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Senate

Statement of Senator Dianne Feinstein

“Kennedy-Feinstein Amendment to the Defense Authorization Bill on the Robust Nuclear Earth Penetrator (RNEP)”

Mrs. FEINSTEIN. I thank the Chair. I also thank the distinguished Senator from Alabama.

I wish to speak on the bill. There is probably no one in the Senate I have greater respect for than the chairman of the Committee on Armed Services. He certainly does know his material. He certainly has put in the years. He certainly has done the work.

I very profoundly disagree with what he has said with respect to the robust nuclear earth penetrator. We have heard this is only a study, that it is minor in scope, that we have debated this before. It is certainly true, we have debated this before. We debated it before because we feel strongly about this issue. We have debated it before because the Congress eliminated the money last year. We have debated it before because we have a strong passion and belief that this is the wrong way for our Nation to go. The fact that we have debated this issue before -- Senator Kennedy, Senator Reed, Senator Levin, myself --

does not in any way, shape, or form, downgrade or demean our arguments.

Let me discuss this program which is only "a study." Let me discuss for a moment the way this program started out.

It started with appropriations for the study of a robust nuclear earth penetrator with a 5-year budget projection of \$486 million. That is how it started.

It also coincided with a program called "advanced concepts initiatives" which is not in this authorization but which last year envisioned the development of low-yield tactical nuclear weapons of under 5 kilotons, or battlefield nuclear weapons. That is about a third the force that was used at Hiroshima, a 15-kiloton weapon. That is not, as I say, in this bill.

It started out with a plan to build a Modern Pit Facility which could produce up to 450 new plutonium pits -- the pit being the trigger that detonates a nuclear weapon. If you take a good look, you know you do not need up to 450 plutonium pits for replenishment of the

existing nuclear arsenal. You may need 40 to 60. So if you put forward up to 450 plutonium pits, to me it is an indicator that there is a broader program afoot.

Part of this is also an increase of the time to test readiness from 3 years to 18 months. What that says is: Beware, something is going on. We want to be able to resume testing and we do not want to resume testing within the normal 3-year delay, we want to move that up to 18 months. So, something is cooking.

The fact is, no one should doubt this authorization enables the reopening of the nuclear door to the creation of a new generation of nuclear weapons, in this case, a robust nuclear earth penetrator of 1 megaton. This is a major effort.

It is true, we fenced it, as the Senator from Alabama pointed out. Before it goes beyond the engineering stage, it must come back to this Senate for approval. But that does not signify that there is not a new generation of nuclear weapons being studied, researched, advanced, and

authorized in this bill, specifically the \$4 million for the robust nuclear earth penetrator.

Our intention is being signaled to the rest of the world. The Department has been clever in not revealing its hand. No longer does it provide the 5-year cost of this study as it did last year. No longer does it mention this effort in its statement of administration policy. The statement of administration policies on the House Defense Authorization and House Energy and Water Appropriations bills do not mention a robust nuclear earth penetrator. Rather, the attempt was to cloak the study in some kind of obfuscation, to divide it between two budgets -- Energy and Defense -- half, \$4 million here, the other \$4.5 million in the other budget, with the hope that if one fails, the other will get through.

But nonetheless, this is not minor in scope. The Modern Pit Facility which could produce up to 450 new plutonium pits is not even being discussed. There is supposed to be a study that will come back and indicate how many pits are necessary to replenish the present nuclear arsenal. That is not before the Senate. That is in this bill. There is no study to indicate we need 450 pits today to refresh the existing arsenal, particularly when that arsenal is being diminished in size.

The intention is clear. Obviously, the way you begin a new nuclear weapon program is

with a study, research, and engineering. So it is true we are trying to catch it at the beginning. That is not a bad thing. That is a very good thing.

The money, as was stated accurately, would go to the DC National Guard to enable it to prepare for possible terrorist attacks in the Nation's Capital. Many think this is a much more realistic use of this money than a robust nuclear earth penetrator, especially when the laws of physics say it is impossible to drive a missile deep enough in the Earth to prevent the spewing of hundreds of millions of cubic yards of radioactive waste and cause the death of hundreds of thousands, if not millions, of people.

It is true, we had this debate 3 weeks ago on the Energy and Water appropriations bill. That was the other half of this request. We were not successful with that vote. We said we would be back to debate this issue. And we will be back again and again and again until we are able to defeat this effort. It is morally wrong and I believe it jeopardizes the national security of our country.

The House has had the good sense to decisively eliminate funding for the robust nuclear earth penetrator, first under the leadership of Representative David Hobson, the chairman of the Energy and Water Appropriations Subcommittee. That bill eliminated the \$4 million for the Department of

Energy portion of the robust nuclear earth penetrator. Second, the House fiscal year 2006 Defense appropriations bill limits research for a bunker buster to a conventional program. Finally, during its mark of the 2006 Defense authorization bill -- that is the companion to the bill we are talking about this morning -- the House Armed Services Committee eliminated all of the Department of Energy funding for the robust nuclear earth penetrator and transferred the \$4 million to the Air Force budget for work on a conventional nonnuclear version. So there is a growing body of thought in three specific efforts successfully concluded by the House of Representatives that says we should not proceed with this program.

Let me recap: The House Energy and Water appropriations bill eliminates \$4 million. The House 2006 Defense appropriations bill limits research to a conventional program. And finally, the House Armed Services Committee eliminated all of the Department of Energy funding for the nuclear earth penetrator and transferred it to work on a conventional nonnuclear version.

It will be a very hot conference committee on these items. But the House has taken the action in three ways rather completely.

We are not out on a limb. This is not some whim of a

small faction of Members of the Senate. We represent a majority of the Members of the House of Representatives. I believe we represent a majority of thinking of the American people. Polls have been done which clearly show a bulk of the American people are, in fact, not in support of commencing this research, of doing this study.

Let me give a fact sheet of a 2004 poll brought to my attention by the Union of Concerned Scientists. It found most Americans do not support the development of new nuclear weapons by the United States. A substantial majority of Americans would oppose funding for the nuclear bunker buster. Sixty-five percent of Americans say there is no need for the United States to develop new types of nuclear weapons. They know what the Senator from Rhode Island pointed out, that there are conventional bunker busters that should be developed. They know the key to this is good intelligence as to vent holes, ingress, egress areas, intelligence which can lead us to ferret out a nuclear bunker buster. Sixty-three percent found convincing the argument that the United States would be setting a bad example by starting to develop new types of nuclear weapons, and a large majority opposes using nuclear weapons for anything other than a deterrent to prevent other countries from using nuclear weapons. Eighty-one percent oppose the Bush

administration's revelation that they would countenance a first use of nuclear weapons. Eighty-four percent oppose the United States using threats of nuclear retaliation to attempt a deterrent attack on the United States with chemical or biological weapons. And 57 percent support the United States reaffirming a commitment to not use nuclear weapons against countries that do not have nuclear weapons as a way of encouraging those countries not to acquire or build nuclear weapons.

Americans have a clear preference for a much smaller nuclear arsenal. Based on this poll, a substantial majority of Americans opposes the study into the nuclear bunker buster. These findings also show substantial distaste for nuclear weapons in general, with a clear preference for a small nuclear arsenal designed only as a deterrent to prevent other countries from using nuclear weapons.

I ask unanimous consent this fact sheet from the Union of Concerned Scientists be printed in the Record.

Let me point out, House Armed Services Committee member Sylvester Reyes stated that the House committee took the "N" or nuclear out of the robust nuclear earth penetrator program.

Remember, last year, in this strong statement I have just told you about -- in the deletion of funding of the \$27.5 million for the earth penetrator and the \$9

million for advanced concepts that at the time included a study for the development of the low-yield nuclear weapons -- Republicans and Democrats, authorizers and appropriators alike, joined together to send a clear signal to the administration that the House and Senate would not support moving forward with the development of a new generation of nuclear weapons. If you consider this, along with the facts I have just revealed, based on a polling of the American people, you have to wonder why the administration comes back with a new request this year.

In April of this year, a group of experts of the National Academies of Sciences confirmed what we have long argued -- that according to the laws of physics, it is simply not possible for a missile casing on a nuclear warhead to survive a thrust into the earth deep enough to take out a hard and deeply buried military target without spewing millions of tons of radiation into the atmosphere.

That is where we are -- funding a study that the law of physics says will not work. It is folly to me. And the repercussions are enormous. The National Academies of Sciences study, commissioned by Congress to study the anticipated health and environmental effects of the nuclear earth penetrator, found the following: that current experience and empirical

predictions indicate that earth-penetrator weapons cannot penetrate to depths required for total containment of the effects of a nuclear explosion. It also found that in order to destroy hard and deeply buried targets at 200 meters, or 656 feet, you would need a 300-kiloton weapon. And in order to destroy a hard and deeply buried target at 300 meters -- that is 984 feet -- you would need a 1-megaton weapon.

The point is, the deeper the bunker, the larger the nuclear blast must be, and the greater the amount of nuclear fallout will be.

The number of casualties, they find, from an earth-penetrator weapon detonated at a few meters' depth, which is all that can be achieved for all practical purposes, is equal to that of a surface burst of the same nuclear weapon. Do you know what we are contemplating here, what that surface burst would be? It would be the largest spewing of radioactivity in the history of the world. Enormous. If it were used in North Korea, it would spread to South Korea and Japan. It is unthinkable.

For attacks near or in densely populated areas using nuclear earth-penetrator weapons on hard and deeply buried targets, the number of casualties would range from thousands to more than a million, depending primarily on weapon yield.

So once again, the bottom line is that a bunker buster cannot penetrate into the earth

deep enough to avoid massive casualties, and there would be the spewing of millions of cubic feet of radioactive materials into the atmosphere. This would result in the deaths of up to a million people or more if used in densely populated areas.

So why are we doing this? What kind of Machiavellian thinking is behind this reopening of the nuclear door?

Ambassador Linton Brooks of the National Security Administration agrees with these findings. Earlier, in a congressional hearing, Congresswoman Ellen Tauscher asked him how deep he thought a bunker buster could go. Here is his answer from the transcript of the House hearing. I quote:

"...a couple of tens of meters maybe. I mean certainly -- I really must apologize for my lack of precision if we in the administration have suggested that it was possible to have a bomb that penetrated far enough to trap all fallout. I don't believe that -- I don't believe the laws of physics will ever let that be true."

And remember, we are talking about a 1-megaton bomb, 71 times the size of the bomb dropped on Hiroshima -- 71 times bigger than the 15-kiloton bomb. The devastation from using such a weapon will be catastrophic.

The National Academies of Sciences study is the strongest evidence to date that we should not move forward with this study and that we should put a stop to it once and for all.

Again, the Senate should listen to the experts and follow the House's lead.

So what is the main argument from opponents of this amendment, such as Secretary of Defense Donald Rumsfeld? Their argument is: This is just a study. Nothing is going to happen. Nobody is going to get the idea: Oh, my goodness, the United States is moving in this direction; we better move. North Korea: They are coming after us; we better get there first. India, worried about Pakistan: Let's begin to develop it. Pakistan, worried about India: Let's do the same thing.

I do not believe for a second this is just a study. This is the beginning of a major effort to develop a new generation of nuclear weapons, and nobody should think it is anything else but that.

This year, the request is \$8.5 million. In fiscal year 2007, the request will increase to \$17.5 million, including \$14 million for the Department of Energy and \$3.5 million for the Pentagon. And while the administration is silent this year on how much it plans to spend on the program in future years, we should not forget that last year's budget request called for spending \$486 million on the robust nuclear earth penetrator over 5 years. So that part of the plan was revealed. This 5-year figure was omitted this year, and that is deceiving, I believe. But even if you accept the argument that this is just a study, that does not justify

moving forward with this program.

First, a study on the development of new nuclear weapons will still greatly undermine our nuclear nonproliferation efforts by telling the rest of the world that when it comes to nuclear weapons, do as we say and not as we do.

That is hypocrisy, pure and simple. How does that make us safer from the prospect of nuclear terror? Answer: It does not.

In a letter to committee members of the Senate Appropriations Committee, the Reverend John H. Ricard, bishop of Pensacola-Tallahassee and chairman of the Committee on International Policy of the U.S. Conference of Catholic Bishops, stated:

Nations that see the U.S. expanding and diversifying our nuclear arsenal are encouraged to seek or maintain nuclear deterrents of their own and ignore nonproliferation obligations.

I could not agree more.

How will a study of new nuclear weapons help compel North Korea to abandon its nuclear program? It will not. It will do exactly the opposite. How will a study of new nuclear weapons help convince the Iranians to respond and give up their own nuclear weapons? Answer: It will not. Just as calling these nations part of the "axis of evil" has done nothing but instill in them the desire to develop their own nuclear

weapons programs. That, in fact, has been exactly the case.

In both cases, a study to develop new nuclear weapons, especially when we already have a robust nuclear arsenal, only makes those weapons more important to those who do not yet have them, such as Iran, or who refuse to give them up, such as North Korea. And the proliferation of nuclear weapons only increases the chances of them falling into the hands of terrorists who will not be deterred by a nuclear bunker buster.

Secondly, a study will not change the conclusions of the National Academies of Sciences report: It is not possible to develop a nuclear bunker buster that can burrow deep enough into the earth to contain massive amounts of radioactivity fallout. The inevitable result will be the deaths of up to a million people.

So why do we do it? Physics says it cannot be done, and somebody in the Pentagon who does not know word one about physics says it can be. Who do I trust? I do not trust the Pentagon, I do trust the Academies of Sciences, on this point. This study will not change that simple fact. And as Ivan Oelrich of the Federation of American Scientists points out:

Any nation that can dig under a hundred meters of hard rock can dig under a kilometer of hard rock.

Our adversaries will only have to build a bunker deeper than 400 meters to avoid the

effects of a 1-megaton bomb that is 71 times bigger than Hiroshima. It makes no sense.

Finally, a study will not change the fact that we need to improve our intelligence capabilities in relation to underground targets. Why aren't we putting that money into intelligence on underground targets, where the vent shafts are, where the aromas come up, where ingress, egress, and access is, to pinpoint locations? What use is a nuclear bunker buster if we cannot locate and identify an underground target which, ladies and gentlemen, is today the case?

What would have been the consequences if we had used a nuclear bunker buster in Iraq to take out bunkers filled with chemical and biological weapons -- that did not exist? The fact is, we can improve our intelligence capabilities and locate and identify targets. We can use conventional weapons with specialized delivery systems to seal off their vulnerable points, such as air ducts and entrances for personnel and equipment.

We can also look at conventional bunker busters. Last month, I was briefed by Northrop Grumman on a program they are working on with Boeing to develop a conventional bunker buster -- the Massive Ordnance Penetrator -- which is designed to go deeper than any nuclear bunker buster and take out 25 percent of the underground and

deeply buried targets. This is a 30,000-pound weapon, 20 feet in length, with 6,000 pounds of high explosive. It will be delivered in a B-2 or B-52 bomber. It can burrow 60 meters in the ground through 5,000 PSI -- pounds per square inch -- of reinforced concrete. It will burrow 8 meters into the ground through 10,000 PSI reinforced concrete.

We have already spent \$6 million on this program, and design and ground testing are scheduled to be completed next year. Why are we doing this nuclear bunker buster that cannot be done according to the law of physics? We should focus on practical programs such as the Northrop Grumman-Boeing program that will put these underground targets at risk without reopening the nuclear door.

Let me look once again at the policies underlying this request.

The 2002 Nuclear Posture Review, which is a white paper put out by the administration -- singularly overlooked by this body but read widely by the rest of the world -- places nuclear weapons as part of the strategic triad, therefore blurring the distinction between the conventional and nuclear use. Why do this? One reason: It makes them easier to use. It also discussed, for the first time, seven countries that could be targets of U.S. nuclear weapons: Russia, China, Iraq, Iran, North Korea, Libya, Syria.

I did not write this. This is in the Nuclear Posture Review.

Other nations have seen this. This is foolish.

Secondly, National Security Directive-17, which came a few months later, indicates that the United States will engage in a first use of nuclear weapons -- a historic statement in itself. We have never said we would not engage in a first use. We have never said we would engage in a first use. And here we say we would engage in a first use to respond to a chemical or biological attack.

We could have done that in Iraq. What would have happened had we done this? Would a nuclear bunker buster have been used in Iraq? I wonder. Fortunately, we will never know.

My point is, these policies encourage other nations to develop similar weapons, thereby putting American lives at risk and our national security interests at risk. This isn't the example we should set for the rest of the world. Indeed, I believe the United States can take several actions to make better use of our resources and demonstrate our commitment to keeping the world's most dangerous weapons out of the world's most dangerous hands.

First, we should work to strengthen the Nuclear Proliferation Treaty. Senator Hagel and I have introduced a sense of the Senate amendment to this bill that calls on parties to the Nuclear Proliferation Treaty to insist on strict compliance with the nonproliferation obligations of

the treaty and to undertake effective enforcement actions against states that are in violation of their obligations; to agree to establish more effective controls on sensitive technologies that can be used to produce materials for nuclear weapons; to accelerate programs to safeguard and eliminate nuclear weapons usable material to the highest standards to prevent access by terrorists or other states; to agree that no state may withdraw from the treaty and escape responsibility for prior violations of the treaty or retain access to controlled materials and equipment acquired for peaceful purposes; and to accelerate implementation of the NPT-related disarmament obligations and commitments that would, in particular, reduce the world's stockpiles of nuclear weapons and weapons-grade material.

I urge my colleagues and the managers of this bill to support our amendment.

Second, we should expand and accelerate Nunn-Lugar threat reduction programs and provide the necessary resources to improve security and take the rest of the Soviet era nuclear, chemical, and biological weapons arsenals and infrastructure out of circulation.

Third, we should strengthen and expand the ability of the Department of Energy's Global Threat Reduction Initiative to secure and remove nuclear weapons-usable materials from

vulnerable sites around the world.

Last year, Senator Domenici and I sponsored an amendment to the fiscal year 2005 National Defense Authorization Act that authorized the Secretary of Energy to lead an accelerated, comprehensive, worldwide effort to secure, remove, and eliminate the threat by these materials.

Finally, as I noted previously, we should improve our intelligence capabilities to locate and identify underground targets. There is a lot of improvement needed.

In August, we will commemorate the 60th anniversaries of the two uses of nuclear weapons on Hiroshima and Nagasaki. In Hiroshima, 140,000 people died. In Nagasaki, 100,000 people lost their lives. Two bombs, 240,000 people dead. The 1-megaton bomb of the robust nuclear earth penetrator study is 71 times bigger than the bomb at Hiroshima. That is what we are looking at. For shame.

What message do we send to the survivors of those attacks and to the friends and families of the victims by moving forward with a study to develop a nuclear bunker buster of 1 megaton? Let us acknowledge these anniversaries and pay tribute to the victims by putting a stop to this program once and for all. Let us work together on commonsense programs that will make our country safer without reopening the nuclear door.

I urge my colleagues to follow the House lead, support this amendment and kill this program.