3232 of the National Nuclear Security Administration Act (50 U.S.C. 2422), including the counterintelligence programs under section 3233 of that Act (50 U.S.C. 2423).

(c) ESTABLISHMENT OF POLICY.—The Secretary shall have the responsibility to estab-

lish policy for the discharge of the counterintelligence programs and functions consolidated within the National Nuclear Security Administration under subsection (a) as provided for under section 213 of the Department of Energy Organization Act (42 U.S.C. 7144).

(d) PRESERVATION OF COUNTERINTELLIGENCE CAPABILITY.—In consolidating counterintelligence programs and functions within the National Nuclear Security Administration under subsection (a), the Secretary shall ensure that the counterintelligence capabilities of the Department of Energy and the National Nuclear Security Administration are in no way degraded or compromised.

(e) REPORT ON EXERCISE OF AUTHORITY.—In the event the Secretary exercises the authority in subsection (a), the Secretary shall submit to the congressional defense committees a report on the exercise of the authority. The report shall include—

(1) a description of the manner in which the counterintelligence programs and functions referred to in subsection (b) shall be consolidated within the Office of Defense Nuclear Counterintelligence of the National Nuclear Security Administration and discharged by that Office;

(2) a notice of the date on which that Office shall commence the discharge of such programs and functions, as so consolidated; and

(3) a proposal for such legislative action as the Secretary considers appropriate to effectuate the discharge of such programs and functions, as so consolidated, by that Office.

(f) DEADLINE FOR EXERCISE OF AUTHORITY.—The authority in subsection (a) may be exercised, if at all, not later than one year after the date of the enactment of this Act.

#### **SEC. 3119. ON-SITE TREATMENT AND STORAGE OF WASTES FROM REPROCESSING ACTIVITIES AND RELATED WASTE.**

(a) Notwithstanding any other provision of law the Department of Energy shall continue all activities related to the storage, retrieval, treatment, and separation of tank wastes currently managed as high level radioactive waste in accordance with treatment and closure plans approved by the state in which the activities are taking place as part of a program to clean up and dispose of waste from reprocessing spent nuclear fuel at the sites referred to in subsection (c).

(b) Of the amount authorized to be appropriated by section 3102(a)(1) for defense site acceleration completion, \$350,000,000 shall be available for the activities to be undertaken pursuant to subsection (a)."

(b) SITES.—The sites referred to in this subsection are as follows:

(1) The Idaho National Engineering and Environmental Laboratory, Idaho.

(2) The Savannah River Site, Aiken, South Carolina.

(3) The Hanford Site, Richland, Washington.

**SA 3262.** Mr. CRAPO (for himself, Mr. CRAIG, Mr. ALEXANDER, and Mr. GRAHAM of South Carolina) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 384, line 15, strike "by rule in consultation" and all that follows through page 385, line 21, and insert "by rule approved by the Nuclear Regulatory Commission;

(2) has had highly radioactive radionuclides removed to the maximum extent practical in accordance with the Nuclear Regulatory Commission-approved criteria; and

(3) in the case of material derived from the storage tanks, is disposed of in a facility (including a tank) within the State pursuant to a State-approved closure plan or a State-issued permit, authority for the approval or issuance of which is conferred on the State outside of this Act.

(b) **INAPPLICABILITY TO CERTAIN MATERIALS.**—Subsection (a) shall not apply to any material otherwise covered by that subsection that is transported from the State.

(c) **SCOPE OF AUTHORITY TO CARRY OUT ACTIONS.**—The Department of Energy may implement any action authorized—

(1) by a State-approved closure plan or State-issued permit in existence on the date of enactment of this section; or

(2) by a closure plan approved by the State or a permit issued by the State during the pendency of the rulemaking provided for in subsection (a).

Any such action may be completed pursuant to the terms of the closure plan or the State-issued permit notwithstanding the final criteria adopted by the rulemaking pursuant to subsection (a).

(d) **STATE DEFINED.**—In this section, the term “State” means the State of South Carolina.

(e) **CONSTRUCTION.**—(1) Nothing in this section shall effect, alter, or modify the full implementation of—

(A) the settlement agreement entered into by the United States with the State of Idaho in the actions captioned Public Service Co. of Colorado v. Batt, Civil No. 91-0035-S-EJL, and United States v. Batt, Civil No. 91-0054-S-EJL, in the United States District Court for the District of Idaho, and the consent order of the United States District Court for the District of Idaho, dated October 17, 1995, that effectuates the settlement agreement;

(B) the Idaho National Engineering Laboratory Federal Facility Agreement and Consent Order; or

(C) the Hanford Federal Facility Agreement and Consent Order.

(2) Nothing in this section establishes any precedent or is binding on the State of Idaho, the State of Washington, or any other State for the management, storage, treatment, and disposition of radioactive and hazardous materials.

**SA 3263.** Mr. KENNEDY (for himself, Mrs. FEINSTEIN, Mr. REED, Mr. LAUTENBERG, and Mr. FEINGOLD) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XXXI, add the following:

**SEC. 3122. PROHIBITION ON USE OF FUNDS FOR NEW NUCLEAR WEAPONS DEVELOPMENT UNDER STOCKPILE SERVICES ADVANCED CONCEPTS INITIATIVE OR FOR ROBUST NUCLEAR EARTH PENETRATOR.**

None of the funds authorized to be appropriated by section 3101(a)(1) for the National Nuclear Security Administration for weapons activities may be obligated or expended for the following:

(1) The Stockpile Services Advanced Concepts Initiative for the support of new nuclear weapons development.

(2) The Robust Nuclear Earth Penetrator (RNEP).

**SA 3264.** Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title III, add the following:

**SEC. 364. TRACKING AND CARE OF MEMBERS OF THE ARMED FORCES WHO ARE INJURED IN COMBAT.**

(a) **FINDINGS.**—The Senate makes the following findings:

(1) Members of the Armed Forces of the United States place themselves in harms way in the defense of democratic values and to keep the United States safe.

(2) This call to duty has resulted in the ultimate SACRIFICE of members of the Armed Forces of the United States who are killed or critically injured while serving the United States.

(b) **SENSE OF SENATE.**—It is the sense of the Senate—

(1) to honor the SACRIFICE of the members of the Armed Forces who have been killed or critically wounded while serving the United States;

(2) to recognize the heroic efforts of the medical personnel of the Armed Forces in treating wounded military personnel and civilians; and

(3) to support advanced medical technologies that assist the medical personnel of the Armed Forces in saving lives and reducing disability rates for members of the Armed Forces.

(c) **PROCEDURES FOR TRACKING OF WOUNDED FROM COMBAT ZONES.**—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe in regulations procedures for the Department of Defense to—

(A) notify the family of each member of the Armed Forces who is injured in a combat zone regarding such injury; and

(B) provide the family of each member of the Armed Forces with information on any change of status, including health or location, of such member during the transportation of such member to a treatment destination.

(2) The Secretary shall transmit to Congress a copy of the procedures prescribed under paragraph (1).

(d) **MEDICAL EQUIPMENT AND COMBAT CASUALTY TECHNOLOGIES.**—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, \$10,000,000 of the amount in Program Element PE 0603826D8Z shall be available for medical equipment and combat casualty care technologies.

**SA 3265.** Ms. SNOWE (for herself, Mr. ALLEN, and Mr. COLEMAN) submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other

purposes; which was ordered to lie on the table; as follows:

Beginning on page 167, strike line 6 and all that follows through page 169, line 21, and insert the following:

(B) persons who are representative of labor organizations associated with the defense industry, and persons who are representative of small business concerns or organizations of small business concerns that are involved in Department of Defense contracting and other Federal Government contracting.

(3) The appointment of the members of the Commission under this subsection shall be made not later than March 1, 2005.

(4) Members shall be appointed for the life of the Commission. A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(5) The President shall designate one member of the Commission to serve as the Chairman of the Commission.

(c) **MEETINGS.**—(1) The Commission shall meet at the call of the Chairman.

(2) A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(d) **DUTIES.**—(1) The Commission shall—

(A) study the issues associated with the future of the national technology and industrial base in the global economy, particularly with respect to its effect on United States national security; and

(B) assess the future ability of the national technology and industrial base to attain the national security objectives set forth in section 2501 of title 10, United States Code.

(2) In carrying out the study and assessment under paragraph (1), the Commission shall consider the following matters:

(A) Existing and projected future capabilities of the national technology and industrial base.

(B) The impact on the national technology and industrial base of civil-military integration and the growing dependence of the Department of Defense on the commercial market for defense products and services.

(C) The effects of domestic source restrictions on the strength of the national technology and industrial base.

(D) The effects of the policies and practices of United States allies and trading partners on the national technology and industrial base.

(E) The effects on the national technology and industrial base of laws and regulations related to international trade and the export of defense technologies and dual-use technologies.

(F) The adequacy of programs that support science and engineering education, including programs that support defense science and engineering efforts at institutions of higher learning, with respect to meeting the needs of the national technology and industrial base.

(G) The implementation of policies and planning required under subchapter II of chapter 148 of title 10, United States Code, and other provisions of law designed to support the national technology and industrial base.

(H) The role of the Manufacturing Technology program, other Department of Defense research and development programs, and the utilization of the authorities of the Defense Production Act of 1950 to provide transformational breakthroughs in advanced manufacturing technologies and processes that ensure the strength and productivity of the national technology and industrial base.

(I) The role of small business concerns in strengthening the national technology and industrial base.

**SA 3266.** Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title X, add the following:

**SEC. 1022. REPORT ON ACCESS TO MILITARY TREATMENT FACILITIES BY MEMBERS OF THE DISABLED AMERICAN VETERANS.**

(a) **REPORT.**—Not later than \_\_\_\_ days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth the policy of the Department of Defense on the access of members of the Disabled American Veterans (DAV) to military treatment facilities, including any encumbrances to the access of such members to such treatment facilities.

(b) **ADDITIONAL ELEMENT.**—The report shall include proposals to grant national service officers of the Disabled American Veterans access to wounded members of the Armed Forces at military treatment facilities.

**SA 3267.** Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On line 1, insert “subsection (b) of” after “Strike”.

**SA 3268.** Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title X, add the following:

**SA 3269.** Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following

**SEC. 1022. REPORT ON COMMUNICATIONS WITH FAMILIES REGARDING CASUALTY INVESTIGATIONS AND REPORTS.**

(a) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the

Secretary of Defense shall submit to Congress a report setting forth proposals for means of improving the procedures of the Department of Defense regarding the transfer of information on Department casualty investigations and reports to and from the families of the members of the Armed Forces concerned.

(b) **PROCEDURES FOR ADDRESSING FREEDOM OF INFORMATION REQUESTS.**—The report shall include appropriate procedures for addressing requests of families for information on Department casualty investigations and reports under section 552 of title 5, United States Code (commonly known as the Freedom of Information Act).

**SA 3270.** Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 811(b).

**SEC. 1068. REQUIREMENT TO PERMIT FAMILY MEMBERS OR DESIGNEES TO GREET BODIES OF MEMBERS OF THE ARMED FORCES KILLED IN ACTION OVERSEAS UPON THE RETURN TO THE UNITED STATES.**

(a) **REQUIREMENT.**—The Secretary of Defense shall permit the family members of a member of the Armed Forces killed in action overseas, or the designees of such family members, to greet the body of the member of the Armed Forces at Dover Air Force Base, Delaware, upon the return of the body of the member of the Armed Forces from overseas.

(b) **LIMITATION ON NUMBER IN GREETING.**—The number of individuals who may greet the body of a member of the Armed Forces under subsection (a) may not exceed two individuals.

(c) **PURPOSE.**—The purpose of the greeting of a body of a member of the Armed Forces under subsection (a) shall be to permit the individuals greeting the body to escort the body to its place of burial.

**SA 3271.** Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title X, add the following:

**SEC. 1022. REPORT ON CONTINUITY OF CARE FURNISHED BY DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS FOR COMBAT INJURIES.**

Not later than \_\_\_\_ days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to Congress a report on the status of efforts of the Department of Defense and the Department of Veterans Affairs to ensure that—

(1) members of the Armed Forces who are wounded or injured in combat receive the health care to which they are entitled from each Department;

(2) emerging trends in combat-related wounds and injuries are being identified and addressed by each Department in its programs of care; and

(3) the Department of Veterans Affairs receives from the Department of Defense in a timely and effective manner pre-deployment and post-deployment screening data on members of the Armed Forces collected by the Department of Defense that will assist the Department of Veterans Affairs in its clinical evaluation of veterans of combat.

**SA 3272.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 195, between lines 10 and 11, insert the following:

**SEC. 868. REQUIREMENT TO PROVIDE DOCUMENTS TO CONGRESS TO ENHANCE TRANSPARENCY IN DEPARTMENT OF DEFENSE CONTRACTING.**

(a) **REQUIREMENT TO PROVIDE REQUESTED DOCUMENTS.**—Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

**“§ 2333. Congressional oversight: submittal of contract documents**

“(a) **REQUIREMENT TO PROVIDE REQUESTED DOCUMENTS.**—Not later than 14 days after receiving from the chairman or ranking member of a committee of Congress named in subsection (b) a request for documents described in subsection (c) regarding a Department of Defense contract, the Secretary of Defense shall transmit an unredacted copy of each such document to the chairman or ranking member making the request.

“(b) **REQUESTING COMMITTEES.**—The committees of Congress referred to in subsection (a) are as follows:

“(1) The Committee on Armed Services of the Senate.

“(2) The Committee on Armed Services of the House of Representatives.

“(3) The Committee on Small Business and Entrepreneurship of the Senate.

“(4) The Committee on Small Business of the House of Representatives.

“(5) The Committee on Governmental Affairs of the Senate.

“(6) The Committee on Government Reform of the House of Representatives.

“(c) **DOCUMENTS TO BE PROVIDED.**—The requirement under subsection (a) applies to documents, relating to a contract, that are required to be maintained in the contracting office contract file, the contract administration office contract file, and the paying office contract file pursuant to subpart 4.8 of the Federal Acquisition Regulation, including—

“(1) copies of the contract and all modifications;

“(2) orders issued under the contract;

“(3) justifications and approvals;

“(4) any Government estimate of contract price;

“(5) source selection documentation;

“(6) cost or price analysis;

“(7) audit reports;

“(8) justification for type of contract;

“(9) authority for deviations from regulations, statutory requirements, or other restrictions;

“(10) bills, invoices, vouchers, and supporting documents; and

“(11) records of payments or receipts.

“(d) CONTRACT INCLUDES TASK OR DELIVERY ORDER.—In this section, the term ‘contract’ includes a task or delivery order under a task or delivery order contract.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2333. Congressional oversight: submittal of contract documents.”.

**SA 3273.** Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 158, between lines 6 and 7, insert the following:

**SEC. 805. REVISION AND EXTENSION OF AUTHORITY FOR ADVISORY PANEL ON REVIEW OF GOVERNMENT PROCUREMENT LAWS AND REGULATIONS.**

(a) RELATIONSHIP OF RECOMMENDATIONS TO SMALL BUSINESSES.—Section 1423 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 106-136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

“(d) ISSUES RELATING TO SMALL BUSINESSES.—In developing recommendations under subsection (c)(2), the panel shall—

“(1) consider the effects of its recommendations on small business concerns; and

“(2) include any recommended modifications of laws, regulations, and policies that the panel considers necessary to enhance and ensure competition in contracting that affords small business concerns meaningful opportunity to participate in Federal Government contracts.”.

(b) MEMBERSHIP.—Subsection (b) of such section is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by inserting “(1)” after “(b) MEMBERSHIP.—”; and

(3) by adding at the end the following new paragraph:

“(2) The Chief Counsel for Advocacy of the Small Business Administration, or a representative of the Chief Counsel designated by the Chief Counsel, shall be an ex officio member of the panel.”.

(c) REVISION AND EXTENSION OF REPORTING REQUIREMENT.—Subsection (e) of such section, as redesignated by subsection (a)(1), is amended—

(1) by striking “REPORT.—”, and inserting “REPORTING REQUIREMENTS.—(1)”;

(2) by striking “one year after the establishment of the panel” and inserting “one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005”;

(3) by striking “Services and” both places it appears and inserting “Services.”;

(4) by inserting “, and Small Business” after “Government Reform”;

(5) by inserting “, and Small Business and Entrepreneurship” after “Governmental Affairs”; and

(6) by adding at the end the following new paragraph:

“(2) If the panel completes the report under paragraph (1) before the date of the en-

actment of the National Defense Authorization Act for Fiscal Year 2005, the panel may submit the report in accordance with that paragraph, but shall also—

“(A) review its findings and recommendations for consistency with subsection (d); and

“(B) not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005, submit to the committees of Congress specified in paragraph (1) a supplemental report that contains the conclusions of the panel upon review under subparagraph (A), together with any revised or additional recommendations resulting from the application of subsection (d)(2).”.

**SA 3274.** Mrs. DOLE (for Mr. ROBERTS) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of subtitle C of title XXVIII, insert the following:

**SEC. 2830. LAND CONVEYANCE, SUNFLOWER ARMY AMMUNITION PLANT, KANSAS.**

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army, in consultation with the Administrator of General Services, may convey to an entity selected by the Board of Commissioners of Johnson County, Kansas (in this section referred to as the “entity” and the “Board”, respectively), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 9,065 acres and containing the Sunflower Army Ammunition Plant. The purpose of the conveyance is to facilitate the re-use of the property for economic development and revitalization.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the entity shall provide the United States, whether by cash payment, in-kind contribution, or a combination thereof, an amount that is not less than the fair market value, as determined by an appraisal of the property acceptable to the Administrator and the Secretary. The Secretary may authorize the entity to carry out, as in-kind consideration, environmental remediation activities for the property conveyed under such subsection.

(2) The Secretary shall deposit any cash received as consideration under this subsection in a special account established pursuant to section 572(b) of title 40, United States Code, to pay for environmental remediation and explosives cleanup of the property conveyed under subsection (a).

(c) CONSTRUCTION WITH PREVIOUS LAND CONVEYANCE AUTHORITY ON SUNFLOWER ARMY AMMUNITION PLANT.—The authority in subsection (a) to make the conveyance described in that subsection is in addition to the authority under section 2823 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107-314; 116 Stat. 2712) to make the conveyance described in that section.

(d) ENVIRONMENTAL REMEDIATION AND EXPLOSIVES CLEANUP.—(1) Notwithstanding any other provision of law, the Secretary may enter into a multi-year cooperative agreement or contract with the entity to undertake environmental remediation and explosives cleanup of the property, and may utilize amounts authorized to be appropriated for the Secretary for purposes of environmental remediation and explosives cleanup under the agreement.

(2) The terms of the cooperative agreement or contract may provide for advance pay-

ments on an annual basis or for payments on a performance basis. Payments may be made over a period of time agreed to by the Secretary and the entity or for such time as may be necessary to perform the environmental remediation and explosives cleanup of the property, including any long-term operation and maintenance requirements.

(e) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the entity or other persons to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental, and other administrative costs related to the conveyance.

(2) Amounts received under paragraph (1) shall be credited to the appropriation, fund, or account from which the costs were paid. Amounts so credited shall be merged with funds in such appropriation, fund, or account, and shall be available for the same purposes, and subject to the same limitations, as the funds with which merged.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey jointly satisfactory to the Secretary and the Administrator.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary and the Administrator may require such additional terms and conditions in connection with the conveyance of real property under subsection (a), and the environmental remediation and explosives cleanup under subsection (d), as the Secretary and the Administrator jointly consider appropriate to protect the interests of the United States.

**SA 3275.** Mrs. DOLE (for Mr. LEVIN) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 280, after line 22, insert the following:

**SEC. 1068. PROTECTION OF ARMED FORCES PERSONNEL FROM RETALIATORY ACTIONS FOR COMMUNICATIONS MADE THROUGH THE CHAIN OF COMMAND.**

(a) PROTECTED COMMUNICATIONS.—Section 1034(b)(1)(B) of title 10, United States Code, is amended—

(1) by striking “or” at the end of clause (iii); and

(2) by striking clause (iv) and inserting the following:

“(iv) any person or organization in the chain of command; or

“(v) any other person or organization designated pursuant to regulations or other established administrative procedures for such communications.”.

(b) EFFECTIVE DATE AND APPLICABILITY.—This section shall take effect on the date of the enactment of this Act and shall apply with respect to any unfavorable personnel action taken or threatened, and any withholding of or threat to withhold a favorable personnel action, on or after that date.

**SA 3276.** Mrs. DOLE (for Mr. LIEBERMAN) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and

for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of subtitle C of title X, add the following:

**SEC. 1022. REPORT ON TRAINING PROVIDED TO MEMBERS OF THE ARMED FORCES TO PREPARE FOR POST-CONFLICT OPERATIONS.**

(a) **STUDY ON TRAINING.**—The Secretary of Defense shall conduct a study to determine the extent to which members of the Armed Forces assigned to duty in support of contingency operations receive training in preparation for post-conflict operations and to evaluate the quality of such training.

(b) **MATTERS TO BE INCLUDED IN STUDY.**—As part of the study under subsection (a), the Secretary shall specifically evaluate the following:

(1) The doctrine, training, and leader-development system necessary to enable members of the Armed Forces to successfully operate in post-conflict operations.

(2) The adequacy of the curricula at military educational facilities to ensure that the Armed Forces has a cadre of members skilled in post-conflict duties, including a familiarity with applicable foreign languages and foreign cultures.

(3) The training time and resources available to members and units of the Armed Forces to develop cultural awareness about ethnic backgrounds and religious beliefs of the people living in areas in which post-conflict operations are likely to occur.

(4) The adequacy of training transformation to emphasize post-conflict operations, including interagency coordination in support of combatant commanders.

(c) **REPORT ON STUDY.**—Not later than May 1, 2005, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the result of the study conducted under this section.

**SA 3277.** Mrs. DOLE (for Mr. MILLER) proposed an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

On page 79, between lines 10 and 11, insert the following:

**SEC. 515. STUDY REGARDING PROMOTION ELIGIBILITY OF RETIRED WARRANT OFFICERS RECALLED TO ACTIVE DUTY.**

(a) **REQUIREMENT FOR STUDY.**—The Secretary of Defense shall carry out a study to determine whether it would be equitable for retired warrant officers on active duty, but not on the active-duty list by reason of section 582(2) of title 10, United States Code, to be eligible for consideration for promotion under section 573 of such title.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the results of the study under subsection (a). The report shall include a discussion of the Secretary's determination regarding the issue covered by the study, the rationale for the Secretary's determination, and any recommended legislation that the Secretary considers appropriate regarding that issue.

**SA 3278.** Mrs. DOLE (for Mr. STEVENS (for himself and Mr. INOUE)) proposed

an amendment to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

Strike section 123 and insert the following:

**SEC. 123. PILOT PROGRAM FOR FLEXIBLE FUNDING OF SUBMARINE ENGINEERED REFUELING OVERHAUL AND CONVERSION.**

(a) **ESTABLISHMENT.**—The Secretary of the Navy may carry out a pilot program of flexible funding of engineered refueling overhauls and conversions of submarines in accordance with this section.

(b) **AUTHORITY.**—Under the pilot program, the Secretary of the Navy may, subject to subsection (d), transfer amounts described in subsection (c) to the authorization of appropriations for the Navy for procurement for shipbuilding and conversion for any fiscal year to continue to provide authorization of appropriations for any engineered refueling conversion or overhaul of a submarine of the Navy for which funds were initially provided on the basis of the authorization of appropriations to which transferred.

(c) **AMOUNTS AVAILABLE FOR TRANSFER.**—The amounts available for transfer under this section are amounts authorized to be appropriated to the Navy for any fiscal year after fiscal year 2004 and before fiscal year 2013 for the following purposes:

(1) For procurement as follows:

(A) For shipbuilding and conversion.

(B) For weapons procurement.

(C) For other procurement.

(2) For operation and maintenance.

(d) **LIMITATIONS.**—(1) A transfer may be made with respect to a submarine under this section only to meet either (or both) of the following requirements:

(A) An increase in the size of the workload for engineered refueling overhaul and conversion to meet existing requirements for the submarine.

(B) A new engineered refueling overhaul and conversion requirement resulting from a revision of the original baseline engineered refueling overhaul and conversion program for the submarine.

(2) A transfer may not be made under this section before the date that is 30 days after the date on which the Secretary of the Navy transmits to the congressional defense committees a written notification of the intended transfer. The notification shall include the following matters:

(A) The purpose of the transfer.

(B) The amounts to be transferred.

(C) Each account from which the funds are to be transferred.

(D) Each program, project, or activity from which the amounts are to be transferred.

(E) Each account to which the amounts are to be transferred.

(F) A discussion of the implications of the transfer for the total cost of the submarine engineered refueling overhaul and conversion program for which the transfer is to be made.

(e) **MERGER OF FUNDS.**—A transfer made from one account to another with respect to the engineered refueling overhaul and conversion of a submarine under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred and shall be available for the engineered refueling overhaul and conversion of such submarine for the same period as the account to which transferred.

(f) **RELATIONSHIP TO OTHER TRANSFER AUTHORITY.**—The authority to make transfers under this section is in addition to any other transfer authority provided in this or any other Act and is not subject to any restriction, limitation, or procedure that is applicable to the exercise of any such other authority.

(g) **FINAL REPORT.**—Not later than October 1, 2011, the Secretary of the Navy shall submit to the congressional defense committees a report containing the Secretary's evaluation of the efficacy of the authority provided under this section.

(h) **TERMINATION OF PROGRAM.**—No transfer may be made under this section after September 30, 2012.

**SA 3279.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 269, between lines 2 and 3, insert the following:

(f) **REPORT ON RELATIONSHIPS BETWEEN THE GOVERNMENT OF VENEZUELA AND TERRORIST ORGANIZATIONS IN COLOMBIA.**—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State and the Director of Central Intelligence, submit to the congressional defense committees and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report that describes—

(A) any relationships between the Government of Venezuela and foreign terrorist organizations based in Colombia, including the provision of any direct or indirect assistance to such organizations; and

(B) United States policies that are designed to address such relationships.

(2) The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

**SA 3280.** Mr. INHOFE (for himself, Mr. BINGAMAN, Ms. COLLINS, Mr. DORGAN, Ms. CANTWELL, Mr. KOHL, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . ENERGY SAVINGS PERFORMANCE CONTRACTS.**

(a) **PERMANENT EXTENSION.**—Effective September 30, 2003, section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

(b) **PAYMENT OF COSTS.**—Section 802 of the National Energy Conservation Policy Act (42 U.S.C. 8287a) is amended by inserting “, water, or wastewater treatment” after “payment of energy”.

(c) **ENERGY SAVINGS.**—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

“(2) The term ‘energy savings’ means a reduction in the cost of energy, water, or wastewater treatment, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

“(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

“(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

“(C) the increased efficient use of existing water sources in either interior or exterior applications.”.

(d) **ENERGY SAVINGS CONTRACT.**—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

“(3) The terms ‘energy savings contract’ and ‘energy savings performance contract’ mean a contract that provides for the performance of services for the design, acquisition, installation, testing, and, where appropriate, operation, maintenance, and repair, of an identified energy or water conservation measure or series of measures at 1 or more locations. Such contracts shall, with respect to an agency facility that is a public building (as such term is defined in section 3301 of title 40, United States Code), be in compliance with the prospectus requirements and procedures of section 3307 of title 40, United States Code.”.

(e) **ENERGY OR WATER CONSERVATION MEASURE.**—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

“(4) The term ‘energy or water conservation measure’ means—

“(A) an energy conservation measure, as defined in section 551; or

“(B) a water conservation measure that improves the efficiency of water use, is life-cycle cost-effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.”.

(f) **EXTENSION OF AUTHORITY.**—Any energy savings performance contract entered into under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) after October 1, 2003, and before the date of enactment of this Act, shall be deemed to have been entered into pursuant to such section 801 as amended by subsection (a) of this section.

## NOTICES OF HEARINGS/MEETINGS

### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing originally scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources on Wednesday, June 16th, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building, has been indefinitely postponed.

The purpose of the hearing was to receive testimony on: 1. the grounding of multi-engine fire-retardant aircraft, 2. steps the Forest Service and Department of the Interior have taken to provide alternative aerial support for initial attack and extended attack fire

fighting operations in the short run, and 3. the feasibility and desirability of designing and implementing an inspection process to allow the use of multi-engine fire-retardant aircraft in the future.

For further information, please contact Frank Gladics at 202-224-2878 or Amy Millet at 202-224-8276.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 3, 2004, at 9:30 a.m. to conduct a hearing on “Bank Secrecy Act Enforcement.”

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

### COMMITTEE ON THE JUDICIARY

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 3, 2004, at 9:30 a.m. in Dirksen Senate Building room 226.

## Agenda

### I. Nominations

Henry W. Saad to be U.S. Circuit Judge for the Sixth Circuit

### II. Legislation

S. 1735, Gang Prevention and Effective Deterrence Act of 2003 [Hatch, Feinstein, Grassley, Graham, Chambliss, Cornyn, Schumer, Biden];

S. 1635, A bill to amend the Immigration and Nationality Act to ensure the integrity of the L-1 visa for intracompany transferees [Chambliss];

S. 1129, Unaccompanied Alien Child Protection Act of 2003 [Feinstein, DeWine, Feingold, Kennedy, Leahy, Specter, Edwards, Durbin, Kohl, Schumer];

S. 2013, Satellite Home Viewer Extension Act of 2004 [Hatch, Leahy, DeWine, Kohl];

S. 1887, A bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices Act of 2003 [Hatch, Levin, Biden];

S. 2363, A bill to review and extend the Boys and Girls Clubs of America Act of 2004 [Hatch, Leahy, DeWine, Kohl, Biden];

S. Con. Res. 5, A concurrent resolution expressing the support for the celebration in 2004 of the 150th anniversary of the Grand Excursion of 1854 Act of 2003 [Grassley, Durbin, Kohl, Feingold];

S.J. Res. 4, Proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States Act of 2003 [Hatch, Feinstein, Sessions, DeWine, Grassley, Graham, Cornyn, Chambliss, Specter];

S. 1700, Advancing Justice through DNA Technology Act of 2003 [Hatch, Leahy, Biden, Specter, DeWine, Feinstein, Kennedy, Schumer, Durbin, Kohl, Edwards];

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

### COMMITTEE ON THE JUDICIARY

Mr. CRAPO. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Thursday, June 3, 2004 at 2:30 p.m. on “The Child Custody Protection Act: Protecting Parents’ Rights and Children’s Lives” in the Dirksen Senate Office Building room 226. The witness list is attached.

Panel I: The Honorable John Ensign, United States Senator [R-NV].

Panel II: Mr. John C. Harrison, Professor of Law, University of Virginia School of Law, Charlottesville, VA; Mr. Peter J. Rubin, Professor of Law, Georgetown University Law Center, Washington, DC; and Ms. Teresa Stanton Collett, Professor of Law, University of St. Thomas School of Law, Minneapolis, MN.

Panel III: Ms. Joyce Farley, Victim, Dushore, PA; Ms. Crystal Lane, Victim, Dushore, PA; and the Reverend Dr. Katherine Hancock Ragsdale, St. David’s Episcopal Church, Pepperell, MA.

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

### SUBCOMMITTEE ON COMPETITION, FOREIGN COMMERCE, AND INFRASTRUCTURE

Mr. CRAPO. Mr. President, I ask unanimous consent that the Subcommittee on Competition, Foreign Commerce, and Infrastructures be authorized to meet on Thursday, June 3, 2004, at 2:30 p.m. on Thread Act revisited.

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

## PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent for the permission of the use of the floor for Matthew Stump, a fellow in our office, during the consideration of this amendment.

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

Mr. KENNEDY. I thank the Chair.

## UNANIMOUS CONSENT AGREEMENT—S. 2400

Mr. CRAPO. Mr. President, I ask unanimous consent that all first-degree amendments to the Defense authorization bill which are in order from the previous list be filed at the desk no later than 5 p.m. on Monday, June 7.

Mr. REID. Reserving the right to object, those who are listening should understand that this means you must file your amendments by 5 o’clock for them to be considered on the Defense bill. They must be filed. Everyone should also note that there is no need to refile. If there is an amendment at the



desk you have already filed, that is all you have to do.

The two leaders have decided, in conjunction with the two managers of the bill, that we need to move down the road with this bill. We first had a finite list of some 250 or 260 amendments. We would hope there would be fewer amendments than that when this filing takes place. The managers have disposed of some. They will do more later.

Senator WARNER is off to Normandy, as he is a World War II veteran. But Monday will be an opportunity for Members to offer amendments. We received an agreement on this side that on Monday we will allow the setaside of the Kennedy amendment. I haven't seen all of them. The distinguished chairman is going to go through that. But I hope we have a time set up for completing work on the Kennedy-Feinstein amendment on Tuesday morning, early.

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

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. CRAPO. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 610 and 654. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

#### DEPARTMENT OF JUSTICE

Matthew G. Whitaker, of Iowa, to be United States Attorney for the Southern District of Iowa for the term of four years.

#### DEPARTMENT OF STATE

Constance Berry Newman, of Illinois, to be an Assistant Secretary of State (African Affairs).

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

### DISTRIBUTION OF FOOD IN SCHOOLS TO HUNGRY OR MALNOURISHED CHILDREN

Mr. CRAPO. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 114, submitted earlier today by Senator DOLE.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 114) concerning the importance of the distribution of food in schools to hungry or malnourished children around the world.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CRAPO. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 114) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. CON. RES. 114

Whereas there are more than 300,000,000 chronically hungry and malnourished children in the world;

Whereas more than half of these children go to school on an empty stomach, and almost as many do not attend school at all, but might if food were available;

Whereas the distribution of food in schools is one of the simplest and most effective strategies to fight hunger and malnourishment among children;

Whereas when school meals are offered to hungry or malnourished children, attendance rates increase significantly, particularly for girls;

Whereas the distribution of food in schools encourages better school attendance, thereby improving literacy rates and fighting poverty;

Whereas improvement in the education of girls is one of the most important factors in reducing child malnutrition in developing countries;

Whereas girls who attend schools tend to marry later in life and have fewer children, thereby helping them escape a life of poverty;

Whereas by improving literacy rates and increasing job opportunities, education addresses several of the root causes of terrorism;

Whereas the distribution of food in schools increases attendance of children who might otherwise be susceptible to recruitment by groups that offer them food in return for their attendance at extremist schools or participation in terrorist training camps;

Whereas the Global Food for Education Initiative pilot program, established in 2001, donated surplus United States agricultural commodities to the United Nations World Food Program and other recipients for distribution to nearly 7,000,000 hungry and malnourished children in 38 countries;

Whereas a recent Department of Agriculture evaluation found that the pilot program created measurable improvements in school attendance (particularly for girls), increased local employment and economic activity, produced greater involvement in local infrastructure and community improvement projects, and increased participation by parents in the schools and in the education of their children;

Whereas the Farm Security and Rural Investment Act of 2002 (Public Law 107-171, 116 Stat. 134) replaced the pilot program with the McGovern-Dole International Food for Education and Child Nutrition Program, which was named after former Senators George McGovern and Robert Dole for their distinguished work to eradicate hunger and poverty around the world; and

Whereas the McGovern-Dole International Food for Education and Child Nutrition Pro-

gram provides food to nearly 2,000,000 hungry or malnourished children in 21 countries: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) expresses its grave concern about the continuing problem of hunger and the desperate need to feed hungry and malnourished children around the world;

(2) recognizes that the global distribution of food in schools to children around the world increases attendance, particularly for girls, improves literacy rates, and increases job opportunities, thereby helping to fight poverty;

(3) recognizes that education of children around the world addresses several of the root causes of international terrorism;

(4) recognizes that the world will be safer and more promising for children as a result of better school attendance;

(5) expresses its gratitude to former Senators George McGovern and Robert Dole for supporting the distribution of food in schools around the world to children and for working to eradicate hunger and poverty around the world;

(6) commends the Department of Agriculture, the Agency for International Development, the Department of State, the United Nations World Food Program, private voluntary organizations, non-governmental organizations, and cooperatives for facilitating the distribution of food in schools around the world;

(7) expresses its continued support for the distribution of food in schools around the world;

(8) supports expansion of the McGovern-Dole International Food for Education and Child Nutrition Program; and

(9) requests the President to work with the United Nations and its member states to expand international contributions for the distribution of food in schools around the world.

### NATIONAL GREAT BLACK AMERICANS COMMEMORATION ACT OF 2004

Mr. CRAPO. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1233, to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center.

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

#### S. 1233

*Resolved*, That the bill from the Senate (S. 1233) entitled "An Act to authorize assistance for the National Great Blacks in Wax Museum and Justice Learning Center", do pass with the following amendment:

Strike out all after the enacting clause and insert:

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "National Great Black Americans Commemoration Act of 2004".*

#### SEC. 2. FINDINGS.

*Congress finds the following:*

(1) Black Americans have served honorably in Congress, in senior executive branch positions, in the law, the judiciary, and other fields, yet their record of service is not well known by the public, is not included in school history lessons, and is not adequately presented in the Nation's museums.

(2) The Great Blacks in Wax Museum, Inc. in Baltimore, Maryland, a nonprofit organization, is the Nation's first wax museum presenting the history of great Black Americans, including

those who have served in Congress, in senior executive branch positions, in the law, the judiciary, and other fields, as well as others who have made significant contributions to benefit the Nation.

(3) The Great Blacks in Wax Museum, Inc. plans to expand its existing facilities to establish the National Great Blacks in Wax Museum and Justice Learning Center, which is intended to serve as a national museum and center for presentation of wax figures and related interactive educational exhibits portraying the history of great Black Americans.

(4) The wax medium has long been recognized as a unique and artistic means to record human history through preservation of the faces and personages of people of prominence, and historically, wax exhibits were used to commemorate noted figures in ancient Egypt, Babylon, Greece, and Rome, in medieval Europe, and in the art of the Italian renaissance.

(5) The Great Blacks in Wax Museum, Inc. was founded in 1983 by Drs. Elmer and Joanne Martin, 2 Baltimore educators who used their personal savings to purchase wax figures, which they displayed in schools, churches, shopping malls, and festivals in the mid-Atlantic region.

(6) The goal of the Martins was to test public reaction to the idea of a Black history wax museum and so positive was the response over time that the museum has been heralded by the public and the media as a national treasure.

(7) The museum has been the subject of feature stories by CNN, the Wall Street Journal, the Baltimore Sun, the Washington Post, the New York Times, the Chicago Sun Times, the Dallas Morning News, the Los Angeles Times, USA Today, the Afro American Newspaper, Crisis, Essence Magazine, and others.

(8) More than 300,000 people from across the Nation visit the museum annually.

(9) The new museum will carry on the time honored artistic tradition of the wax medium; in particular, it will recognize the significant value of this medium to commemorate and appreciate great Black Americans whose faces and personages are not widely recognized.

(10) The museum will employ the most skilled artisans in the wax medium, use state-of-the-art interactive exhibition technologies, and consult with museum professionals throughout the Nation, and its exhibits will feature the following:

(A) Blacks who have served in the Senate and House of Representatives of the United States, including those who represented constituencies in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia during the 19th century.

(B) Blacks who have served in the judiciary, in the Department of Justice, as prominent attorneys, in law enforcement, and in the struggle for equal rights under the law.

(C) Black veterans of various military engagements, including the Buffalo Soldiers and Tuskegee Airmen, and the role of Blacks in the settlement of the western United States.

(D) Blacks who have served in senior executive branch positions, including members of Presidents' Cabinets, Assistant Secretaries and Deputy Secretaries of Federal agencies, and Presidential advisers.

(E) Other Blacks whose accomplishments and contributions to human history during the last millennium and to the Nation through more than 400 years are exemplary, including Black educators, authors, scientists, inventors, athletes, clergy, and civil rights leaders.

(11) The museum plans to develop collaborative programs with other museums, serve as a clearinghouse for training, technical assistance, and other resources involving use of the wax medium, and sponsor traveling exhibits to provide enriching museum experiences for communities throughout the Nation.

(12) The museum has been recognized by the State of Maryland and the City of Baltimore as a preeminent facility for presenting and interpreting Black history, using the wax medium in its highest artistic form.

(13) The museum is located in the heart of an area designated as an empowerment zone, and is considered to be a catalyst for economic and cultural improvements in this economically disadvantaged area.

### SEC. 3. ASSISTANCE FOR NATIONAL GREAT BLACKS IN WAX MUSEUM AND JUSTICE LEARNING CENTER.

(a) ASSISTANCE FOR MUSEUM.—Subject to subsection (b), the Attorney General, acting through the Office of Justice Programs of the Department of Justice, shall, from amounts made available under subsection (c), make a grant to the Great Blacks in Wax Museum, Inc. in Baltimore, Maryland, to be used only for carrying out programs relating to civil rights and juvenile justice through the National Great Blacks in Wax Museum and Justice Learning Center.

(b) GRANT REQUIREMENTS.—To receive a grant under subsection (a), the Great Blacks in Wax Museum, Inc. shall submit to the Attorney General a proposal for the use of the grant, which shall include detailed plans for the programs referred to in subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$5,000,000, to remain available through the end of fiscal year 2009.

Mr. CRAPO. Mr. President, I ask unanimous consent that the Senate concur in the House amendment and the motion to reconsider be laid upon the table, with no intervening action.

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

### BOYS AND GIRLS CLUBS OF AMERICA

Mr. CRAPO. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2363, reported out earlier today by the Judiciary Committee.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2363) to revise and extend the Boys and Girls Clubs of America.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate is taking up and passing the legislation that Senator HATCH and I introduced together to reauthorize and expand the Department of Justice grant program for the Boys & Girls Clubs of America. We reported it out of the Judiciary Committee this morning, and I thank the Senate for moving our bipartisan legislation so quickly. I also thank our 30 bipartisan cosponsors, including the Democratic leader, Senator DASCHLE, the assistant Democratic leader, Senator REID, and Judiciary Committee members Senators DEWINE, KOHL, BIDEN, FEINSTEIN, CRAIG, SESSIONS, DURBIN, EDWARDS, SCHUMER and CHAMBLISS, for supporting our legislation to support the Boys & Girls Clubs of America.

Too often the public sees Republicans and Democrats disagreeing. From time to time, even Senator HATCH and I disagree on important issues. But when it comes to the Boys & Girls Clubs of America, there is no doubt that we see eye-to-eye. This bill shows the unified

support of Republicans and Democrats for the good works of Boys & Girls Clubs across the nation.

Children are the future of our country, and we have a responsibility to make sure they are safe and secure. I know firsthand how well Boys & Girls Clubs work and what topnotch organizations they are. When I was a prosecutor in Vermont, I was convinced of the great need for Boys & Girls Clubs because we rarely encountered children from these kinds of programs. In fact, after I became a U.S. Senator, a police chief was such a big fan that he asked me to help fund a Boys & Girls Club in his district rather than helping him get a couple more police officers.

In Vermont, Boys & Girls Clubs have succeeded in preventing crime and supporting our children. The first club was established in Burlington 62 years ago. Now we have 22 club sites operating throughout the State: seven clubs in Brattleboro, one in Springfield, two clubs in Burlington, one in Winooski, two clubs in Montpelier, five clubs in Randolph, one club in Rutland, two clubs in Vergennes, and one in Bristol. There are 10 additional project sites that will be on board and serving kids by the end of 2005: one in Bennington, two in Burlington, one in Duxbury, one in St. Johnsbury, one in Hardwick, three in Randolph, and one in Ludlow. These clubs will serve well over 10,000 kids statewide.

As a senior member of the Senate Appropriations Committee, I have pushed for more Federal funding for Boys & Girls Clubs. Since 1998, Congress has increased Federal support for Boys & Girls Clubs from \$20 million to \$80 million in this year. Due in large part to this increase in funding, there now exist 3,300 Boys & Girls Clubs in all 50 States serving more than 3.6 million young people. Because of these successes, I was both surprised and disappointed to see that the President requested a reduction of \$20 million for fiscal year 2005. That request will leave thousands of children and their clubs behind and we cannot allow such a thing to happen.

In the 107th Congress, Senator HATCH and I worked together to pass the 21st Century Department of Justice Appropriations Authorization Act, which included a provision to reauthorize Justice Department grants to establish new Boys & Girls Clubs nationwide. By authorizing \$80 million in DOJ grants for each of the fiscal years through 2005, we sought to establish 1,200 additional Boys & Girls Clubs nationwide. This was to bring the number of Boys & Girls Clubs to 4,000, serving no less than 5 million young people. This bill will build upon this: we authorize Justice Department grants at \$80 million for fiscal year 2006, \$85 million for fiscal year 2007, \$90 million for fiscal year 2008, \$95 million for fiscal year 2009 and \$100 million for fiscal year 2010 to Boys & Girls Clubs to help establish 1,500 additional Boys & Girls Clubs across the Nation with the goal of having 5,000

Boys & Girls Clubs in operation by December 31, 2010.

If we had a Boys & Girls Club in every community, prosecutors in our country would have a lot less work to do because of the values that are being instilled in children from the Boys & Girls Clubs of America. Each time I visit a club in Vermont, I am approached by parents, educators, teachers, grandparents, and law enforcement officers who tell me "Keep doing this! These clubs give our children the chance to grow up free of drugs, gangs and crime."

You cannot argue that these are just Democratic or Republican ideas, or conservative or liberal ideas—they are simply good-sense ideas. We need safe havens where our youth—the future of our country—can learn and grow up free from the influences of drugs, gangs and crime. That is why Boys & Girls Clubs are so important to our children.

I thank the Senate for taking up and passing our bipartisan bill to expand Federal support for the Boys & Girls Clubs of America. Our country's strength and ultimate success lies with our children. Our greatest responsibility is to help them inhabit this century the best way possible and we can help do that by supporting the Boys & Girls Clubs of America.

Mr. CRAPO. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 2363) was read the third time and passed, as follows:

S. 2363

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. BOYS AND GIRLS CLUBS OF AMERICA.**  
Section 401 of the Economic Espionage Act of 1996 (42 U.S.C. 13751 note) is amended—

(1) in subsection (a)(2)—

(A) by striking "1,200" and inserting "1,500";

(B) by striking "4,000" and inserting "5,000"; and

(C) by striking "December 31, 2005" and inserting "December 31, 2010";

(2) in subsection (c)—

(A) in paragraph (1), by striking "2002, 2003, 2004, 2005, and 2006" and inserting "2006, 2007, 2008, 2009, and 2010"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "1,200" and inserting "1,500"; and

(ii) in subparagraph (B)—

(I) by striking "4,000" and inserting "5,000"; and

(II) by striking "2007" and inserting "2010"; and

(3) in subsection (e), by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) \$80,000,000 for fiscal year 2006;

"(B) \$85,000,000 for fiscal year 2007;

"(C) \$90,000,000 for fiscal year 2008;

"(D) \$95,000,000 for fiscal year 2009; and

"(E) \$100,000,000 for fiscal year 2010.".

#### MEASURE READ THE FIRST TIME—S. 2498

Mr. CRAPO. Mr. President, I understand that S. 2498 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2498) to provide for a 10-year extension of the assault weapons ban.

Mr. CRAPO. Mr. President, I now ask for its second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

#### ORDERS FOR FRIDAY, JUNE 4, 2004

Mr. CRAPO. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Friday, June 4. 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 resume consideration of Calendar No. 503, S. 2400, the Department of Defense authorization bill.

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

Mr. CRAPO. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the Defense bill on Tuesday, June 8, there then be 50 minutes under the control of Senator KENNEDY or his designee and 50 minutes under the control of the chairman or his designee. Further, I ask unanimous consent that following that debate, the Senate proceed to a vote in relation to the Kennedy amendment, with no amendments in order to the amendment prior to the vote.

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask my distinguished friend to amend the unanimous consent request to allow 10 minutes of the Kennedy 50 minutes to be under the control of the ranking member of the committee, Senator LEVIN.

Mr. CRAPO. I have no objection to such a modification of the request.

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

#### PROGRAM

Mr. CRAPO. Mr. President, tomorrow the Senate will resume consideration of the Department of Defense authorization bill. It is the leader's hope that we will be able to dispose of any cleared amendments during tomorrow's session. However, there will be no roll-call votes. We would like to debate amendments during Friday's session so that we may stack rollcall votes beginning on Tuesday. We also hope to debate amendments on Monday, but, again, we will stack those votes for Tuesday as well.

The leader has stated that it is his intention to complete action on this bill next week. We were just able to lock in a filing deadline for all first-degree amendments for Monday at 5 p.m. The next rollcall vote will, therefore, occur on Tuesday prior to the policy luncheon recess.

Mr. REID. Mr. President, if I may continue before we adjourn for the evening.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. We will not get consent tomorrow to set aside the Kennedy amendment for the offering of other amendments. We would, however, as we were earlier today, if the two managers have cleared amendments, be willing to move those tomorrow. But as far as Senators being allowed to offer amendments, that will not be possible.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CRAPO. 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 6:30 p.m., adjourned until Friday, June 4, 2004, at 9:30 a.m.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate June 3, 2004:

##### DEPARTMENT OF STATE

CONSTANCE BERRY NEWMAN, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF STATE (AFRICAN AFFAIRS).

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

##### THE JUDICIARY

SANDRA L. TOWNES, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

KENNETH M. KARAS, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

JUDITH C. HERRERA, OF NEW MEXICO, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO.

##### DEPARTMENT OF JUSTICE

MATTHEW G. WHITAKER, OF IOWA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF IOWA FOR THE TERM OF FOUR YEARS.