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Senate

The Senate met at 10 a.m. and was called to order by the Presiding Officer, the Honorable JEAN CARNAHAN, a Senator from the State of Missouri.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Joyous God, in whose heart flows limitless joy, we come to You to receive Your artesian joy. You have promised joy to those who know You intimately, who trust You completely, and who serve You by caring for the needs of others. We agree with Robert Louis Stevenson, ''To miss the joy is to miss everything.'' And yet, we confess that often we do miss the joy You offer. It is so much more than happiness which is dependent on people, circumstances, and keeping things under our control. Sometimes we become grim. We take ourselves too seriously and don't take Your grace seriously enough. Give us the psalmist's assurance about You when he said, ''To God be exceeding joy'' or Nehemiah's confidence, ''The joy of the Lord is my strength'' or Jesus' secret of lasting joy: abiding in Your love.

May this be a day when we serve You with gladness because Your joy has filled our hearts. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEAN CARNAHAN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 19, 2001.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mrs. CARNAHAN thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Madam President, today the Senate will resume consideration of the Energy and Water Appropriations Act. Cloture was filed on this bill yesterday evening. Unless further agreement is reached, the Senate will vote on cloture on this matter Friday morning.

The majority leader requested that I express to the Senate the fact that we will be voting into the afternoon on Friday unless we are able to move more quickly than we have the last couple of days.

I remind everyone that in addition to being on the finite list, which has already been filed, all first-degree amendments on the energy and water bill must be filed before 1 p.m. today.

We still hope we can reach agreement and complete action on the energy and water bill this morning. We also hope to reach agreement on considering a number of Executive Calendar nominations and begin work on any available appropriations bill and also work on the Graham nomination, which is something the majority leader wants to move to as quickly as possible.

MEASURE PLACED ON THE CALENDAR—H.J. RES. 36

Mr. REID. Madam President, it is my understanding that there is a bill at the desk due its second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 36) proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

Mr. REID. Madam President, I object.

The ACTING PRESIDENT pro tempore. Under the rule, the resolution will be placed on the calendar.

RECESS

Mr. REID. Madam President, I ask unanimous consent that the Senate stand in recess until 10:30 this morning.

There being no objection, the Senate, at 10:05 a.m., recessed until 10:30 a.m. and reassembled when called to order by the Acting President pro tempore (Mrs. CARNAHAN).

Ms. MIKULSKI. Good morning, Madam President.

I ask unanimous consent to speak as in morning business.

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

The Senator from Maryland is recognized.

TRIBUTE TO KATHARINE GRAHAM

Ms. MIKULSKI. Madam President, I rise to speak today to pay tribute to the life and legend of Katharine Graham. It is as if the Washington Monument has fallen. It is as if the lights have gone out at the Smithsonian Institution or the lights have gone out at the Lincoln Memorial. I

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

truly cannot imagine Washington without Kay Graham. She was a Washington institution, a very real person with a remarkable mix of qualities. Much has been said about her grace, her grit, her steel, her great intelligence.

Kay Graham put those qualities into action. She lived an extraordinary life and left an indelible mark on our Nation.

I know the Presiding Officer liked Kay Graham because she took chances. Perhaps one of the greatest chances she took was when she actually took the helm of the Washington Post. Think about it. It was 1963. It was not a time when women did bold things, power things, and they certainly were not on the rung of leadership to be CEOs. She was a woman who had faced an enormous personal tragedy. But as she reflected on where she was, where her family was, and where this newspaper was, she decided to take the helm.

She was initially a reluctant leader, thrown into a leadership position because of the death of her husband. In embracing a leadership position, she set about hiring the very best people and giving them the independence to create one of the greatest newspapers in the world.

She built a Fortune 500 company. And guess what. She became the first woman to head a Fortune 500 company.

There were other firsts for Katharine Graham as well. She was the first director of the Associated Press, the first woman to lead the American Newspaper Publishers Association. I could go through a whole list.

Now we take for granted that women will lead, that women will be in positions of leadership in the private sector and in the public sector. We now enjoy the fact that there are 13 women in the Senate. We have women as university presidents, Governors, and CEOs from dot coms to leaders of the old economy. Yet we cannot forget how hard it was to be the first because for the first and the only, it is also being the first and the lonely.

What Katharine Graham did was involve other people in her life and in her family and in creating that institution.

She was known for probably two great milestones in the history of journalism. She made the courageous decision to print the Pentagon Papers, which gave us this view on the Vietnam war, and then she rigorously pursued the Watergate story.

It is said that men in the highest of power just cringed at the name of Katharine Graham, the Washington Post, Ben Bradlee and the team that he assembled. The highest levels of Government tried to suppress these stories. They used threats. They used intimidations. Katharine Graham did not flinch nor did she falter. The Washington Post and Kay Graham stood firm.

Katharine Graham knew her role was to print the truth, no matter what the impact would be. She truly changed the course of history.

Mrs. Graham's actions reinforced the fact that the freedom of speech cannot be abridged—especially by our own Government.

While she hired gifted and talented reporters and editors, she herself did not take up the pen until 1997 when she wrote a book called her ''Personal History.'' Her autobiography struck a chord even with people who cared nothing about the ways of Washington. In it she had wonderful stories about historic figures. She also showed that she herself was a gifted and talented writer, going on to win the Pulitzer Prize. So much for being a shy, awkward debutante of 40 years before.

What really resonated was the story about a woman who faced crises and confronted them with courage and dignity. I know the Presiding Officer has experienced some of the same. We all cheered when Kay won that Pulitzer Prize because we knew she deserved it and we were proud of her.

I was deeply grateful for a chance she took on me. In 1986 I was running for the U.S. Senate. I was viewed by some as a long shot. The Washington insiders said I did not look the part, and they were not sure that I could act the part. But as history has shown, I got the part. One of the reasons I got the part was because of the endorsement of the Washington Post.

I will be forever grateful to have gotten the Washington Post endorsement in both my primary and the general. Meg Greenfield—the wonderful and special friend, Meg Greenfield—felt that I had the qualities to become the first Democratic woman ever elected to the U.S. Senate in her own right.

I just want to say that Kay Graham, this wonderful blue-blooded lady, welcomed a blue-collar spitfire. And for that I will always be grateful. When I came to the U.S. Senate, I came with her endorsement and her welcome. It is something I treasured in those years as she introduced me to people.

She had me in her home. I had a chance to be at those great parties she had to essentially get started in my own life in Washington. But the story that I want to recall is one that is very special to me in which I participated with her. It was 1987. The late Pamela Harriman was asked to host a lunch at her home for Raisa Gorbachev to introduce her to ''women of distinction.'' Dobrynin had called Mrs. Harriman to host this luncheon. Mrs. Harriman called me. And guess who else was on the list? My colleague, Senator Nancy Kassebaum—there were only two of us in the Senate then—Kay Graham of the Washington Post, Sandra Day O'Connor, at that time the only woman on the Supreme Court, and Dr. Hanna Grey, the president of the University of Chicago.

What an incredible lunch. First of all, we were the talk of Washington, and we were the talk of the world. Raisa was trying to woo America to show that Soviet women were smart and fashionable. And she chose as her venue the Pamela Harriman lunch.

I tried to engage her, in her dissertation on what life was like on the collective farm, as two sociologists. We talked about life and times. But the hit of the lunch was Kay Graham and the way she engaged Raisa Gorbachev. Under Kay Graham's incredible graciousness, courtesy, manners, and charm was one ace investigative reporter. While the rest of us were talking and engaging in intellectual conversation, Mrs. Graham began to engage Mrs. Gorbachev in these kinds of questions: What is it like to be the functional equivalent of the First Lady in the Soviet Union? What was your surprise when you came to power? What do you find it like as in the life of a woman?

I wish you could have heard the late Mrs. Gorbachev's answers. We saw a side of Raisa Gorbachev we didn't know: a woman who saw herself as a scholar, coming to power with a man who had been the head of the Department of Agriculture, that they were changing world history. She was shocked by the number of letters she received, the way the Soviet women had reached out to her, one on one.

We heard that Raisa story because of the way Kay Graham talked to her. It was a very special afternoon. I got to know Mrs. Gorbachev a lot better. Do you know who else I got to know a lot better? Kay Graham. She had world leaders at her feet and at her side. But most of all, she had the gratitude of leaders who knew that at the Washington Post there was a great leader who was willing to meet with other leaders but, no matter what, she said to print the truth and call them the way she saw them.

I am sorry that Kay Graham has been called to glory. God bless her, and may she rest in peace. She has left a legacy that should be a benchmark, a hallmark, and a torch for every other newspaper in America, for all of us who hold leadership, and for we women who are in power. May we be as gracious and as unflinching in our duties as Kay Graham.

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

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

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

RECESS

Mr. REID. Madam President, I ask unanimous consent the Senate stand in recess until 12:15 today, and at that time I be recognized.

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

Thereupon, the Senate, at 11:20 a.m., recessed until 12:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. LANDRIEU.)

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002—Resumed

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 2311, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada is recognized.

RECESS

Mr. REID. Madam President, I ask unanimous consent the Senate stand in recess until 1:30 p.m. today, and that I be recognized at 1:30 p.m.

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

Thereupon, the Senate, at 12:16 p.m., recessed until 1:30 p.m. and reassembled when called to order by the Presiding Officer (Mrs. LINCOLN).

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT 2002—Resumed

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, with respect to rule XXII, I ask unanimous consent that Members with amendments on the finite list of amendments to the energy and water appropriations bill have until 2 p.m. today to file first-degree amendments, except for the managers' package, which has been agreed to by both managers and by both leaders.

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

Mr. REID. Madam President, I ask unanimous consent to briefly speak as if in morning business.

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

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

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

AMENDMENT NO. 1024

Mr. REID. Mr. President, I send the managers' amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. DOMENICI, proposes an amendment numbered 1024.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. SARBANES. Mr. President, the purpose of my amendment is to address the very serious problem of shoreline erosion and sedimentation which are adversely impacting the health of the Chesapeake Bay watershed. There are approximately 7,325 miles of tidal shoreline along the Chesapeake Bay and its tributaries. In an average year, it is estimated that 4.7 million cubic yards of shoreline material are deposited in the bay due to shoreline erosion. The results not only in serious property damage, but also contributes millions of cubic yards of sediment annually to the bay. This sediment adversely affects the bay's water quality, destroys valuable wetlands and habitat and clogs the bay's navigational channels.

The Army Corps of Engineers operates thirteen reservoirs on the upper Susquehanna River and regulates the river's low and high water flows. There are also four hydroelectric projects on the lower Susquehanna. Under normal conditions, these reservoirs and dams serve as traps for the harmful sediments which flow into the River. During major storms however, they suddenly discharge tremendous amounts of built-up sediments, severely degrading the water quality of the Chesapeake Bay, destroying valuable habitat and killing fish and other living resources. Scientists estimate that Tropical Storm Agnes in 1982 ''aged'' the bay by more than a decade in a matter of days because of the slug of sediments discharged from the Susquehanna River reservoirs. There is a real danger that another major storm in the basin could scour the sediment that has been accumulating behind these dams and present a major setback to our efforts to clean up the bay.

Chesapeake 2000, the new interstate Chesapeake Bay Agreement, has identified control of sediment loads as a top priority for improving the water quality of the bay. The agreement specifically calls for load reductions fro sediment in each major tributary by 2001 and for implementing strategies that prevent the loss of the sediment retention capabilities on the lower Susquehanna River dams by 2003.

Unfortunately, our understanding of the sediment processes and sources of sediments which feed the bay system is still very limited and, to date, few efforts have been undertaken to address the environmental impacts of shoreline erosion and sedimentation on the bay. In 1990, the Army Corps of Engineers completed a study on the feasibility of shoreline erosion protection measures which could protect both the land and water resources of the Chesapeake Bay from the adverse effects of continued erosion but, due to limited authorities, no Federal construction action was recommended at the time. However, the report recommended that the Corps pursue further studies including developing and refining ecosystem models to provide a better understanding of the environmental impacts of sedimentation and sediment transport mechanisms and identifying priority deposition-prevention areas which could lead to structural and non-structural environmental enhancement initiatives.

On May 23, 2001, the Senate Environment and Public Works Committee, approved a resolution which I sponsored together with Senators WARNER and MIKULSKI, directing the Secretary of the Army to review the recommendations of the Army Corps of Engineers' 1990 Chesapeake Bay Shoreline Erosion Study and other related reports and to conduct a comprehensive study of shoreline erosion and related sediment management measures which could be undertaken to protect the water and land resources of the Chesapeake Bay watershed and achieve the water quality conditions necessary to protect the bay's living resources.

The resolution called for the study to be conducted in cooperation with other Federal agencies, the State of Maryland, the Commonwealth of Virginia, and the Commonwealth of Pennsylvania, their political subdivisions and the Chesapeake Bay Program. It also directed the Corps to evaluate structural and non-structural environmental enhancement opportunities and other innovative protection measures in the interest of environmental restoration, ecosystem protection, and other allied purposes for the Chesapeake Bay.

The funding which my amendment would make available, would enable the Corps of Engineers to initiate this study and begin to assess alternative strategies for addressing the shoreline erosion/sedimentation problem in the bay. As the lead Federal agency in water resource management, the Army Corps of Engineers has an important role to play in the restoration of the Chesapeake Bay. The results of this study could benefit not only the overall environmental quality of the Chesapeake Bay, but improve the Corps' dredging management program in the bay.

I urge my colleagues to join me in supporting this amendment.

Mr. WARNER. Mr. President, I rise in favor of an amendment on behalf of myself, Senator SARBANES and Senator ALLEN relating to the ongoing effort by the Corps of Engineers, the Commonwealth of Virginia and the State of Maryland to give new life to the Chesapeake Bay oyster.

Since 1996, the Corps of Engineers has joined with Maryland and Virginia to provide oyster habitat in the Chesapeake Bay. This partnership has stimulated significant financial support from

Virginia and Maryland, dollars from the non-profit Chesapeake Bay Foundation, and many individuals.

The oyster, once plentiful in the Bay, has been ravaged by disease, over-harvesting and pollution. Oyster populations in the Bay are nearly non-existent at 99 percent of its traditional stock. In 1999, watermen landed about 420,000 bushels—approximately 2 percent of the historic levels.

Since the beginning of the joint federal-state Chesapeake Bay Restoration program in 1983, we have learned that restoring healthy oyster populations in the Bay is critical to improving water quality and supporting other finfish and shellfish populations. According to scientists, when oyster populations were at its height, they could filter all of the water in the Bay in three to four days. Today, with the depleted oyster stocks, it takes over one year.

Although it took a long time to develop, there is now consensus in the scientific community, and among watermen and the Bay partners that increasing oyster populations by tenfold over the next decade is a key factor in restoring the living resources of the Bay. Using historic oyster bed locations, owned by the Commonwealth, this federal-state effort has built three-dimensional reefs, stocked them with oyster spat and designated these areas as permanent sanctuaries. These protected areas, off limits to harvesting, have shown great promise in producing oysters that are ''disease tolerant'' which are reproducing and building up adjacent oyster beds.

The new Chesapeake Bay 2000 Agreement, between the federal government and the Bay states, calls for increasing oyster stocks tenfold by 2010, using the 1994 baseline. This goal calls for constructing 20 to 25 reefs per year at dimensions where the reefs rise about the Bay bottom so that young oysters survive and grow faster than silt can cover them.

Mr. President, with the funding provided last year to the Corps and the additional state funds, there is now an active oyster reef construction program underway in both Virginia and Maryland.

My amendment today recognizes the significant allocation of state scientists and state programs that devote their time and resources to the oysters restoration partnership. Integral to the entire project is the state effort to map the large oyster ground areas to determine those sites most suitable for restoration, and to provide suitable shell stock.

For example, in Virginia the focus of the next oyster reef construction area is on the large grounds in Tangier and Pocomoke Sounds. State Conservation and Replenishment Department staff created maps that were gridded and more than 3,000 acres were sampled and evaluated. Eight sanctuary reef sites and more than 190 acres of restorable harvest areas were identified during the oyster ground stock assessment in this area earlier this year.

In preparation for reef construction this summer, Virginia contracted with local watermen to clean the harvest areas and reef sites. In June of this year, four areas were planted with 86,788 bushels of oyster shells at a cost of $139,000 in state funds.

The State of Maryland has been equally committed to providing resources to the Corps for the construction of reef sites in the Maryland waters of the Bay.

Consistent with other Corps programs, my amendment permits the Corps to recognize the strong partnership by the states to restore oyster populations and provide credit toward the non-federal cost share for in kind work performed by the states.

This federal-state sanctuary program is essential to restoring the Chesapeake Bay oyster. The oyster is a national asset because it has the capability to purify the water by filtering algae, sediments and pollutants. Sanctuary oyster reefs also provide critical habitat to other shellfish, finfish and migratory waterfowl.

It has been my privilege to see the construction of these sanctuary reefs last April and I am encouraged by the success of the initial reefs built in Virginia. I am confident that this program is the only way to replenish—and to save—the Chesapeake Bay oyster. I respectfully urge its adoption.

Ms. SNOWE. Mr. President, I rise to thank Senators REID and DOMENICI for including the Snowe-Collins amendment in the Fiscal Year 2002 Energy and Water Development Appropriations today to help the Town of Ft. Fairfield, ME. My amendment should resolve a serious design problem that has arisen in connection with the construction of a small flood control levy project in Ft. Fairfield, which is located above the 46th parallel in Northern Maine, where the river freezes every fall and stays frozen well into spring.

The proper functioning of the levy is vital to the town's economic viability and for protection against future flooding of the downtown area. My amendment should allow the Army Corp of Engineers to assume financial responsibility for a design deficiency in the project relating to the interference of ice with pump operation so that there will be no further and inappropriate cost to the Town.

My amendment calls for the Secretary of the Army to investigate the flood control project and formally determine whether the Secretary is responsible. Since the Corps has already assumed responsibility for the design deficiency, the Secretary will then order the design deficiency to be corrected at 100 percent federal expense.

Once again, I thank the Chairs for their continued support for the levy project in Ft. Fairfield over the years, and I am pleased that the town will now have the assurance that their flooding problems are behind them and can go forward with their economic development plans for their downtown area.

Mr. REID. Mr. President, I ask unanimous consent that the amendment submitted by Senators REID and DOMENICI be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 1024) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

Mr. SPECTER. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SARBANES. Mr. President, I ask unanimous consent to proceed as in morning business for 4 minutes.

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

(The remarks of Mr. SARBANES are located in today's RECORD under ''Morning Business.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, I seek permission to speak for up to 10 minutes as if in morning business.

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

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

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

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names: Mr. DOMENICI, Mr. NELSON of Nebraska, and Mr. REID.

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. REID. Therefore, Mr. President, I move to instruct the Sergeant at Arms to request the presence of absent Senators. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion of the Senator from Nevada. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Nevada (Mr. ENSIGN) is necessarily absent.

The result was announced—yeas 76, nays 23, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—76

Akaka	Edwards	Lincoln
Baucus	Enzi	Lugar
Bayh	Feingold	McConnell
Biden	Feinstein	Mikulski
Bingaman	Fitzgerald	Miller
Boxer	Frist	Murray
Burns	Graham	Nelson (FL)
Byrd	Grassley	Nelson (NE)
Campbell	Gregg	Nickles
Cantwell	Hagel	Reed
Carnahan	Harkin	Reid
Carper	Hatch	Rockefeller
Chafee	Helms	Santorum
Cleland	Hollings	Sarbanes
Clinton	Hutchinson	Schumer
Cochran	Inouye	Shelby
Conrad	Jeffords	Smith (OR)
Corzine	Johnson	Stabenow
Craig	Kennedy	Stevens
Daschle	Kerry	Thurmond
Dayton	Kohl	Torricelli
DeWine	Kyl	Warner
Dodd	Landrieu	Wellstone
Domenici	Leahy	Wyden
Dorgan	Levin	
Durbin	Lieberman	

NAYS—23

Allard	Crapo	Sessions
Allen	Gramm	Smith (NH)
Bennett	Hutchison	Snowe
Bond	Inhofe	Specter
Breaux	Lott	Thomas
Brownback	McCain	Thompson
Bunning	Murkowski	Voinovich
Collins	Roberts	

NOT VOTING—1

Ensign

The motion was agreed to.

The PRESIDING OFFICER (Mr. CORZINE). A quorum is present.

The majority leader.

Mr. DASCHLE. Mr. President, for the information of our colleagues, we are now prepared to go to third reading on the energy and water appropriations bill. Senator LOTT and I and Senator DOMENICI and others have been working on what we will do following the completion of our work on energy and water. Unless there is an objection, I think this would be an appropriate time to complete our work on that bill. Senator LOTT and I will have further announcements as soon as we complete our work on this particular bill.

At this time, it would be my suggestion we go to third reading and final passage.

The PRESIDING OFFICER. The Senator from Nevada.

MODIFICATION TO AMENDMENT NO. 1024

Mr. REID. Mr. President, I ask unanimous consent that the managers' amendment be modified with the language I send to the desk.

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

The modification is as follows:

On page 7, line 6, strike the period and insert the following: '': *Provided further*, That within the fund's provision herein, $250,000 may be used for the Horseshoe Lake, AR, feasibility study.''

At the appropriate place, insert the following: ''*Provided further*, That the project for the ACF authorized by section 2 of the Rivers and Harbor Act of March 2, 1945 (Public Law 79–14; 59 Stat. 10) and modified by the first section of the River and Harbor Act of 1946 (60 Stat. 635, Chapter 595), is modified to authorize the Secretary, as part of navigation maintenance activities to develop and implement a plan to be integrated into the long term dredged material management plan being developed for the Corley Slough reach as required by conditions of the State of Florida water quality certification, for periodically removing sandy dredged material from the disposal area known as Site 40, located at mile 36.5 of the Apalachicola River, and from other disposal sites that the Secretary may determine to be needed, for the purpose of reuse of the disposal areas, by transporting and depositing the sand for environmentally acceptable beneficial uses in coastal areas of northwest Florida to be determined in coordination with the State of Florida: *Provided further*, That the Secretary is authorized to acquire all lands, easements, and rights of way that may be determined by the Secretary, in consultation with the affected state, to be required for dredged material disposal areas to implement a long term dredge material management plan: *Provided further*, That the long term management plan shall be developed in coordination with the State of Florida no later than 2 years from the date of enactment of this legislation: *Provided further*, That, $5,000,000 shall be made available for these purposes and $8,173,000 shall be made available for the Apalachicola, Chattahoochee and Flint Rivers Navigation.''

FUNDING FOR BEACH REPLENISHMENT PROJECTS

Mr. TORRICELLI. Mr. President, I rise to ask the distinguished managers of the bill if they would consider a request that I and my colleague from New Jersey have concerning the conference.

Mr. REID. I would be happy to accommodate my colleagues from New Jersey.

Mr. TORRICELLI. I thank the Senator from Nevada. Mr. President, I am very pleased to see that the fiscal year 2002 Energy and Water Appropriations bill makes appropriations for many important water resources projects throughout the country. In particular, the Army Corps of Engineers budget includes $1.57 billion in construction funding for important dredging, flood control, and beach replenishment projects, many of which are in my State.

We are extremely grateful that the subcommittee has provided New Jersey with sorely needed funds. And while we understand that the committee has appropriated projects with limited funds, we ask that should funds be made available during conference, that they would consider funding beach replenishment new construction starts. There are several new start projects in my State which are in desperate need of funding, and I would like to draw your attention to several of these projects, and ask that the chairman and ranking member of the subcommittee consider funding for these projects. I cannot stress how vital these projects are to the economies of my State, the region, and our Nation.

Mr. CORZINE. Mr. President, New Jersey's 127 miles of beaches are wide and inviting, dotted with sand dunes and boardwalks offset by a rollicking blue surf and white, warm sand. From Sandy Hook to Cape May Point, one hundred and sixty million people visit New Jersey beaches per year. These visitors generate the bulk of the tourism industry in New Jersey, which is the backbone of my State's economy. Spending by tourists totaled $26.1 billion in New Jersey in 1998, a 2 percent increase from $25.6 billion in 1997. Clearly, our beaches are our lifeblood, and their health is paramount.

This year, there are five new start beach replenishment projects that are in critical need for Federal funding. These projects: the Lower Cape May Meadows, the Brigantine Inlet to Great Delaware Bay Coastline—Oakwood Beach, the Delaware Bay Coastline—Villas and Vicinity, are vital to fighting beach erosion and protecting the tourist economy for South Jersey. My fear is that if Federal funds are not immediately directed to protect these beaches, they will literally disappear in the future.

Mr. TORRICELLI. While we recognize the difficulties involved in providing funding for new starts, we cannot stress how important the construction phase for these projects begin as soon as possible. I would like to note that all of these projects have been authorized by the Water Resources Development Act.

The economy of the region depends directly upon the health of its beaches. Unless construction begins in fiscal year 2002, I am concerned that the economies of the beach-towns within the scope of these projects will be seriously damaged.

Mr. REID. I thank the Senators from New Jersey and assure them that the committee recognizes the importance of protecting our beaches throughout the country.

JENNINGS RANDOLPH LAKE PROJECT

Mr. SARBANES. Mr. President, I would like to clarify that it is the committee's intent that the additional $100,000 provided in the Army Corps of Engineers' operations and maintenance account for the Jennings Randolph Lake project will be used to develop access to the Big Bend Recreation area on the Maryland side of the Jennings Randolph Lake immediately downstream from the dam.

Mr. REID. The Senator is correct. The committee has provided an additional $100,000 for planning and design work for access to the Big Bend Recreation Area located immediately downstream of the Jennings Randolph dam.

Mr. SARBANES. I thank the chairman for these assurances. There is

great demand for additional camping, fishing, and white water rafting opportunities particularly in the area just below the dam, known as Big Bend, and these funds will be very helpful in developing access to this area.

GREAT LAKES DRILLING STUDY

Ms. STABENOW. Mr. President, as the Senator from Nevada knows, the Senate adopted the Stabenow-Fitzgerald-Levin-Durbin amendment which would require an Army Corps of Engineers study on drilling in the Great Lakes and place a moratorium on any new drilling until Congress lifts it in the future.

It is clear that Congress has jurisdiction over Great Lakes drilling because it constitutes interstate commerce under the commerce clause of the Constitution. This constitutes interstate commerce under the Commerce clause of the Constitution for several reasons. One reason is that an environmental accident such as the release of crude oil into the waters of one or more of the Great Lakes would negatively affect the water quality, tourism and fishing industries and shorelines of multiple Great Lakes states. Another reason is that oil and gas extracted from one Great Lakes states would be transported and sold in other states in the form of many products. It would also increase the national supply of oil and gas.

For these reasons, there is not doubt that Congress has Federal jurisdiction over drilling in the Great Lakes and can put a stop to it.

Would the distinguished Chairman of the Energy and Water Subcommittee, and the author of this bill, agree with this interpretation of the Commerce clause?

Mr. REID. I totally agree that Congress has jurisdiction over drilling in the Great Lakes because it constitutes interstate commerce under the commerce clause of the Constitution.

Ms. STABENOW. I thank the distinguished chairman of the subcommittee.

KOOTENAI RIVER STURGEON

Mr. CRAIG. Mr. President, I rise today to express my deep concern over the control of water levels of the Kootenai River in and around Bonners Ferry, ID, related to the Kootenai Sturgeon. The Kootenai River is directly influenced by the operations of the Libby Dam as operated by the Army Corps of Engineers. This area has also been defined as critical habitat for the Kootenai Sturgeon.

Will the distinguished Senators from Nevada and New Mexico engage in a colloquy with me concerning the Kootenai River Sturgeon?

Mr. REID. I will be pleased to engage in such a colloquy.

Mr. DOMENICI. As am I.

Mr. CRAIG. The U.S. Fish and Wildlife Service is in the final stages of the biological opinion reporting on the Kootenai Sturgeon. I feel this document is severely flawed. In the assessment, the economic impact is determined to have ''no effect'' because the area of study is 11 miles of river bottom. As there is no economic activity on the river bottom, I understand the conclusion of the biological opinion. However, I believe the area studied by the economic impact should be the communities affected by any changes in the operations of the Kootenai River.

The biological opinion states that the river should be operated above 1,758 feet to support increased flows for Kootenai Sturgeon. Various studies exist that dispute this number as being correct. When the river is operated above an elevation of 1,758 feet, the water table in the surrounding area rises. As a result, farmers in the area lose crops. I argue this action is a significant economic impact.

I feel the U.S. Fish and Wildlife Service should examine a realistic area as part of their economic impact analysis—that is the area in which an economic impact occurs. Before decisions are made that drastically affect communities, all of the factors should be considered.

Mr. REID. I feel that the issues the Senator from Idaho raises are of a concern, and I want to work with him to see that a solution is found.

Mr. DOMENICI. The Endangered Species Act has also significantly affected areas of my State. I want to work with the Senator from Idaho to find a solution to this issue and provide help for the affected communities.

FUNDING FOR THE GREEN BROOK SUB-BASIN PROJECT

Mr. TORRICELLI. Mr. President, the fiscal year 2002 energy and water appropriations bill provides appropriations for many important water resources projects for the state of New Jersey. I understand that these appropriations were made with limited funds and I am deeply grateful for the support the Committee has provided to many of my requests. However, there is an important New Jersey project that was not fully appropriated and we respectfully ask the managers that if funds should be made available during conference, that they consider fully funding the President's budget request for the Green Brook Sub-Basin.

As you may know, flooding caused by Hurricane Floyd in 1999 caused tremendous damage to the state of New Jersey—especially to the town of Green Brook and the surrounding region. It is estimated that the flooding caused $6 million of damage to the region alone. Unfortunately, the floods from Hurricane Floyd were not the first to have struck the area. Records have shown that floods have continuously struck this area as early 1903. Disastrous flooding to the basin in the summer of 1971 and in the summer of 1973—in which six people were killed.

The Green Brook Sub-Basic project, which is located in north-central New Jersey and spans throughout three counties, began in 2000. The project will construct flood levees and flood walls, bridge raisings, closure structures, individual flood proofings, and buyouts. As you can imagine, the completion of this project will provide needed relief and bring economic revitalization to the region.

The House of Representatives has already fully funded the project for fiscal year 1002.

Mr. CORZNE. Mr. President, I support my colleague from New Jersey's request and on our behalf, we would like to raise an additional issue with the project. We also urge that the Committee Report language that directs the Secretary of the Army to implement the locally requested plan in the western portion of Middlesex County with regards to the Green Brook Sub-Basin projects to be included in the Energy and Water conference report. Many of the local residents that are affected by the Green Brook Sub-Basin project have expressed their interest in changing the project to include buyouts for this area. The report language will implement the change as well as provide lands for badly needed recreation and as well as fish and wildlife habitat enhancement. We are support this language and the House has included similar language in their committee report.

Mr. TORRICELLI. Mr. President, I understand the difficulty the managers will have in providing additional funds for the Green Brook Sub-Basin project. However, the full funding of this project will provide stability and economic revitalization to this very important region in the state of New Jersey.

Mr. REID. I thank the Senators from New Jersey and assure him that the committee will closely review his request.

SEWER INFRASTRUCTURE FUNDING FOR MICHIGAN

Mr. LEVIN. Mr. President, as the Senate considers the fiscal year 2002 appropriations Act for Energy and Water Development I wonder if the distinguished Senator from Nevada would answer a question regarding funding for environmental infrastructure.

I would like to know if the Senator would be willing to consider in conference sewer infrastructure funding for Michigan projects. The need to invest in sewer infrastructure is an urgent one facing the people of Michigan and the Army Corps of Engineers is in a position to address that need. The Army Corps has had many success stories throughout the country in assisting communities in upgrading their sewer infrastructure. I would greatly appreciate the Committee's assistance in protecting water quality in Michigan by addressing this problem.

Mr. REID. We recognize the need to upgrade our aging infrastructure to protect water quality throughout the Nation. I can assure my friend that we will carefully consider his request in conference if indeed the Conference committee is able to fund construction new starts and environmental infrastructure projects at conference, as we have done in the past.

Mr. LEVIN. I thank my friend from Nevada and the committee for their hard work in putting together this important legislation.

SOUTH DAKOTA WATER PROJECTS

Mr. JOHNSON. I thank the Senator from Nevada for his leadership and cooperation in providing funding in the fiscal year 2002 Energy and Water Appropriations bill for key South Dakota rural water projects and priorities. As chairman of the Energy and Water Subcommittee, he has provided funding above the President's request and the House approved level for the Mni Wiconi Rural Water Project and the Mid-Dakota Rural Water Project. Moreover, the Senator funded other important water projects in South Dakota such as the Lewis and Clark Rural Water System. Indeed, his commitment will benefit many South Dakotans.

Mr. REID. I say to my colleague from South Dakota that I appreciate his efforts to work with me on this bill. As a new member of the Senate Appropriations Committee, I know the Senator is a leader in advocating increased investments for rural water projects in your State. I also understand the importance of rural water projects to the citizens of South Dakota and I look forward to continued cooperation on these and other priorities.

Mr. JOHNSON. I thank the Senator from Nevada for his assistance and recognition of South Dakota's rural water needs. Despite the high priority given to provide funding for these South Dakota water projects, two critical items remain important to me as the Senate works to complete action on the FY02 Energy and Water Appropriations bill in its upcoming conference with the House of Representatives.

First, the Mid-Dakota Rural Water Project is in need of an increase in funding to ensure the timely delivery of safe, clean, and affordable water to citizens and communities served by that project. Second, the James River Water Development District—a subdivision of State government in South Dakota—requires funding to complete an Environmental Impact Statement on authorized projects along the James River watershed before the JRWDD can commence continued channel restoration and improvements authorized by section 401(b) of the Water Resources Development Act of 1986 (100 Stat. 4128).

I respectfully request the Chairman's committing to review opportunities in conference committee negotiations on the FY02 Energy and Water Appropriations bill to consider additional funding for the Mid-Dakota Rural Water System and to consider funding for the JRWDD to complete an EIS.

Mr. REID. I express to Senator JOHNSON my desire to consider opportunities in conference committee negotiations on the FY02 Energy and Water Appropriations bill to increase funding for the Mid-Dakota Rural Water Project and to fund the James River Water Development District in South Dakota.

Mr. JOHNSON. I thank the Senator.

ESTUARY RESTORATION ACT

Mr. CHAFEE. Mr. President, I would like to engage the managers of he fiscal year 2002 Energy and Water Development Appropriations bill on the issue of funding for the Estuary Restoration Act. Along with Senators WARNER, LIEBERMAN, and SMITH of New Hampshire, I have offered an amendment that would provide $2 million in funding for the implementation of the Estuary Act. Enacted last year, this bipartisan law establishes the Estuary Habitat Restoration Program with the goal of restoring one million acres of estuary habitat. We understand the budgetary constraints that the Appropriations Committee is operating under as this bill is being considered by the Senate. It is my hope that the managers can identify funding for the implementation of the Estuary Restoration Act during the conference with the House.

Mr. DOMENICI. I commend Senators CHAFEE, WARNER, LIEBERMAN, and SMITH of New Hampshire for their dedication to the issue. I will work with my colleagues during the conference with the House to identify potential sources of funding for the Estuary Restoration Act.

Mr. REID. I concur with Senator DOMENICI. There is no objection on this side of the aisle to the Senator from Rhode Island's request.

Mr. CHAFEE. I thank the Senators and look forward to working with the committee to provide funding for the restoration of our Nation's important estuary environments.

SMALL WIND PROJECTS

Mr. JEFFORDS. Mr. President, I thank my colleague from Nevada, Senator REID, for recognizing the important role small wind projects play in our energy future. As my colleague knows, the State of Vermont has been looking at the use of small wind projects. I appreciate the efforts of my colleague to provide $500,000 for a small wind project in Vermont.

Mr. REID. Small wind projects are an important source of energy for rural areas that often are not connected to the electricity grid. Both Vermont and Nevada have a number of these areas that benefit from this reliable, sustainable, clean source of energy.

Mr. JEFFORDS. To ensure that these systems, which have power capacities of less than 100 kilowatts, continue to play an important role, the committee recognized the need for a set aside for small wind programs. It is correct that the committee believes that not less than $10 million shall be made available for new and ongoing small wind programs?

Mr. REID. This is correct. The committee believes this research is important, and the Department of Energy should set aside no less than $10 million for these programs.

Mr. JEFFORDS. I thank my colleague for his support of these important small wind energy projects, and I thank him for has continued leadership in making sure that renewable energy will be a large part of our energy mix.

TRANSMISSION RELIABILITY

Mr. DORGAN. Mr. President, I rise to express my strong support for the electric energy systems and storage program that funds transmission reliability. Improving the reliability of our Nation's transmission system is absolutely critical. I note that while the President's budget request substantially cuts funding for this critical program, the Senate has increased the funding from approximately $52 million last year to $71 million this year. Transmission reliability is critical to ensure that our nation's electricity supply actually reaches states and, ultimately, the homes and businesses where it is needed. We have seen in California, New York, and elsewhere, that when we don't have sufficient supply and transmission capacity, we experience blackouts and brownouts that have significant detrimental impacts on our economy.

We need to use this money to test new technologies—specifically Composite Conductor wire—that have the ability to dramatically increase the efficiency of existing transmission wires. This type of wire eliminates the need for new wires, new rights-of-way, and new construction, which eliminates siting and permitting problems and related potential environmental impacts. We need to actually test this wire in different climatic and weather conditions to determine the efficacy of using this technology on a larger scale. To this end, I would suggest to the Subcommittee that it provide funds to actually conduct field tests to achieve these objectives.

Mr. REID. I agree that we need to conduct such field tests. I know that the Senator from North Dakota would like a field test in North Dakota, which would be extremely valuable, with the State's cold and wind conditions, to help determine the effectiveness of this technology. I will work with the Senator in conference to address his request to test this technology in the field.

RENEWABLE ENERGY RESEARCH

Mr. ALLARD. Mr. President, I thank the Senator from Nevada, and I commend him for his efforts to promote the advancement and progress of renewable energy sources that will help to address our energy challenges. He has been a leader of these efforts, which are bearing real fruit.

This bill actually increases renewable energy research, development and deployment programs for fiscal year 2002 by $60 million over last year. These increases will help speed the deployment of these cutting-edge technologies.

But because the House had not fully funded certain solar R&D programs, the committee put its emphasis for solar programs on those programs that had not fared as well in the other

Chamber. These programs, the Concentrating Solar Power program, and the Solar Buildings program with its innovative Zero Energy Buildings initiative, are now on solid footing. But the photovoltaics program, the program that has led to dramatic advances in those solar electric panels that we see popping up on the roofs of homes and businesses across the country—this program was not fully funded by the Committee. Much of this funding goes to the National Renewable Energy Lab in Golden, Colorado.

I understand the committee hopes to accept the House number for PV programs in conference, and I just want to give the Senator from Nevada an opportunity to speak to this issue.

Mr. REID. I thank the Senator from Colorado. Yes, it is our intention to seek the House funding level for photovoltaics in conference, and push for our funding level for CSP and solar buildings. All three solar programs deserve increases from the current fiscal year, and we intend to see this through in conference. I thank the Senator for his work on this issue and for being a friend of clean, renewable energy programs.

METROPOLITAN NORTH GEORGIA WATER PLANNING DISTRICT

Mr. CLELAND. I thank the distinguished Senator from Nevada for his leadership on the Appropriations Energy and Water Subcommittee. I would like to ask the Senator from Nevada whether I am correct in my understanding that the reason the Metropolitan North Georgia Water Planning District, a project that was one of my highest priorities because of its importance to the people of my State and its priority with the Governor of Georgia, was not included in the Energy and Water Appropriations Subcommittee report was because of the subcommittee's policy made pursuant to budgetary constraints that new start construction and/or environmental infrastructure water projects will not be addressed until the Energy and Water Development Appropriations Act is considered in conference committee?

Mr. REID. The Senator from Georgia is correct.

Mr. CLELAND. Am I also correct in my understanding that when the Energy and Water Development Appropriations Act is considered by the conference committee that the Metropolitan North Georgia Water Planning District Project will be considered for inclusion in the conference report?

Mr. REID. The Senator is correct that the Metropolitan North Georgia Water Planning District project will be considered for inclusion in the Energy and Water Development Appropriations Act conference report. I will make every effort to accommodate my colleague.

CONSORTIUM FOR PLANT BIOTECHNOLOGY RESEARCH

Mr. CLELAND. Mr. President, is the senator from Nevada aware of an entity called the Consortium for Plant Biotechnology Research, a national consortium of industries, universities and federal laboratories that together support research and technology transfers?

Mr. REID. Yes, I am aware of the consortium and am familiar with the good work and significant achievements that the consortium has produced for the Department of Energy in the past.

Mr. CLELAND. I understand that the committee was unable to include it in the Solar Renewable Account during its consideration of the energy and water development appropriations bill.

Mr. REID. Yes, I believe that is correct.

Mr. CLELAND. As the energy and water development bill moves into conference, I hope the Senate can identify additional funds in the Solar and Renewable Account or another appropriate research account for the consortium so that it can continue its important work.

Mr. REID. The Senate will do all it can to find these funds for the consortium as we work with the House conferees on the bill.

Mr. ALLARD. I commend my colleague from Georgia, Senator CLELAND, for his work on behalf of the consortium and state my support for the allocation of funding for the consortium in the energy and water development appropriations bill in conference. The consortium, of which the university of Colorado is a member, has an astounding record of obtaining private sector matching support for its research activities and has done an amazing job of commercializing its research product. For every dollar invested in the consortium, $2.20 worth of research has been conducted with private sector matching funds—an impressive 120 percent private sector match. Additionally, the consortium has managed to commercialize its research within an average of three years, compared to an industry average of about 10 years. Again, I would like to state my support for funding for this unique and efficient national research institution.

Mr. REID. The committee is award of the good work the consortium has produced with department of Energy funding over the past decade. The Senate will do its best to try and identify funding for the consortium while in conference with the House.

GAS COOLED REACTOR SYSTEMS

Mr. STEVENS. Mr. President, as some Members may be aware, I have supported the development of gas cooled reactor systems, both small and large, for the provision of electric power and useful heat for our cities. As currently envisioned, gas cooled reactors will be meltdown proof, create substantially less radioactive waste and will be more efficient than our current generation of reactors.

Currently, the Department of Energy is funding a joint U.S.-Russian effort to develop the Gas Turbine Modular Helium Reactor for the purpose of burning up surplus Russian weapons plutonium. This tremendously successful swords to plowshares project is making great technical progress and employs more than 500 Russian weapons scientists and nuclear engineers.

Although the GT–MHR unit built in Russia will be primarily for burning plutonium, that same meltdown proof reactor type can be easily converted into a uranium burning commercial reactor for use around the globe. Indeed, the Appropriations Committee's report notes that ''the United States must take full advantage of the development of this attractive technology for a possible next generation nuclear power reactor for United States and foreign markets''.

However, the committee's bill does not explicitly provide any dollars for the commercialization of the GT–MHR design.

The senior Senator from New Mexico is a leader in nuclear energy and research. I want to ask my good friend, the Ranking Member of the Energy and Water Subcommittee, the following question regarding the commercialization of the GT–MHR: the ''Nuclear Energy Technologies'' account in the bill provides $7 million for Generation IV reactor development and for further research on small, modular nuclear reactors. Given that the federal government is already making a substantial investment on the GT–MHR for nonproliferation purposes, and given the near-term promise of this reactor, doesn't it make sense that at least one-half of the $7 million provided be used by the Department of Energy for GT–MHR commercialization efforts?

Mr. DOMENICI. I thank my friend from Alaska for his observations and for his question. As the Senator knows, I too am a great fan of the development of the GT–MHR in Russia and indeed, I was the Senator that initiated the first Federal funding for this program. The question is a fair one and I will have to say that his observations and the conclusion he draws from them are correct. I agree that a substantial portion of the $7 million in funding should indeed be put to good use in commercializing the GT–MHR which is being designed with great cost-effectiveness and success in Russia.

Mr. STEVENS. I thank my good friend from New Mexico for his response. Small modular reactors which are of great potential importance to rural areas and hence of great interest to me. Last year, at my request, Congress provided $1 million for the Department of Energy to study the feasibility of small modular nuclear reactors for deployment in remote locations. That report is now done and in brief, the Department of Energy has concluded that such reactors are not only feasible, but may eventually be a very desirable alternative for many remote communities without access to clean, affordable power sources.

Importantly, one of the most desirable remote reactor types the Department examined was a reduced sized

version of the GT–MHR called the Remote Site Modular Helium Reactor. Given the outstanding characteristics of this remote reactor as identified in the Department's report and given that the Department is already developing the basic technology via the Russian program, I believe the Department of Energy should focus on further developing the RS–MHR in the upcoming year.

I thank the Senator from New Mexico.

NEW YORK-NEW JERSEY HARBOR NAVIGATION

Mr. SCHUMER. Mr. President, there are currently three major federally authorized and sponsored navigation projects under construction in the Port of New York and New Jersey and a fourth in the preconstruction, engineering, and design phase. The projects that would deepen the Arthur Kill Channel to 41 feet, the Kill van Kull Channel to 45 feet, the Port Jersey and New York Harbor channels to 41 feet, are being built. An overarching project called the New York-New Jersey Harbor Navigation project which would take these channels to 50-feet depths is in PED.

These projects are staggered in this fashion only because of the order in which they were authorized. I would ask my colleague from New Jersey if there is any other reason for this segmentation.

Mr. TORRICELLI. There certainly is no policy reason. In fact, each constituent project has passed a cost-benefit analysis, each has been shown to be in the federal interest, and each is subject to the appropriate cost-share consistent with Water Resource Development Act policy. The Port Authority of New York and New Jersey will fund the non-Federal share of each of these projects.

Since the Harbor Navigation Project was authorized last year, the Army Corps and the Port Authority have been working to formulate a plan that would allow these projects to be managed as one in order to provide time and cost savings. They have recently concluded that doing this could result in as much as $400 million in savings to the Federal Treasury.

But in order to achieve that savings, it is important that we begin looking at joint management of these projects as soon as possible. I ask the distinguished Chairman, if Senators CORZINE, CLINTON, SCHUMER and myself can demonstrate that the Army Corps could achieve substantial future Federal savings by jointly managing all four of these projects, would he assist us in our efforts to secure conference report language that would allow the Corps to manage these projects in this manner?

Mr. REID. I would say to my friends, the Senators from New York and New Jersey, that I am appreciative of their desire to reduce the cost of major Army Corps projects. They know as well as I do that the Corps has a $40 plus billion backlog of authorized projects. I am concerned about a few aspects of this request, however. I am concerned that this request would have effects on the WRDA cost-share policy, which requires greater non-federal contributions for navigation projects that go deeper than 45 feet. I would not want the Army Corps to conclude that it could apply the cost-shares for the Kill van Kull, Arthur Kill, or Port Jersey project to the effort to bring about 50-foot channel depths, which require a larger non-federal contribution. I hope the Senators would understand that, as a member of the Senate Environment and Public Works Committee, I could not support appropriations language that would undermine the WRDA policy or the committee's jurisdiction.

Mr. SCHUMER. I would respond to my friend, the distinguished chairman, that the report language we seek will be consistent with the WRDA policy regarding the appropriate cost-share for navigation project. I would also say that we intend to secure the Army Corps' support as well as that of the Senate Environment and Public Works Committee Chairman. We are merely raising this issue tonight because we have not been able to settle this matter yet, and need some additional time.

Mr. REID. In the interest of constructing these projects as quickly as possible and with the greatest savings to the American taxpayer, I would respond to my colleague that we will be happy to consider any such conference report language. I urge him to get it to us as soon as possible.

Mr. TORRICELLI. On behalf myself and the Senator from New York, I thank the chairman.

MIXED OXIDE FUEL

Mr. HOLLINGS. Mr. President, I drafted an amendment to the FY02 Energy and Water Subcommittee to delay plutonium shipments to the Savannah River Site until the administration solidifies its commitment to South Carolina to treat weapons-grade material and move them off-site. I understand this may be viewed as an extreme measure, but the result of budget cuts to Fissile Materials Disposition programs by DOE forced the NNSA to abandon a concurrent dual track approach for plutonium disposition and to substitute a risky ''layered'' approach. Despite administration briefings and testimony before Congress, there remain serious concerns about the disposition strategy contemplated by DOE and significant risk to South Carolina to store these materials for an extended duration, maybe indefinitely, before they are processed.

I fully understand the DOE-wide implications of delaying the closing of Rocky Flats and empathize with my colleague from Colorado's keen interest in closing the site. South Carolina, and other DOE-site states, have been instrumental in assisting Colorado in meeting DOE milestone to close the site ahead of schedule. South Carolina should have a definite timetable for treating waste on site and an identified pathway out, too, just like Colorado. I am pleased to have the commitment of my colleagues from the Armed Services Committee to assist in addressing the outstanding issues with the fissile materials disposition program. I look forward to working with my colleagues on this issue.

Mr. THURMOND. I join my colleague, Senator HOLLINGS, and express my concern regarding recent developments in the Plutonium Disposition Program. I thank him for bringing this discussion to the floor today.

The Plutonium Disposition Program, particularly the Mixed Oxide Fuel Program is of critical importance to our Nation. There are invaluable national security aspects, including the counter-proliferation mission. In addition, the MOX program can be an important factor in addressing our Nation's energy needs.

I have had many conversations with administration officials on this matter. I received personal assurances from the Secretary of Energy, who stated MOX is his ''highest nonproliferation priority.'' Yet I am still concerned the administration is not fully committed to the Plutonium Disposition Program, leaving South Carolina as a dumping ground for our Nation's surplus nuclear weapons material.

Mr. HOLLINGS. I thank the Senator for his remarks. I would appreciate Senator THURMOND'S views on MOX as a primary option for plutonium disposition. Would you also agree that South Carolina should also be provided a concurrent back-up option to MOX?

Mr. THURMOND. I thank the Senator for his question. While MOX should be the primary disposition option, I do agree there should be a backup plan for disposing surplus plutonium. I will work with my colleagues to require the administration to guarantee a back-up plan.

Mr. HOLLINGS. I thank the Senator. I would inquire of my colleague on his views on the cost of not proceeding. Would the Senator agree that not dealing with the existing stockpiles of nuclear materials and oxides found at DOE industrial and research sites will ultimately cost more than the construction of the MOX facility and the Plutonium Immobilization Plant?

Mr. THURMOND. The Senator is correct, the status quo simply does not make fiscal sense. It is my understanding that the cost of the two plants together is less than the cost of current storage requirements, over a comparable time period. In fact, according to a November 1996 DOE report entitled ''Technical Summary for Long Term Storage of Weapons-Useable Fissile Materials,'' building and operating the MOX plant over a 50-year period, is over $1 billion less than the costs of maintaining the current infrastructure.

Mr. ALLARD. I thank my good friend, Senator HOLLINGS, for allowing me to speak on matter and for compromising on his amendment regarding plutonium disposition. As the Senator

knows, I was opposed to his original amendment and glad to see that a compromise has been reached regarding this very important issue of fissile materials disposition. The Senator's original amendment would have prohibited any funding for the transportation of surplus U.S. plutonium to the Savannah River Site until a final agreement was concluded for primary and secondary disposition activities.

All members with a DOE site located in their State understand how sensitive these issues are to our constituents. But we also understand the importance of the nationwide integration of sites to ensure that DOE can continue to meet all its needs and requirements.

Representing Colorado and Rocky Flats, I was concerned that this amendment could have delayed the shipment of plutonium to SRS by at least 1 year, delaying the scheduled 2006 closure date, costing at least $300 million a year. As the ranking member of the Strategic Subcommittee on the Armed Services Committee, I was concerned that this amendment could have interrupted the delicate balance of integration between all the sites by delaying shipments from Lawrence Livermore National Laboratory, Hanford, the Mound Site in Ohio to SRS, possibly triggering a chain reaction by other sites to deny SRS waste.

However, I definitely understand South Carolina's concerns regarding the ability of SRS to properly dispose of DOE surplus plutonium. To my colleagues from South Carolina, I strongly support the establishment of a Mixed Oxide Fuel facility at SRS and will do all I can to assist in establishing some form of backup capability at the site as well.

As one member who is sensitive to these concerns, I pledge to work with my South Carolina colleagues on this very important issue, not only for South Carolina, but also for the sake of the entire DOE complex.

I admire Senator HOLLINGS' persistence on this matter and for working with all of us who had concerns. I pledge to work not only with all members who have a DOE site to ensure a smooth and workable integration of sites regarding the treatment and disposal of waste. As chairman and ranking member of the Strategic Subcommittee of the Armed Services Committee, Senator REED and I will have an opportunity to address the plutonium disposition program as part of the FY02 National Defense Authorization Bill. I again thank the Senator for this opportunity to express my concerns and gratitude.

Mr. REED. I thank my colleagues from South Carolina for raising this very important issue. I also want to commend my colleague from Colorado for working with senators from South Carolina on this matter. As the chairman of the Strategic Subcommittee of the Armed Services Committee, I am very interested in ensuring that DOE sites are closed in a timely manner and that the waste is treated and disposed of properly. I want to assure my colleagues that the Strategic Subcommittee will carefully examine this issue as the Senate Armed Services Committee considers the Fiscal Year 2002 Defense Authorization bill.

Mr. MCCAIN. Mr. President, the Energy and Water Development Appropriations bill is important to the Nation's energy resources, improving water infrastructure, and ensuring our national security interests. Let me first commend the managers of this bill, the distinguished Chairman Senator REID and Ranking Member Senator DOMENICI, for their hard work in completing the Senate bill in order to move the appropriations process forward.

The bill provides funding for critical cleanup activities at various sites across the country and continues ongoing water infrastructure projects managed by the Army Corp of Engineers and the Bureau of Reclamation. The bill also increases resources for renewable energy research and nuclear energy programs that are critical to ensuring a diverse energy supply for this Nation.

These are all laudable and important activities, particularly given the energy problems facing our Nation. While I have great respect for the work of my colleagues to complete the committee recommendations for the agencies funded in this bill, I am also disappointed that the appropriators have once again failed to abide by a fair and responsible budget process by inflating this bill with porkbarrel spending. Unfortunately, my colleagues have determined that their ability to increase energy spending is just another opportunity to increase porkbarrel spending.

This bill is 5.8 percent higher than the level enacted in fiscal year 2001, which is greater than the 4 percent increase in discretionary spending that the President wanted to adhere to.

In real dollars, this is $2.4 billion in additional spending above the amount requested by the President, and $1.4 billion higher than last year. So far this year, with just two appropriations bills considered, spending levels have exceeded the president's budget request by more than $3 billion.

A good amount of this increase is in the form of parochial spending for unrequested projects. In this bill, I have identified 442 separate earmarks totaling $732 million, which is greater than the 328 earmarks, or $300 million, in the Senate bill passed last year.

I have no doubt that many of my colleagues will assert the need to expend Federal dollars for their hometown Army Corps projects or to fund development of biomass or ethanol projects in their respective States. If these projects had been approved through a competitive, merit-based prioritization process or if the American public had a greater voice in determining if these projects are indeed the wisest and best use of their tax dollars, then I would not object.

The reality is that very few people know how billions of dollars are spent in the routine cycle of the appropriations process. No doubt, the general public would be appalled that many of the funded projects are, at best, questionable—or worse, unauthorized, or singled out for special treatment because of politics.

This is truly a disservice to the American people who rely on the Congress to utilize prudent judgement in the budget approval process.

Let me share a few examples of what the appropriators are earmarking this year: additional $10 million for the Denali Commission, a regional commission serving only the needs of Alaska; $200,000 to study individual ditch systems in the state of Hawaii; earmark of $300,000 for Aunt Lydia's Cove in Massachusetts; $300,000 to remove aquatic weeds in the Lavaca and Navidad Rivers in Texas; $3 million for a South Dakota integrated ethanol complex; $2 million for the Sealaska ethanol project; two separate earmarks, totaling $5 million, for gasification of Iowa Switch Grass; additional $2.7 million to pay for electrical power systems, bus upgrades and communications in Nevada; $500,000 to research brine waste disposal alternatives in Arizona and Nevada; and, $9.5 million to pay for demonstrations of erosion control in Mississippi.

These are just a few examples from the 24-page list of objectionable provisions I found in this bill and its accompanying report.

As I learned during the consideration of the Interior appropriations bill when my efforts failed to cut wasteful spending for a particular special interest project, an overwhelming majority of my colleagues accept and embrace the practice of porkbarrel spending.

I respect the work of my colleagues on the appropriations committee. However, I do not believe that the Congress should have absolute discretion to tell the Army Corps or the Bureau of Reclamation how best to spend millions of taxpayer dollars for purely parochial projects.

I repeat my conviction that our budget process should be free from such blatant and rampant porkbarrel spending. Unfortunately, to the detriment of American taxpayers, the practice of porkbarrel spending has advanced at light-speed in the last decade and shows no sign of abating.

Just look at the numbers.

We have witnessed an explosion of unrequested projects passed by Congress in the last decade. According to the Office of Management and Budget, there were 1,724 unrequested projects in 1993; 3,476 in 2000; and 6,454 unrequested projects this fiscal year.

We all know the direction this spending train is going. Come October, spending bills will be piled-up, frantic negotiations will ensue, a grand deal will be struck, and guess what? Those spending caps we were supposed to abide by will just fade away.

I hope I am wrong.

Mr. BIDEN. Mr. President, I rise to voice my strong support for the Material Protection, Control, and Accounting, or MPC&A, program managed by the Department of Energy to better secure and protect nuclear weapons and materials in the former Soviet Union. I want to strongly urge the House-Senate conference committee for this bill to increase the funding for this important initiative. I call upon the Senate conferees to join with our House colleagues in supporting a $190 million funding level for fiscal year 2002.

The MPC&A program is often referred to as the first line of defense in safeguarding Russian nuclear materials against potential diversion or theft. From the mundane, such as installing barbed wire fences around sites, to more sophisticated measures like implementing computerized material accounting systems to keep track of nuclear materials, the MPC&A program helps ensure that rogue regimes and terrorist groups do not have access to the most dangerous byproducts of the cold war.

Let me make clear that this program has been considered an enormous success. Various studies and reports have confirmed the cost effectiveness of this program. Simply put, it benefits both Russia and the United States, as well as all the other former members of the Soviet Union.

But our current efforts may not be enough. A high-level bipartisan level headed by former Majority Leader Howard Baker and Lloyd Cutler declared earlier this year:

> While the security of hundreds of tons of Russian material has been improved under the MPC&A Program, comprehensive security upgrades have covered only a modest fraction of the weapons-usable material. There is no program yet in place to provide incentives, resources, and organizational arrangement for Russia to sustain high levels of security.

The Baker-Cutler panel goes on to recommend $5 billion in improvements and upgrades to the MPC&A program over the next 8 to 10 years to accomplish these objectives.

That may be too ambitious an objective given our current budget environment. At the very least, the Baker-Cutler report points to the need to build upon, not cut back, existing funding for the MPC&A program. In testimony before the Foreign Relations Committee in March, Senator, and now Ambassador, Baker offered a personal concern:

> I am a little short of terrified at some of the storage facilities for nuclear material and nuclear weapons; and relatively small investments can yield enormous improvements in storage and security. So, from my standpoint, that is my first priority.

I share his well-grounded fear, and I hope my colleagues in both houses will recognize the vital benefits that the MPC&A program contributes to our national security.

Mr. THURMOND. Mr. President, I am pleased to rise in support of Energy and Water Development Appropriations Act for fiscal year 2002. I believe the Senate has addressed these very complex matters appropriately.

As we all know, this bill funds many significant projects. Of particular significance to me is the critical funding this bill provides for the clean-up activities at our Nation's Department of Energy nuclear weapons sites and more specifically the Savannah River Site (SRS) in my hometown of Aiken, SC. I was disappointed by the administration's proposed budget for these activities, and have indicated so publicly on numerous occasions. At SRS alone, the fiscal year 2002 request was almost $160 million less than the previous year. This bill provides an additional $181 million for these crucial cleanup activities and should ensure that SRS will stay on schedule to meet its future regulatory commitments to the State of South Carolina as well as the Environmental Protection Agency.

While I am supportive of most elements of this bill there were some issues which concerned me. Specifically, the report which accompanies this bill included a directive that the Department of Energy transfer the Accelerator for the Production of Tritium (APT) project from the Office of Defense Programs within the National Nuclear Security Administration (NNSA) to the Office of Nuclear Energy, Science and Technology for inclusion in the Advanced Accelerator Applications office.

I disagree with this proposal and will oppose such a move. First and foremost, this is an appropriations bill, not an authorization. The APT program was authorized in section 3134 of the Defense Authorization Act for fiscal year 2000 as a defense program. I wholeheartedly support exploring additional scientific, engineering research, development and demonstrations with this superb technology and I believe this work may yield dramatic advances. However, APT is and should remain a Defense Program. Last year, the Department established a new Accelerator Development effort. This office is ''Co-Chaired'' by the NNSA's Office of Defense Programs and the Department of Energy's Office of Nuclear Energy, Science and Technology. I have no objections of combining efforts at the Department of Energy where appropriate, however, the primary mission of the APT is, as defined by law, to serve as a backup source of tritium for our nation's strategic arsenal.

Finally, I would like to discuss the Fissile Materials Disposition Programs as discussed in the bill. This bill correctly describes the excess weapons grade plutonium in Russia as a ''clear and present danger to the security of United States. . . .'' I believe it is in the best interest of all Americans to move forward with this program expeditiously. I am further pleased that the administration fully funded the Mixed Oxide Fuel Fabrication Facility to be constructed at the Savannah River Site. Unfortunately, I have recently heard some troubling stories regarding the commitment of the White House to this important program.

The New York Times ran a story this Monday, July 16, 2001 entitled ''U.S. Review on Russia Urges Keeping Most Arms Control,'' which greatly concerned me.

According to the article, while most of the programs initiated in the previous Administration will be retained, ''the White House plans to overhaul a hugely expensive effort to enable Russia and the United States to each destroy 34 tons of stored plutonium. . . .'' Mr. President, what the White House is discussing here is the Mixed Oxide Fuel Program, known as MOX. This facility is planned for the Savannah River Site.

As you likely already know, the MOX program has an invaluable counter-proliferation mission. Thanks to an agreement with the Russian Government, signed last year, the MOX program will help take weapons grade plutonium out of former Soviet stockpiles, and will also divert such materials from potentially falling into the hands of rogue nations, terrorists, or criminal organizations. In and of itself, this clearly makes the MOX program worth every penny. Earlier this year I asked Secretary of Energy Abraham where he stands on this program and he responded that MOX is his ''highest nonproliferation priority.''

Beyond the important national security aspects of this program there are many domestic issues which must be considered in evaluating this program. From the standpoint of providing a much needed source of energy, MOX makes good sense. Presently, there are quite literally tons of surplus nuclear weapons materials stored throughout the Department of Energy (DOE) industrial complex that could be processed in our MOX facility and reintroduced as a fuel for commercial nuclear reactors. Here is the beauty of this program, once MOX is burned in selected reactors it is gone for good. It cannot be used for weapons ever again and there is no more need for storage.

Furthermore, I am convinced that not dealing with the existing stockpiles of nuclear materials and oxides that are found at the six DOE industrial and research sites will ultimately cost substantially more than the construction of the MOX facility. According to the previously mentioned news article, ''the administration insists it is still exploring less expensive options.'' According to a November 29, 1996 DOE report entitled Technical Summary for Long Term Storage of Weapons-Useable Fissile Materials, the costs of maintaining the current infrastructure far exceeds the costs of building and operating the MOX plant according to the current plan. According to the report, the cost for storage of plutonium in constant 1996 dollars is estimated to be approximately ''$380 million per year and the operating cost

for 50 years of operation at approximately $3.2 billion. The cost is insensitive to where the plutonium is stored at any one of the four sites.'' The status quo simply does not make fiscal sense.

Perhaps the most critical domestic consideration regarding the MOX program is that it creates a ''path out'' for materials currently being stored at SRS and awaiting processing as well as those materials that could be shipped to the site and processed there in the future. South Carolina agreed to accept nuclear materials shipments into SRS based on the understanding that an expeditious ''pathway out'' would exist. Canceling the Plutonium Disposition Program eliminates the ''path out.'' Neither I nor anyone else who represents South Carolina at the Federal or State level is willing to see the Savannah River Site become the de facto dumping ground for the nation's nuclear materials. If the ''path out'' for these materials disappears, then the ''path in'' to the Savannah River Site is likely to become muddy. That is bad for cleanup nationwide.

Ambassador Howard Baker and Mr. Lloyd Cutler reached a series of conclusions in their recent report from the Russia Task Force, any one of which justifies aggressive support for the MOX program. However one statement struck me as particularly poignant. Specifically, as stated in the report, ''the national security benefits to U.S. citizens from securing and/or neutralizing the equivalent of more than 80,000 nuclear weapons and potential weapons would constitute the highest return on investment in any current U.S. national security and defense program.''

I am concerned by the signals coming from the White House. I intend to ask President Bush to publicly support this initiative and put an end to my concerns as well as those of my colleagues and all of the states involved.

In closing, this is a good bill and I am pleased to support it.

Mr. President, I ask unanimous consent to print the New York Times article in the RECORD.

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

[From the New York Times, July 16, 2001]

U.S. REVIEW ON RUSSIA URGES KEEPING MOST ARMS CONTROLS

(By Judith Miller with Michael R. Gordon)

A Bush administration review of American assistance to Russia has concluded that most of the programs aimed at helping Russia stop the spread of nuclear, chemical and biological weapons are vital to American security and should be continued, a senior administration official says. Some may even be expanded.

But the White House wants to restructure or end two programs: a $2.1 billion effort to dispose of hundreds of tons of military plutonium and a program to shrink Russian cities that were devoted to nuclear weapons development, and to provide alternative jobs for nuclear scientists, the official said in an interview on Friday. Both these programs have been criticized in Congress.

The review also calls for a shift in philosophy from ''assistance to partnership'' with Russia.

To do that, the official said, Russia would have to demonstrate a willingness to make a financial and political commitment to stop the spread of advanced conventional weapons and to end its sale of nuclear and other military-related expertise and technology to Iran and other nations unfriendly to the United States.

One administration official said the issue of how to handle Russia's sales of sensitive technology and expertise not only to Iran, Iraq, Libya and others hostile to America was being considered separately by the White House. No decisions have been made yet.

But on those issues, it would be ''hard to create a partnership if we think that Russia is proliferating,'' this official added. ''It's not a condition; it's a fact of life.''

Administration officials said the recommendation to extend most Administration officials said the recommendation to extend most nonproliferation programs was not conditioned upon Russian acquiescence to the administration's determination to build a nuclear missile shield.

The review covered 30 programs with an annual outlay of some $800 million. They are a cornerstone of America's scientific and military relationship with Russia. The programs, involving mostly the Pentagon, the Energy Department and the State Department, pay for the dismantling of weapons facilities and the strengthening of security at sites where nuclear, chemical and biological weapons are stored.

President Bush is expected to discuss some of these programs when he meets with President Vladimir V. Putin next weekend. That meeting, in Genoa, Italy, is expected to focus on American plans to build the missile shield, which the Americans admit would violate a longstanding treaty between the two nations.

The administration's endorsement of most of the nonproliferation programs begun by the Clinton administration will not surprise most legislators, given that the administration is now trying to avoid being portrayed as single-minded on national security matters in its pursuit of a missile shield, and as unresponsive to European support for arms control.

Officials said that although cabinet officials had discussed the review's findings, no final decisions on the recommendations would be made until Congress reacted to the proposals. The administration has begun arranging to brief key legislators on the results of its review, which began in April and was conducted by an expert on Russia on loan from the State Department to the National Security Council office that deals with nonproliferation strategy. That office is headed by Bob Joseph.

In interviews, administration officials said the White House would not overlook Russian efforts to weaken the programs by restricting access to weapons plants or by erecting obstacles to meeting nonproliferation commitments. ''We have a high standard for Russian behavior,'' one official said.

The review has concluded that most of the $420 million worth of the Pentagon's programs—called Cooperative Threat Reduction—are ''effectively managed'' and advance American interests.

The White House also intends to expand State Department programs that help Russian scientists engage in peaceful work through the Moscow-based International Science and Technology Center, which the European Union and Japan also support, and other institutions.

But some big-ticket programs whose budgets have already been slashed or criticized on Capitol Hill are likely to be shut down or ''refocused,'' the official said.

Though it is no longer very expensive, another program, the Nuclear Cities Initiative, has already been scaled back by Congress. It was begun in 1998 to help create nonmilitary work for Russia's 122,000 nuclear scientists and to help Russia downsize geographically and economically isolated nuclear cities, where 760,000 people live.

Unhappy with both the cost and the Russian reluctance to open these cities.

Unhappy with both the cost and the Russian reluctance to open these cities fully to Western visitors, Congress has repeatedly slashed money for the program. Under the Bush review, the undefined ''positive aspects'' would be merged into other programs, and most of the program closed.

The Clinton administration had begun the program to provide civilian work for Russia's closed nuclear cities. The aim was to prevent nuclear scientists there from leaving for Iraq, Iran and other aspiring nuclear powers. Under the program, the Russians would also have to expedite the closure of two warhead-assembly plants and their conversion to civilian production.

''The administration will be missing an opportunity to shut down two warhead production plants if it abandons the Nuclear Cities Initiative,'' said Rose Gottemoeller, a senior Energy Department official during the Clinton administration. The administration says Russia plans to close those two facilities in any event.

The White House also intends to overhaul a hugely expensive effort to enable Russia and the United States each to destroy 34 tons of stored plutonium by building facilities in Russia and the United States. The program, as currently structured, will cost Russia $2.1 billion and the United States $6.5 billion, at a minimum. The administration has pledged $400 million and has already appropriated $240 million.

In February 2000, the Clinton administration wrested a promise from Russia to stop making plutonium out of fuel from its civilian power reactors as part of a research and aid package. While Russia was supposed to stop adding to its estimated stockpile of 160 tons of military plutonium by shutting down three military reactors last December, Moscow was unable to do so because the reactors, near Tomsk and Krasnoyarsk, provide heat and electricity to those cities.

Critics said the original program was too costly and was not moving forward. But supporters say the Bush administration should try harder to solicit funds from European and other governments before shelving the effort and walking away from the accord.

The administration insists it is still exploring less expensive options.

The administration has also deferred a decision on a commitment to help Russia build facilities to destroy 40,000 tons of chemical weapons, the world's such stockpile. The first plant has been completed at Gorny, 660 miles southeast of Moscow, but American assistance to build a second plant at Shchuchye, 1,000 miles southeast of Moscow, has been frozen by Congress.

Many legislators have complained that the Russian have not fully declared the total and type of chemical weapons they made, and that they have put up too little of their own money for the project.

In February, however, Russia announced that it had increased its annual budget for destroying the weapons sixfold, to $105 million, and presented a plan to begin operating the first of three destruction plants. The administration official said this reflected a ''significant change'' in Russia's attitude towards commitments that ''could have an impact on our thinking'' about the program.

The Russians hope to destroy their vast chemical stocks by 2012, a deadline.

The Russians hope to destroy their vast chemical stocks by 2012, a deadline that will require that they obtain a five-year extension. But Moscow will not be able to meet even that deferred deadline unless construction begins soon for a destruction installation at Shchuchye.

The Clinton administration, after Congress slashed funds for the project, lined up support from several foreign governments.

Elisa Harris, a research fellow at the University of Maryland and a former specialist on chemical weapons for President Clinton's National Security Council, said the destruction effort could falter unless the Bush administration persuaded Congress to rescind the ban and finally support the program.

Commenting on the review, Leon Fuerth, a visiting professor of international affairs at George Washington University and the national security adviser to former Vice president Al Gore, said, ''By and large they are going to sustain what they inherited, which is good for the country.''

But the senior Bush administration official said the review did not endorse the Clinton approach. This administration, he said, is determined to ''establish better and more cost-efficient ways'' of achieving its nonproliferation goals and integrating such programs into a comprehensive strategy toward Russia. He said the White House planned to form a White House steering group ''to assure that the programs are well managed and better coordinated.''

The PRESIDING OFFICER. Are there further amendments?

Mr. DOMENICI. Mr. President, I have no further amendments. I thank the seven members of the staff on both sides who worked diligently on a very complicated bill. On Senator REID's staff: Drew Willison, Roger Cockrell, Nancy Olkewicz; members of my staff: Tammy Perrin, Jim Crum, Camille Anderson, and Clay Sell.

The Senator's staff has been a pleasure to work with, and I hope mine has. I thank you for the pleasantries and the way we have been able to work this bill out.

Mr. REID. Not only the staff has been a pleasure to work with, but you have been a pleasure to work with.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Nevada (Mr. ENSIGN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—97

Akaka	Dorgan	Lugar
Allard	Durbin	McConnell
Allen	Edwards	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Graham	Nickles
Boxer	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Helms	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Corzine	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Warner
Dayton	Levin	Wellstone
DeWine	Lieberman	Wyden
Dodd	Lincoln	
Domenici	Lott	

NAYS—2

McCain	Voinovich

NOT VOTING—1

Ensign

The bill (H.R. 2311), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. REID. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I move that the Senate insist on its amendment, request a conference with the House, and the Chair be allowed to appoint conferees on the part of the Senate, with no intervening action or debate.

The motion was agreed to and the Presiding Officer (Mr. CORZINE) appointed Mr. REID, Mr. BYRD, Mr. HOLLINGS, Mrs. MURRAY, Mr. DORGAN, Mrs. FEINSTEIN, Mr. HARKIN, Mr. DOMENICI, Mr. COCHRAN, Mr. MCCONNELL, Mr. BENNETT, Mr. BURNS, and Mr. CRAIG conferees on the part of the Senate.

Mr. REID. Mr. President, I asked, along with Senator DOMENICI, the Chair to appoint conferees, which the Chair did. We would like to add to the conferees Senators INOUYE and STEVENS. I ask unanimous consent that Senators INOUYE and STEVENS be added to the list of conferees on the energy and water appropriations bill.

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

Mr. REID. It is the intention of the majority leader now to move to the Graham nomination. The leader indicated there will be a number of votes tonight.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

Mr. SARBANES. Mr. President, I inquire what the parliamentary situation is.

The PRESIDING OFFICER. There is no business pending at this time.

THE NOMINATION OF ROGER WALTON FERGUSON, JR.

Mr. SARBANES. Mr. President, I want to speak briefly with respect to the nomination of Roger W. Ferguson to the Board of Governors of the Federal Reserve System. I understand later today at the appropriate time we will be taking up the Ferguson nomination. As I understand it that will be after the Graham nomination. This seems an opportune time to take a moment or two because, presumably, at the time we vote people may be in somewhat of a hurry to draw our business to a conclusion.

The nomination of Roger Ferguson was reported out of the Banking Committee on July 12 with one dissenting vote in the committee. He is currently a member of the Federal Reserve Board. This would be for another term on the Board, a reappointment. He was nominated for another term by President Clinton in 1999, but action was not taken on that nomination so it simply remained pending, although he continued under the applicable rules that govern membership on the Board of Governors, to serve on the Board. In the first part of this year, President Bush resubmitted his nomination to the Senate for membership on the Board of Governors of the Federal Reserve System for a term of 14 years, which is the standard term for members of the Board of Governors.

I simply want to say to my colleagues that we think Mr. Ferguson has done a fine job as a member of the Board of Governors of the Federal Reserve System. He has assumed a number of areas of prime responsibility in the workings of the Board. We think of the Board primarily in terms of its monetary policy decisions, but of course the Board has a whole range of other responsibilities that affect the financial system of the country. There are many day-to-day responsibilities.

Roger Ferguson has been an integral part of the Board's activities. He is spoken of very highly by those who watch the Board and by the members of the Board themselves, including the Chairman. He has also assumed a special responsibility to work on the question of diversity in the Federal Reserve System in terms of its employment and membership practices. In fact, at his hearing we asked him some questions on that subject on the basis of a communication we had received from members of the minority caucuses in the House of Representatives. He was quite forthcoming in his responses and underscored the effort they were making

in this area at the Federal Reserve. In response to these questions, he undertook to once again carefully review and examine Board policy and to intensify their efforts to ensure more diversity in the workings of the Federal Reserve System.

I urge his confirmation to my colleagues. I very much hope, when he comes before us for a vote, we will have very strong support for his reappointment to the Federal Reserve System.

We need to get these members into place at the Federal Reserve Board because there are a couple of vacancies there.

One of the Board of Governors also announced his intention to retire. The President has announced his intention to nominate a couple of members. Those nominations have not yet been sent to us, thus we have not yet received them.

In an effort to keep the Board of Governors of the Federal Reserve in sufficient number, I urge my colleagues to approve the Ferguson nomination when it comes before us later tonight.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

NOMINATION OF JOHN D. GRAHAM OF MASSACHUSETTS TO BE ADMINISTRATOR OF THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS, OFFICE OF MANAGEMENT AND BUDGET

Mr. DASCHLE. Mr. President, we are still attempting to come to some resolution about the sequencing of other legislative priorities for the balance of the week. Until that time, under a prior agreement, the Senate had the understanding that we would move to the consideration of the John Graham nomination, Calendar No. 104.

Pursuant to that agreement, I ask unanimous consent that the Senate now move to executive session to consider Calendar No. 104, the nomination of John Graham to be the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, and that immediately following the consideration of Calendar No. 104, pursuant to the agreement, we consider Calendar No. 223, the nomination of Roger Walton Ferguson to be a member of the Board of Governors of the Federal Reserve for a term of 14 years.

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

The assistant legislative clerk read the nomination of John D. Graham of Massachusetts, to be Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget.

Mr. DASCHLE. Mr. President, for the information of Senators interested in the schedule this evening, it is our intention to complete the debate on the two nominations. I know of no interest in debate on the Ferguson nomination, but there is, of course, debate on the Graham nomination.

Following completion of debate on the nominees, it is my expectation and determination to move to the legislative branch appropriations bill, and that would be the final piece of business to be completed tonight.

Tomorrow, it is my hope—and this matter has yet to be completely resolved—that we move to three judicial nominations and then proceed to the Transportation appropriations bill. We will have more to say about that later in the evening.

For now, I hope we could begin the debate on the Graham nomination.

UNANIMOUS CONSENT AGREEMENT—H.R. 2299

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Appropriations Committee be discharged from consideration of H.R. 2299 and that the Senate then proceed to its consideration; that once the bill is reported, Senator MURRAY be recognized to offer the text of S. 1178 as a substitute amendment; that no further amendments be in order during today's session; that once the action has been completed, the bill be laid aside until Friday, July 20; the Senate resume consideration of the bill upon returning to legislative session, following any rollcall votes with respect to the Executive Calendar.

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

Mr. DASCHLE. I thank my colleagues. For the information of our colleagues, Senator MURRAY will now be recognized simply to lay down the Transportation bill, and we will proceed then immediately to the Graham nomination.

The PRESIDING OFFICER. The Senator from Washington.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The PRESIDING OFFICER. Under the previous order, the clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2299) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

Mrs. MURRAY. Mr. President, I send an amendment to the desk in the nature of a substitute.

AMENDMENT NO. 1025

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 1025.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

The PRESIDING OFFICER. Under the previous order, the measure will be set aside.

NOMINATION OF JOHN D. GRAHAM OF MASSACHUSETTS TO BE ADMINISTRATOR OF THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS, OFFICE OF MANAGEMENT AND BUDGET—Resumed

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I rise in support of the nomination of Dr. John Graham for the position of Administrator of OMB's Office of Information and Regulatory Affairs.

On May 23, the Governmental Affairs Committee reported the nomination of Dr. Graham with a vote of 9–3 or 11–4, if you count proxies. The bipartisan vote included Republican members of the committee, as well as Senators LEVIN, CARPER, and CARNAHAN. I urge my colleagues on both sides of the aisle to join us in support of the confirmation of Dr. Graham.

The Office of Information and Regulatory Affairs, or OIRA, as we will refer to it, was established in 1980 by the Paperwork Reduction Act, legislation developed to address policy issues that Congress was concerned were being neglected by the executive branch. OIRA is primarily charged with being a leader on regulatory review, reducing unnecessary paperwork and red tape, improving the management of the executive branch, reviewing information policy, and guiding statistical policy proposals.

The decisions and actions of the OIRA administrator are very important to the public and should be made by a particularly capable and dedicated individual. John Graham fits this profile.

John Graham has been a professor of policy and decision sciences at the Harvard School of Public Health since 1985. He is the founder and director of the Harvard Center for Risk Analysis. He has worked with various Federal agencies through his research, advisory committees, and as a consultant. He holds a bachelor's degree in public affairs from Duke University and a Ph.D. in urban and public affairs from Carnegie Mellon University with an emphasis on decision sciences.

In addition, the EPA funded his postdoctoral fellowship in environmental science and public policy, and he completed course work in research training and human health risk assessment.

In 1995, Dr. Graham was elected president of the International Society

for Risk Analysis, a membership organization of 2,000-plus scientists, engineers, and scholars dedicated to advancing the tools of risk analysis.

We have received testimonials attesting to the credentials and integrity of Dr. Graham from hundreds of esteemed authorities in the environmental policy, health policy, and related fields. William Reilly, the former Administrator of EPA, said that ''over the years, John Graham has impressed me with his vigor, his fair-mindedness, and integrity.''

Dr. Lewis Sullivan, former Secretary of the Department of Health and Human Services said that ''Dr. Graham is superbly qualified to be the IORA administrator.''

Former OIRA Administrators from both Democratic and Republican administrations have conveyed their confidence that John Graham is not an opponent of all regulation but, rather, he is deeply committed to seeing that regulation serves broad public purposes as effectively as possible.

Dr. Robert Leiken, a respected expert on regulatory policy at the Brookings Institution, stated that Dr. Graham is the most qualified person ever nominated for the job of OIRA Administrator.

About 100 scholars in environmental and health policy and related fields joined together to endorse John Graham's nomination stating:

> While we don't always agree with John or, for that matter, with one another on every policy issue, we do respect his work and his intellectual integrity. It is very regrettable that some interest groups that disagree with John's views on the merits of particular issues have chosen to impugn his integrity by implying that his views are for sale rather than confronting the merits of his argument. Dialog about public policy should be conducted at a higher level.

Having dealt with this nomination for many months, I think that quote really hits the nail on the head. Some groups oppose Dr. Graham because they don't agree with his support for sound science and better regulatory analysis. But they have chosen to engage in attacks against him instead of addressing the merits of his thinking.

It is especially unfortunate since this nominee has done so much to advance an important field of thought that can help us achieve greater environmental health and safety protection at less cost.

While some groups oppose the confirmation of Dr. Graham, I believe their concerns have been addressed and should not dissuade the Senate from confirming Dr. Graham. For example, Joan Claybrook, the President of Public Citizen, has charged that Dr. Graham's views are antiregulation. Yet Dr. Graham's approach calls for smarter regulation based on science, engineering, and economics, not necessarily less regulation. He has shown that we can achieve greater protections than we are currently achieving.

Opponents have charged that Dr. Graham is firmly opposed to most environmental regulations. In fact, Dr. Graham and his colleagues have produced scholarships that supported a wide range of environmental policies, including toxic pollution control at coke plants, phaseout of chemicals that deplete the ozone layer, and low-sulfur diesel fuel requirements. Dr. Graham also urged new environmental policies to address indoor pollution, outdoor particulate pollution, and tax credits for fuel-efficient vehicles.

Dr. Graham believes that environmental policy should be grounded in science, however, and examined for cost-effectiveness. Dr. Graham and his colleagues have also developed new tools for chemical risk assessment that will better protect the public against noncancer health effects, such as damage to the human reproductive and immune systems.

Dr. Graham's basic regulatory philosophy was adopted in the Safe Drinking Water Act amendments of 1996, a life-saving law that both Democrats and Republicans overwhelmingly supported, including most of us here today.

Critics have claimed that Professor Graham seeks to increase the role of economic analysis in regulatory decisionmaking and freeze out intangible and humanistic concerns. This is inaccurate. In both of his scholarly writings, and in congressional testimony, Professor Graham rejected purely numerical monetary approaches to cost-benefit analyses. He has insisted that intangible contributions, including fairness, privacy, freedom, equity, and ecological protection be given way in both regulatory analysis and decisionmaking.

Dr. Graham and the Harvard Center have shown that many regulatory policies are, in fact, cost-effective, such as AIDS prevention and treatments; vaccination against measles, mumps, and rubella; regulations on the sale of cigarettes to minors; enforcement of seatbelt laws; the mandate of lead-free gasoline; and the phaseout of ozone-depleting chemicals.

Critics also claimed that Professor Graham's views are extreme because he has indicated that public health resources are not always allocated wisely under existing laws and regulations. Yet this is not an extreme view. It reflects the thrust of the writings on risk regulation by Justice Stephen Breyer, for example—President Clinton's choice for the Supreme Court—as well as consensus statements from diverse groups such as the Carnegie Commission, the National Academy of Public Administration, and the Harvard Group on Risk Management Reform.

Professor Graham made crystal clear at his confirmation hearing that he will enforce the laws of the land, as Congress has written them. He understands that there is significant differences between the professor's role of questioning all ways of thinking and the OIRA Administrator's role of implementing the laws and the President's policy. I believe Dr. Graham will make the transition from academia to Government service smoothly, and that he will use his valuable experience to bring more insight to the issues that confront OIRA every day.

A fair review of the deliberations of the Governmental Affairs Committee, and the entire record, lead me and many of my colleagues to conclude that Dr. John Graham has the qualifications and the character to serve the public with distinction.

A respected professor at the University of Chicago put it this way. He says:

> John Graham cannot be pigeonholed as conservative or liberal on regulatory issues. He is unpredictable in the best sense. I would not be surprised at all if in some settings he turned out to be a vigorous voice for aggressive governmental regulation. In fact, that is exactly what I would expect. When he questions regulations, it is because he thinks we can use our resources in better ways. It is because he thinks that we can use our resources in ways that do not necessarily meet the eye. On this issue, he stands as one of the most important researchers and most promising public servants in the Nation.

I urge prompt confirmation of John Graham.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, before beginning my remarks, I would like to have a clarification, if I can, as to the allocation of time in this debate.

The PRESIDING OFFICER. There is 1 hour under the control of Mr. LIEBERMAN, 3 hours under the control of Mr. THOMPSON, 2 hours under the control of Mr. DURBIN, 2 hours under the control of Mr. WELLSTONE, and 15 minutes under the control of Mr. KERRY.

Mr. DURBIN. I thank the Chair. Madam President, I rise to speak in opposition to the nomination of John Graham for the position of Administrator for the Office of Information and Regulatory Affairs at OMB.

This is a rare experience for me. I think it is the first time in my Senate career, in my congressional career, where I have spoken out against a nominee and attempted to lead the effort to stop his confirmation. I do this understanding that the deck is not stacked in my favor. Many Members of the Senate will give the President his person, whoever it happens to be, and that is a point of view which I respect but disagree with from time to time. I also understand from the Governmental Affairs Committee experience that the Republican side of the aisle—the President's side of the aisle—has been unanimous in the support of John Graham, and that is understandable, both out of respect for the nominee and the President himself.

Having said that, though, the reason I come to the floor this evening and the reason I asked for time in debate is because I believe this is one of the most

dangerous nominations that we are going to consider—dangerous in this respect: Although the office which Mr. John Graham seeks is obscure by Washington standards, it is an extremely important office. Few people are aware of the Office of Information and Regulatory Affairs and just how powerful the office of regulatory czar can be. But this office, this senior White House staff position, exercises enormous authority over every major Federal regulation the Government has under consideration. Because of this, the OIRA Administrator must have a commitment to evenhandedness, objectivity, and fair play in analyzing and presenting information about regulatory options.

Do you often sit and wonder, when you hear pronouncements from the Bush White House, for example, on arsenic in drinking water and increasing the acceptable level of arsenic in drinking water, who in the world came up with that idea? There might be some business interests, some industrial and corporate interests, who have a specific view on the issue and have pushed it successfully in the administration. But somebody sitting in the Bush White House along the way said: That sounds like a perfectly sound idea. And so they went forward with that suggestion.

Of course, the public reaction to that was so negative that they have had time to reconsider the decision, but at some time and place in this Bush White House, someone in a position of authority said: Go forward with the idea of allowing more arsenic in drinking water in the United States.

I do not understand how anyone can reach that conclusion at all, certainly not without lengthy study and scientific information to back it up, but it happened. My fear is, John Graham, as the gatekeeper for rules and regulations concerning the environment and public health, will be in a position to give a thumbs up or a thumbs down to suggestions just like that from this day forward if he is confirmed.

I think it is reasonable for us to step back and say: If he has that much power, and we already have seen evidence in this administration of some rather bizarre ideas when it comes to public health and the environment, we have a right to know what John Graham believes, what is John Graham's qualification for this job, what is his record in this area? That is why I stand here this evening.

I want to share with my colleagues in the Senate and those who follow the debate the professional career of Mr. John Graham which I think gives clear evidence as to why he should not be confirmed for this position.

Let me preface my remarks. Nothing I will say this evening, nothing I have said, will question the personal integrity of John Graham. I have no reason to do that, nor will I. What I will raise this evening relates directly to his professional experience, statements he has made, views he holds that I think are central to the question as to whether or not we should entrust this important and powerful position to him.

Some in the Governmental Affairs Committee said this was a personal attack on John Graham. Personal in this respect: I am taking his record as an individual, a professional, and bringing it to the Senate for its consideration. But I am not impugning his personal integrity or his honesty. I have no reason to do so.

I assumed from the beginning that he has done nothing in his background that will raise questions along those lines. I will really stick this evening to things he has said in a professional capacity, and in sticking to those things, I think you will see why many have joined me in raising serious questions about his qualifications.

On the surface, John Graham strikes some of my colleagues in the Senate as possessing the qualities of objectivity and evenhandedness we would expect in this position. He is seen by many as eminently qualified for the position. After all, he is a leading expert in the area of risk analysis and has compiled a lengthy list of professional accomplishments.

I have heard from colleagues on both sides of the aisle, whom I respect, that they consider him the right man for the job. So I think it is important for me this evening to spell out in specific detail why I believe that is not the case, why John Graham is the wrong person to serve as the Nation's regulatory czar.

Professor Graham's supporters painted a picture of him as evenhanded and objective. They say he supports environmental regulations as long as they are well drafted and based on solid information. My colleague, the Senator from Tennessee, said as much in his opening statement.

A casual glance at Dr. Graham's record may lead one to conclude this is an accurate portrayal. As they say, the devil is in the details. A careful reading of the record makes several things absolutely clear: Dr. Graham opposes virtually all environmental regulations. He believes that many environmental regulations do more harm than good. He also believes that many toxic chemicals—toxic chemicals—may be good for you. I know you are wondering, if you are following this debate, how anyone can say that. Well, stay tuned.

John Graham favors endless study of environmental issues over taking actions and making decisions—a classic case of paralysis by analysis. Dr. Graham's so-called objective research is actually heavily influenced by policy consideration, and he has had a built-in bias that favors the interest of his industrial sponsors.

He has been connected with Harvard University, and that is where his analysis has been performed, at his center. He has had a list of professional clients over the years.

Madam President, I ask unanimous consent that this list of clients be printed in the RECORD.

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

UNRESTRICTED GRANTS TO THE HARVARD CENTER FOR RISK ASSESSMENT

3M.
Aetna Life & Casualty Company.
Air Products and Chemicals, Inc.
Alcoa Foundation.
American Automobile Manufacturers Association.
American Chemistry Council.
American Crop Protection Association.
American Petroleum Institute.
Amoco Corporation.
ARCO Chemical Company.
ASARCO Inc.
Ashland Inc. Foundation.
Association of American Railroads.
Astra AB.
Astra-Merck.
Atlantic Richfield Corporation.
BASF.
Bethlehem Steel Corporation.
Boatmen's Trust.
Boise Cascade Corporation.
BP America Inc.
Cabot Corporation Foundation
Carolina Power and Light.
Cement Kiln Recycling Coalition.
Center for Energy and Economic Development.
Chevron Research & Technology Company.
Chlorine Chemistry Council.
CIBA-GEIGY Corporation.
Ciba Geigy Limited.
CITGO Petroleum Company.
The Coca-Cola Company.
Cytec Industries.
Dow Chemical Company.
DowElanco.
DuPont Agricultural Products.
Eastman Chemical Company.
Eastman Kodak Company.
Edison Electric Institute.
E.I. DuPont de Nemours & Company.
Electric Power Research Institute.
Emerson Electric.
Exxon Corporation.
FBC Chemical Corporation.
FMC Corporation.
Ford Motor Company.
Fort James Foundation.
Frito-Lay.
General Electric Fund.
General Motors Corporation.
The Geon Company.
Georgia-Pacific Corporation.
Glaxo-Wellcome, Inc.
The Goodyear Tire & Rubber Company.
Grocery Manufacturers of America.
Hoechst Celanese Corporation.
Hoechst Marion Roussel.
Hoffman-LaRoche Inc.
ICI Americas Inc.
Inland Steel Industries.
International Paper.
The James Riber Corporation Foundation.
Janssen Pharmaceutical.
Johnson & Johnson.
Kraft Foods.
Louisiana Chemical Association.
Lyondell Chemical Company.
Mead Corporation Foundation.
Merck & Company.
Microban.
Millenium Chemical Company.
Mobil Foundation, Inc.
Monsanto Company.
National Food Processors Association.
National Steel.
New England Power Service—New.
England Electric System.

Nippon Yakin Kogyo.
North American Insulation Manufacturers Association.
Novartis Corporation.
Novartis International.
Olin Corporation Charitable Trust.
Oxford Oil.
Oxygenated Fuels Association.
PepsiCo Inc.
The Pittston Company.
Pfizer.
Pharmacia Upjohn.
Potlatch Corporation.
Praxair, Inc.
Procter & Gamble Company.
Reynolds Metals Company Foundation.
Rhone-Poulenc, Inc.
Rohm and Haas Company.
Schering-Plough Corporation.
Shell Oil Company Foundation.
Texaco Foundation.
Union Carbide Foundation.
Unocal.
USX Corporation.
Volvo.
Westinghouse Electric Corporation.
Westvaco.
WMX Technologies, Inc.
Zeneca.
(Source: Harvard Center for Risk Assessment).

Mr. DURBIN. I thank the Chair. I will not go through all of the companies on this list. It reads like, as they say, a veritable list of who's who of industrial sponsors in America: Dow Chemical Company, all sorts of institutes, the Electric Power Research Institute, oil companies, motor companies, automobile manufacturers, chemical associations—the list goes on and on.

These corporate clients came to Professor Graham not to find ways to increase regulation on their businesses but just for the opposite, so that he can provide through his center a scientific basis for resisting Government regulation in the areas of public health and the environment.

I am an attorney by profession, and I understand that when there is balance in advocacy you have an objective presentation: Strong arguments on one side and strong arguments against, and then you try to reach the right conclusion. So I am not going to gainsay the work of Dr. Graham in representing his corporate clients over the years, but it is important for us to put this in perspective.

If Dr. Graham is appointed to this position, his clients will not be the corporations of America, his clients will be the 281 million Americans who count on him to make decisions in their best interest when it comes to environmental protection and protection of the health of their families.

When we look at his professional background, it raises a question about his objectivity. He has had little respect for the environmental concerns of most Americans—concerns about toxic chemicals in drinking water, pesticides in our food, or even the burial of radioactive waste. To John Graham, these are not major concerns. In fact, as you will hear from some of his statements that I will quote, he believes they reflect a paranoia in American culture.

Dr. Graham's supporters have taken issue with my categorizing his views as antiregulatory. They say, and it has been said on the floor this evening, John Graham supports environmental regulations: just look at the statements he has made about removing lead from gasoline. That was said this evening: John Graham supports removing lead from gasoline.

I certainly hope so. And my colleagues know, it is true, John Graham has stated clearly and unequivocally that he thought removing lead from gasoline was a good idea. Do my colleagues know when that decision was made? Decades before John Graham was in any position to have impact on the decision. It is a decision in which he had no involvement in any way whatsoever.

What has he done for the environment lately? What does he think of the recent crop of environmental regulations? On this matter, his opinions are very clear. According to John Graham, environmental regulations waste billions, if not trillions, of taxpayers' dollars. According to John Graham, our choice of environmental priorities actually kills people through a process Mr. Graham calls ''statistical murder,'' something that pops up in his work all the time.

According to John Graham, we should massively ship resources away from environmental problems such as toxic chemicals to more important activities that he has identified, such as painting white lines on highways and encouraging people to stop smoking.

This is a recent quote from Dr. Graham:

The most cost-effective way to save lives generally is to increase medical treatment, and somewhat second, to curb fatal injuries. Trying to save lives by regulating pesticides or other toxins generally used up a lot of resources.

I can recall during the time we were debating the potential of a nuclear holocaust, there was a man named Richard Perle in the Reagan administration who said he didn't think we should be that frightened because if we did face a nuclear attack, in his words, ''with enough shovels,'' we could protect ourselves.

When I read these words of Dr. Graham who says, ''The most cost-effective way to save lives generally is to increase medical treatment, and somewhat second, to curb fatal injuries,'' and then he says that ''regulating pesticides and toxins uses up a lot of resources'' can you see why I believe he has been dismissive of the basic science which he is going to be asked to implement and enforce in this office?

This quote is a little bit understated. In other documents, Mr. Graham refers to spending money on control of toxins as ''an outrageous allocation of resources.'' This captures the very heart of Graham's philosophy. Environmental regulations to control toxic chemicals are an enormous waste of resources, in the mind of John Graham. It makes little sense, according to Graham, to focus on environmental problems. Instead, we should use our scarce public policy dollars for other more important issues.

Why does John Graham hold such strong views opposing environmental regulations? Because he believes toxic chemicals just are not that toxic. Dr. Graham has said the so-called ''toxic chemicals'' may actually be good for us. I will read some of the transcript from his hearing on the whole question of dioxin.

Now, Dr. Graham supports these beliefs based on what he calls ''a new paradigm,'' the idea that there may well be an optimum dose for toxic chemicals or for other environmental hazards such as radiation. The idea behind this optimum dose theory is there is an exposure that is good for people in small amounts even if the chemical or radiation is harmful in larger quantities.

In a conference on this new paradigm at which Graham was a featured speaker, he urged his colleagues:

Advocates of the new paradigm need to move beyond empiricism to explanation if we can explain why low doses are protective, the prospects of a genuine scientific revolution are much greater.

A scientific revolution inspired by John Graham.

Well, the obvious question I had of Mr. Graham when he came to the Governmental Affairs Committee was as follows:

Mr. DURBIN: Dr. Graham, when I look at your resume, I'm curious; do you have any degrees or advanced training in the field of chemistry, for example?
Mr. GRAHAM: No, sir.
Mr. DURBIN: Biology?
Mr. GRAHAM: No, sir.
Mr. DURBIN: Toxicology?
Mr. GRAHAM: No.
Mr. DURBIN: What would you consider to be your expertise?
Mr. GRAHAM: I have a Ph.D. in public affairs from Carnegie Mellon, with an emphasis in the field of management science called ''decision science.'' At the School of Public Health, I teach analytical tools and decision science like risk assessment, cost-effective analysis, and cost-benefit analysis.
Mr. DURBIN: No background in medical training?
Mr. GRAHAM: No. I do have a postdoctoral fellowship funded by the Environmental Protection Agency where I studied human health risk assessment and had research experience in doing human health risk assessment on chemical exposures.
Mr. DURBIN: Does your lack of background in any of these fields that I have mentioned give you any hesitation to make statements relative to the danger of chemicals to the human body?
Mr. GRAHAM: I think I have tried to participate in collaborative arrangements where I have the benefit of people who have expertise in some of the fields that you have mentioned.
Mr. DURBIN: Going back to the old television commercial, ''I may not be a doctor but I play one on TV,'' you wouldn't want to assume the role of a doctor and public health expert when it comes to deciding the safety or danger over the exposure to certain chemicals, would you?
Mr. GRAHAM: Well, I think our center and I personally have done significant research

in the area of risk assessment of chemicals and oftentimes my role is to provide analytical support to a team and then other people on the team provide expertise, whether it be toxicology, medicine, or whatever.

The reason I raise this is there is no requirement that a person who takes this job be a scientist, a medical doctor, a chemist, a person with a degree in biology or toxicology. That is not a requirement of the job. And very few, if any, of his predecessors held that kind of expertise.

But when you consider carefully what Mr. Graham has said publicly in the field of science, you might conclude that he has much training and a great degree in the field.

That is not the case. He has held himself out time and again, and I will not go through the specifics here, and made dogmatic statements about science that cannot be supported. And he wants to be the gatekeeper on the rules and regulations of public health and the environment in America.

Mr. Graham is, as I said earlier, trying to create a scientific revolution but he acknowledges it is an uphill battle. Why do so few mainstream scientists buy into his theories? Because, says Graham, science itself has a built-in bias against recognizing the beneficial effects of low-dose exposures to otherwise dangerous chemicals such as dioxin.

Scientific journals don't like to publish new paradigm results. In his written works, Dr. Graham goes so far to say the current classification scheme used by the EPA and others to identify cancer-causing chemicals should be abolished and replaced with a scheme that recognizes that all chemicals may not only not cause cancer but may actually prevent cancer, as well.

Perhaps he opposes environmental regulation because he is so convinced that regulations generally do more harm than good. Some of this harkens back, of course, to his new paradigm, his scientific revolution. If we restrict toxic chemicals that are actually preventing, rather than causing, cancer, we wind up hurting, rather than helping, the population at large, according to Dr. Graham. Think about that. He is arguing that some of the things we are trying to protect people from we should actually encourage people to expose themselves to.

If he had scientific backing for this, it is one thing. He doesn't have the personal expertise in the area and very few, if any, come to rally by his side when he comes up with the bizarre views.

He argues environmental regulations hurt us in other ways. They siphon off resources from what he considers the real problem of society, and they introduce new risks of their own, so according to Dr. Graham the cure is worse than the disease. The side effects of environmental regulation are so problematic and many that he refers to them as ''statistical murder.'' Our environmental priorities are responsible for the statistical murder of tens of thousands of American citizens every year, according to Mr. GRAHAM.

Take his well-known example, and he has used it in writings of chloroform regulation. Mr. GRAHAM estimates that chloroform regulation costs more than $1 trillion to save a single life, $1 trillion. And he uses this in an illustration of how you can come up with a regulation that is so expensive you could never justify it—$1 trillion to save one life. What he doesn't say—and the EPA looked at his analysis—that cost of $1 trillion is over a period of time of 33,000 years. Just a little footnote that I think should have been highlighted. How can patently absurd numbers such as this make a contribution to cost-benefit consideration?

There is a bigger problem. The chloroform regulation he refers to doesn't exist and never did. I asked the Congressional Research Service to find out about this regulation on chloroform that Dr. Graham used as an example of statistical murder, where we will spend $1 trillion as a society to save one life. Find out where that took place.

Guess what. It doesn't exist. This is a hypothetical case study for an academic exercise. It is not a regulation. It was never proposed as a regulation nor was it ever considered seriously by anyone. Someone invented this scenario and John Graham seized on it as his poster child of how you can go to ridiculous extremes to protect people from environmental exposure.

Even when Dr. Graham studies the costs and benefits of actual environmental regulations, ones that are truly being considered, his controversial practice of ''discounting'' automatically trivializes the benefits of environmental regulation.

We have been through this debate in the Governmental Affairs Committee. There are people on the committee, Democrats and Republicans, who say—and I think this is a perfectly reasonable statement—before you put in a rule or regulation, find out what it is going to cost: What is the cost to society? What is the benefit? I think that is only reasonable. There are certain things we can do to save lives, but at such great expense, society could never bear that burden. The problem you have is in drawing up the statistics, in trying to quantify it, in saying what a life is worth and over what period of time.

Dr. Graham gets into this business and starts discounting human lives in exactly the same way economists and business advisers discount money. A life saved or a dollar earned today, according to Dr. Graham, is much more valuable than a life saved or a dollar earned in the future. Dr. Graham's so-called scientific results led him to conclude that when the Environmental Protection Agency says a human life is worth $4.8 million, by their calculations, they are 10 times too high. That is Dr. Graham's analysis.

How many of us in this Senate Chamber today can honestly say they agree with Dr. Graham's discounting the value of a human life to 10 percent of the amount we have used to calculate many environmental regulations? That is a starting point. If you are representing industrial clients who do not want to be regulated, who suggest environmental regulations and public health regulations are, frankly, outlandish, you start by saying lives to be saved are not worth that much.

Discounting may make sense when it comes to money, but it trivializes the value of human lives and the lives of our next generation and creates an automatic bias against environmental regulations meant to provide protections over a long period of time.

I will be the first to admit there are inefficiencies in our current environmental regulations, but Professor Graham's research hasn't found them. Instead, he consistently identified phantom costs of nonexistent regulations and for years referred to them as if they were the real cost of real environmental regulations. He has played a game with the facts for his purposes, for his clients. But when it comes to the OMB, in this capacity it will be the real world where decisions you make will literally affect the health and future of Americans and their families.

He has introduced misleading information that has really distorted many of the elements of an important policy debate. There are organizations that absolutely love research results that show billions of dollars being wasted by unnecessary environmental regulations—groups such as the Cato Institute, the Heritage Foundation, the American Enterprise Institute, all of whom have made ample use of Professor Graham's scientific studies, scientific revolution—statistical murder; results to strengthen their antiregulatory arguments.

To sum up Dr. Graham's belief, toxic chemicals can be good for you, environmental regulations can be very bad for you.

Not everyone accepts these beliefs, of course. What does Dr. Graham think of those with a different set of priorities? In his mind, it is a sign of collective paranoia, a sign of pervasive weakness and self-delusion that pervades our culture.

If you think I have overstated it, I think his own words express his sentiments more accurately. I would like to refer to this poster, quotes from Dr. Graham.

Interview on CNN, 1993:

We do hold as a society, I think, a noble myth that life is priceless, but we should not confuse that with reality.

Dr. Graham said that. Then:

Making sense of risk: An agenda for Congress in 1996.

John Graham said:

The public's general reaction to health, safety and environmental dangers may best be described as a syndrome of paranoia and neglect.

''Medical Waste News,'' that he has written for, in 1994:

. . . as we've grown wealthier, we've grown paranoid.

Testimony to the House Science Committee in 1995:

We should not expect that the public and our elected officials have a profound understanding of which threats are real and which are speculative.

So the very institution to which we are being asked to confirm this man's nomination has been really dismissed by John Graham as not having sound understanding of threats that are real.

Then he goes on to say, in Issues in Science and Technology, in 1997:

It may be necessary to address the dysfunctional aspects of U.S. culture. . . . The lack of a common liberal arts education . . . breeds ignorance of civic responsibility.

So John Graham can not only portray himself as a doctor, a toxicologist, a biologist, and a chemist, he can also be a sociologist and general philosopher. The man has ample talents, but I am not sure those talents will work for America when it comes to this important job.

I would like to take a look at two issues in detail to give a clearer picture of Dr. Graham's approach to environmental issues of great concern to the American people. I want to examine his record on pesticides and on dioxin. It is not unreasonable to believe if his nomination is confirmed that John Graham will consider rules and regulations relating to these two specific items, pesticides and dioxin.

The Food Quality Protection Act of 1996 passed Congress unanimously—and not just any session of Congress, the 104th Congress, one of the most contentious in modern history, a Congress that could hardly agree on anything. Yet we agreed unanimously to pass this important new food safety law. A key purpose of the law was to provide the public with better protection against pesticides. In particular, the law aimed to provide increased protections to our most vulnerable segment of the population, our children. President Clinton remarked that the Food Quality Protection Act would replace a patchwork of standards with one simple standard: If a pesticide poses a danger to our children, then it won't be in our food.

This groundbreaking legislation received the unanimous support of Congress. What does John Graham, Dr. John Graham, think about the importance of protecting our children from pesticide residues on food? Let me tell you what he said in his work.

The Food Quality Protection Act suffers from the same failings that mark most of our other environmental laws and regulations. Our attempts at regulating pesticides and food are a terrible waste of society's resources. We accept risks from other technologies like the automobile, why should we not accept risks from pesticides? When we regulate, or worse, when we ban pesticides, we often wind up doing more harm than good.

Let me tell you a case in point. I think it is an interesting one. It was a book which Mr. Graham wrote called ''Risk versus Risk.'' This is a copy of his cover. It was edited by John Graham and Jonathan B. Weiner.

I might also add the foreword was written by Cass Sunstein, who is a professor at the University of Chicago School of Law and has one of the letters of support which has already been quoted on the floor. He was a colleague of Mr. Graham, at least in writing the foreword to this book. This goes into the whole question of pesticides and danger. The thing I find curious is this. On page 174 of this book, Mr. Graham, who is asked to be in charge of the rules and regulations relative to pesticides, started raising questions about whether we made the right decision in banning DDT—banning DDT. He says:

Many of the organophosphate pesticides that have been used in place of DDT have caused incidents of serious poisoning among unsuspecting workers and farmers who had been accustomed to handling the relatively nontoxic DDT.

That is a quote—''relatively nontoxic DDT.''

I read an article the other day in the New Yorker which was about DDT and its discovery. Let me read a part of this article—I want to make sure of the sources quoted: Malcolm Gladwell, ''The Mosquito Killer,'' New Yorker, July 2, 2001. If I am not mistaken, that is the same gentleman who wrote the book ''The Tipping Point,'' which I found very good and recommend.

In his article about DDT, he says as follows:

Today, of course, DDT is a symbol of all that is dangerous about man's attempts to interfere with nature. Rachel Carson, in her landmark 1962 book ''Silent Spring,'' where she wrote memorably of the chemical's environmental consequences, how much its unusual persistence and toxicity had laid waste to wildlife in aquatic ecosystems. Only two countries, India and China, continue to manufacture the substance, and only a few dozen more still use it.

In May, at the Stockholm Convention on Persistent Organic Pollutants, more than 90 countries signed a treaty placing DDT on a restricted use list and asking all those still using the chemical to develop plans for phasing it out entirely. On the eve of its burial, however, and at a time when the threat of insect-borne disease seems to be resurging, it is worth remembering that people once felt very differently about DDT, and between the end of the Second World War and the beginning of the 1960s, it was considered not a dangerous pollutant but a lifesaver.

Mr. Gladwell, in this article, in summarizing the history of DDT, really points to the fact that those who have analyzed it around the world, with the exception of India and China—some 90 nations—abandoned it. John Graham, who wants to be in charge of the rules and regulations on pesticides, the environment, and public health, wrote:

It was relatively nontoxic.

This is a man who wants to make a decision about pesticides and their impact on the health of America.

According to Dr. Graham, it may have been an ill-advised decision to take DDT off the market. He cites in this book that I quoted how DDT was particularly effective in dealing with malaria. No doubt it was. But it was decided that the environmental impact of this chemical was so bad that countries around the world banned it.

Let me offer some direct quotes from Dr. Graham from various reports he has written over the years and from the many statements that he has made.

Before I do that, I see my colleague, Senator WELLSTONE, is in the Chamber. At this time, I would like to yield to him with the understanding that I can return and complete my remarks. I thank him for joining me this evening. I will step down for a moment and return.

I yield to Senator WELLSTONE.

Mr. WELLSTONE. Mr. President, I thank Senator DURBIN. I am very proud to join him. I have a lot of time reserved tonight. I say to colleagues who are here in the Chamber and who are wondering what our timeframe is that I can shorten my remarks.

I am speaking in opposition to the nomination of Mr. John Graham to be Administrator of the Office of Information and Regulatory Affairs, within the Office of Management and Budget.

I believe the President should have broad latitude in choosing his cabinet. I have voted for many nominees in the past with whom I have disagreed on policy grounds. I have voted for a number during this Administration, and I'm sure I will vote for more nominees with whom I disagree on policy, sometimes very sharply.

Mr. Graham has been nominated to a sensitive position: Administrator of the Office of Information and Regulatory Affairs (OIRA). In this role Mr. Graham would be in a position to delay, block or alter rules proposed by key federal agencies. Which agencies?

Let me give you some examples. One would be OSHA. This happens to be an agency with a mandate that is near and dear to my heart. Over the years, I have had the opportunity to do a lot of community organizing, and I have worked with a lot of people who unfortunately have been viewed as expendable. They do not have a lot of clout—political, economic, or any other kind. They work under some pretty uncivilized working conditions.

The whole idea behind OSHA was that we were going to provide some protection. Indeed, what we were going to be saying to companies—in fact, we did the same thing with environmental protection—is, yes, maximize your profits in our private sector system. Yes, organize production the way you choose to do. You are free to do it any way you want to, and maximize your profit any way you want to—up to the point that you are killing workers, up to the point that it is loss of limbs, loss of lives, harsh genetic substances, and people dying early of cancer. Then you can't do it. Thank God, from the point

of view of ordinary people, the Government steps in, I would like to say, on our side.

We had a perfect example of that this year in the subcommittee that I chair on employment, safety, and training. I asked Secretary Chao to come. She didn't come. I wanted to ask her about the rule on repetitive stress injury, the most serious problem right now in the workplace. It was overturned. The Secretary said she would be serious about promulgating a rule that would provide protection for the 1.8 million people, or thereabouts, who are affected by this. I wanted to know what, in fact, this administration is going to do.

So far it is really an obstacle.

As Administrator of OIRA, Mr. Graham can frustrate any attempt by OSHA to address 1.8 million repetitive stress injuries workers suffer each year, as reported by employers.

I will just say it on the floor of the Senate. I think it is absolutely outrageous that rule was overturned. I see no evidence whatsoever that this administration is serious about promulgating any kind of rule that would provide workers with real protection.

The Mine Safety and Health Administration, MSHA. The Louisville Courier Journal conducted a comprehensive investigation of illnesses suffered by coal miners due to exposure to coal dust—workers who are supposed to be protected by MSHA regulation. We urgently need vigorous action by MSHA.

As a matter of fact, I couldn't believe it when I was down in east Kentucky in Harlan and Letcher Counties. I met with coal miners. That is where my wife, Sheila, is from. Her family is from there. I hate to admit to colleagues or the Chair that I actually believed that black lung disease was a thing of the past. I knew all about it. I was shocked to find out that in east Kentucky many of these miners working the mines can't see 6 inches in front of them because of the dust problem.

Senator DURBIN's predecessor, Senator Simon, worked on mine safety. It was one of his big priorities.

Part of the problem is the companies actually are the ones that monitor coal dust. MSHA has been trying to put through a rule—we were almost successful in getting it through the last Congress—to provide these miners with some protection.

From the point of view of the miners, they don't view themselves as expendable.

The Food and Drug Administration regulates the safety of prescription drugs for children, for the elderly, for all of us. The Environmental Protection Agency (EPA) regulates pollution of the water and air. For example, EPA will determine what level of arsenic is acceptable in American drinking water. The Food Safety and Inspection Service (FSIS) is charged with the task of protecting us to the extent possible from salmonella, foot and mouth disease, BSE and other food-borne illnesses.

These and other important Federal regulatory agencies exist to protect Americans and to uphold standards that have been fought for and achieved over decades of struggle.

It is not true that people in Minnesota and people in the country are opposed to Government regulations on their behalf and on behalf of their children so that the water is not poisoned, so that the mines they work in are safe, so that the workplace they work in is safe, so that there are civilized working conditions, so that they don't have too much arsenic in the water their children drink, and so that the food their children eat is safe. Don't tell me people in Minnesota and in the country aren't interested in strong regulation on behalf of their safety and their children's safety.

The Administrator of OIRA must be someone who stands with the American public, someone who sees it as his or her mission to protect the public interest. In my view, John Graham's evident hostility to regulation that protects the public interest, in particular his over-reliance on tools of economic analysis that denigrate the value of regulatory protections, is disqualifying.

This is particularly troublesome when it comes to workplace safety, for example, because his approach flies in the face of statutory language requiring OSHA—again I am fortunate to chair the subcommittee with jurisdiction over OSHA—to examine the economic feasibility of its regulations, as opposed to undertaking the cost/benefit analyses upon which he over-relies.

As the Supreme Court noted in the so-called Cotton Dust Case, embedded in the statutory framework for OSHA is Congress' assumption ''that the financial costs of health and safety problems in the workplace were as large as or larger than the financial costs of eliminating these problems.'' Instead of cost/benefit analyses to guide standard setting, OSHA is statutorily bound to promulgate standards ''which most adequately assur[e], to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life.''

In its 30 years of existence the Occupational Safety and Health Administration has made its presence felt in the lives of tens of millions of Americans at all levels of the workforce. OSHA and its related agencies are literally the last, best hope for millions of American workers whose lives would otherwise be put on the line, simply because they need to earn a paycheck. Experience has shown, over and over, that the absence of strong government-mandated safeguards results in workplace exposure to everything from odorless carcinogens to musculoskeletal stress to combustible grain dust to other dangers too numerous to mention.

Since its founding, hundreds of thousands of American workers did not die on the job, thanks to OSHA. Workplace fatalities have declined 50 percent between December of 1970 and December 2000, while occupational injury and illness rates have dropped 40 percent.

Not surprisingly, declines in workplace fatalities and injuries have been most dramatic in precisely those industries where OSHA has targeted its activities. For example, since OSHA came into existence, the manufacturing fatality rate has declined by 60 percent and the injury rate by 33 percent. At the same time, the construction fatality rate has declined by 80 percent and the injury rate by 52 percent.

It is not a coincidence that these two industries have received some of OSHA's closest attention. OSHA's role in assuring so far as possible that every worker is protected from on-the-job hazards cannot be denied.

Unfortunately, however, compared to the demand, there is still a whole lot of work to be done. Indoor air quality, hexavalent chromium, beryllium, permissible exposure limits for hundreds of chemicals in the workplace—this list goes on and on—not to mention repetitive stress injuries. The unfinished agenda is huge. It is precisely this unfinished agenda that should give us pause in confirming, as head of OIRA, someone whose entire professional history seems aimed at frustrating efforts to regulate in the public interest. That is my disagreement. It is a different framework that he represents than the framework that I think is so in the public interest.

Let me just give one example: the chromium story.

Chromium is a metal that is used in the production of metal alloys, such as stainless steel, chrome plating and pigments. It is also used in various chemical processes and it is a component of cement used to manufacture refractory bricks.

The first case of cancer caused by chromium was reported in 1890. Since then, the evidence that it causes cancer continued to grow. Chromium has been declared a carcinogen by the EPA, the National Toxicology Program, and the International Agency for Research on Cancer.

In the early 1980s, it was estimated that 200,000 to 390,000 workers were exposed to hexavalent chromium in the workplace—200,000 to 390,000. Lung cancer rates among factory workers exposed to hexavalent chromium are almost double the expected cancer rate for unexposed workers. Lung cancer rates for factory workers exposed to hexavalent chromium are also double the expected cancer rate for unexposed workers.

OSHA has known the risks associated with exposure to this dangerous carcinogen since its inception but has failed to act. OSHA's assessment, conducted by K.S. Crump Division of ICG Kaiser, was that between 9 percent and

34 percent of workers exposed at half the legal limit for a working lifetime would contract lung cancer as a result of this exposure.

On April 24, 2000, OSHA published its semiannual agenda, which anticipated a notice of proposed rulemaking would be published in June 2001. If confirmed as Administrator of OIRA within the Office of Management and Budget, however, John Graham's actions could affect OSHA's stated willingness to undertake a proposed rule this year, as the agency has finally promised and as is urgently needed.

I will finish by just giving a few examples of how Mr. Graham could negatively impact the process.

No. 1, reduce OSHA's ability to collect information in support of a new standard.

To develop a new hexavalent chromium standard, OSHA would likely need to survey scores of businesses for information about their use of the chemical and about workplace exposures. During the committee hearing on his nomination, Graham said that he supports requiring the federal agencies to do cost-benefit analyses of information requests sent to industry in preparation for a rulemaking. Under the Paperwork Reduction Act, before an information request can be sent to ten entities or more, it must be approved by OMB. Because it is very difficult to judge the value of the information being collected prior to receiving it, Graham could use the paperwork clearance requirement to tangle up the agency in justifying any information requests needed to support a new rule on chromium.

No. 2, insist upon a new risk assessment, despite compelling evidence that chromium poses a cancer risk.

OSHA has conducted its own risk assessment of chromium and reviewed numerous studies documenting that workers working with or around the chemical face considerable increased risk of lung cancer. But it is likely that Graham could exercise his power at OMB to require a new risk assessment of hexavalent chromium, which could further delay the issuance of a rule.

Graham has supported requiring every risk-related inquiry by the federal government to be vetted by a panel of peer review scientists prior to its public release, which would be costly and create significant delays in the development of new regulations. He has argued that the risk assessments done by the federal agencies are flawed, and that OMB or the White House should develop its own risk assessment oversight process. This would allow economists to review and possibly invalidate the findings of scientists and public health experts in the agencies.

No. 3, flunk any rule that fails a stringent cost-benefit test.

Graham is a supporter, for example, of strict cost-efficiency measures, even in matters of public health. Because he views regulatory choices as best driven by cost-based decisionmaking, the worthiness of a rule is determined at least partly by the cost to industry of fixing the problem. This is the opposite of an approach that recognizes that workers have a right to a safe workplace environment.

The OSHA mission statement is ''to send every worker home whole and healthy every day.''

Under the law as it now stands, OSHA is prohibited from using cost-benefit analysis to establish new health standards. Instead, OSHA must set health standards for significant risks to workers at the maximum level that the regulated industry, as a whole, can feasibly achieve and afford. This policy, set into law by the OSHA Act, recognizes the rights of workers to safe and healthful workplaces, and provides far more protection to workers than would be provided by any standards generated under a cost-benefit analysis.

Putting John Graham in the regulatory gatekeeper post would create a grave risk that OSHA protections, such as the hexavalent chromium standard, will not be set at the most protective level that regulated industry can feasibly achieve. We know from his own statements that John Graham will require OSHA to produce economic analyses that will use antiregulation assumptions, and will show protective regulations to fail the cost-benefit tests.

It is true that OSHA is technically authorized to issue standards that fail the cost-benefit test. However, it would be politically nearly impossible for an agency to issue a standard that has been shown, using dubious methodologies, to have net costs for society.

Unfortunately, although I would like nothing better than to be proven wrong, I fear this is not a farfetched scenario. And let there be no question—such steps would absolutely undermine Congress' intent when it passed the Occupational Health and Safety Act 30 years ago.

Let me quote again from the Supreme Court's Cotton Dust decision:

> Not only does the legislative history confirm that Congress meant ''feasible'' rather than ''cost-benefit'' when it used the former term, but it also shows that Congress understood that the Act would create substantial costs for employers, yet intended to impose such costs when necessary to create a safe and healthful working environment. Congress viewed the costs of health and safety as a cost of doing business. Senator Yarborough, a cosponsor of the [OSH Act], stated: ''We know the costs would be put into consumer goods but that is the price we should pay for the 80 million workers in America.''

There is one final point I want to make. I will tell you what really troubles me the most about this nomination. And let me just kind of step back and look at the bigger picture, which really gives me pause.

The essence of our Government—small ''d'' democracy—is to create a framework for the protection of the larger public as a whole. I believe in that. And I believe a majority of the people believe in that. It is the majority's commitment to protect the interests of those who cannot protect themselves that sets this great Nation apart from others. That is the essence of our democratic way of life. That is the core of this country's incredible heritage.

But there are a series of things happening here in the Nation's Capitol—stacked one on top of another—that fundamentally undermine the capacity of our Government to serve this purpose of being there for the public interest. I think we have a concerted effort on the part of this administration—and I have to say it on the floor of the Senate—and its allies to undermine the Government's ability to serve the public interest.

First, there was a stream of actual or proposed rollbacks of regulations designed to protect the health and well-being of the people of this country—arsenic in drinking water, global warming emissions, ergonomics—or repetitive stress injuries in the workplace, drilling in the wilderness, energy efficiency standards—it goes on and on.

Then there was the tax cut, making it absolutely impossible for us to protect Social Security and Medicare, or to do near what we should do for children or for the elderly, for the poor or for the vulnerable, for an adequate education or for affordable prescription drugs—no way—in other words, to fund Government, to do what Government is supposed to do, which is to protect the interests of those who cannot protect themselves.

And then, finally, the administration seeks to place in key gatekeeper positions individuals whose entire professional careers have been in opposition to the missions of the agencies they are now being nominated to advance.

I am troubled by this. I think people in the country would be troubled by this if they really understood John Graham's background and the power of his position and, unfortunately, the capacity not to do well for the public interest. This is unacceptable. This is a concerted, comprehensive effort to undermine our Government's ability to protect and represent the interests of those who don't have all the power, who don't have all the capital.

The goal is clear: Roll back the regulations that they can. That is what this administration is about: Defund government programs and place in pivotal positions those with the will and the determination to block new regulations from going forward—new regulations that will protect people in the workplace, new regulations that will protect our environment, new regulations that will protect our children from arsenic in the drinking water, new regulations that will protect the lakes and the rivers and the streams, new regulations that will make sure the food is safe for our children. This is not acceptable. We should say no. That is why I urge my colleagues to join me in defeating this nomination.

I include as part of my statement a letter in opposition from former Secretary of Labor Reich and other former agency heads.

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

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

MAY 17, 2001.

Re John D. Graham nomination.

Hon. FRED THOMPSON,
Chairman, Senate Governmental Affairs Committee,
Washington, DC.

Hon. JOSEPH I. LIEBERMAN,
Ranking Democrat, Senate Governmental Affairs Committee,
Washington, DC.

DEAR SENATORS: We write as former federal regulators in response to the nomination of John D. Graham, Ph.D., to direct the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB). As OIRA Administrator, Dr. Graham would oversee the development of all federal regulations and he would help shape federal regulatory policy. His decisions will have profound effects on the health, welfare, and environmental quality of all Americans. We are concerned by many of Dr. Graham's expressed views and past actions as Director of the Harvard Center for Risk Analysis, and encourage the committee to conduct a thorough investigation into Dr. Graham's suitability for this position.

Since the early 1980s, both Republican and Democratic Presidents have issued Executive Orders granting the OIRA Administrator exceptionally broad authority to approve, disapprove, and review all significant executive agency regulations. In addition, under the Paperwork Reduction Act, the OIRA Administrator has the responsibility to approve and disapprove agency information collection requests, which agencies need to evaluate emerging public health and environmental threats. These powers give the OIRA Administrator a considerable role in determining how important statutes are implemented and enforced.

In his written work and testimony before Congress, Dr. Graham has repeatedly argued for an increased reliance on cost-benefit and cost-effectiveness analysis in the regulatory process. We agree that economic analysis generally plays an important role in policy making. But increasing the role that economic analysis plays in rulemaking threatens to crowd out considerations of equal or perhaps greater importance that are harder to quantify and to put in terms of dollars—for example, what is the dollar value of making public spaces accessible so a paraplegic can participate fully in community activities? How should we quantify the worth of protecting private medical information from commercial disclosure? Why is the value of preventing a child from developing a future cancer worth only a small fraction of the value of preventing her from dying in an auto accident? How do you quantify the real value of a healthy ecosystem?

In addition, we are concerned that Dr. Graham may have strong views that would affect his impartiality in reviewing regulations under a number of statues. He has claimed that many health and safety statutes are irrational because they do not allow the agencies to choose the regulatory option that maximizes economic efficiency where doing so would diminish public protections. He has repeatedly argued, in his written work and testimony before Congress, that requirements to take the results of cost-benefit and cost-effectiveness analyses into account could supercede congressional mandates that do not permit their use, such as some provisions of the Clean Air Act. [John D. Graham, ''Legislative Approaches to Achieving More Protection Against Risk at Less Cost,'' 1997 Univ. of Chi. Legal Forum 13, 49.] It is important to assure that he can in good conscience carry out the will of Congress even where he has strong personal disagreements with the law.

We are also concerned about Dr. Graham's independence from the regulated community. At the Harvard Center for Risk analysis, Dr. Grahams' major source of funding has been from unrestricted contributions and endowments of more than 100 industry companies and trade groups, many of which have staunchly opposed the promulgation and enforcement of health, safety and environmental safeguards. At HCRA, Dr. Graham's research and public positions against regulation have often been closely aligned with HCRA's corporate contributors. In coming years these same regulated industries will be the subject of federal regulatory initiatives that would be intensively reviewed by Dr. Graham and OIRA. It is thus fair to question whether Dr. Graham would be even-handed in carrying out his duties, including helping enforce the laws he has criticized. Might he favor corporations or industry groups who were more generous to his Center? Will he have arrangements to return to Harvard? Is there an expectation of further endowments from regulated industries? There is the potential for so many real or perceived conflicts of interest, that this could impair his ability to do the job.

We urge the Government Affairs Committee to conduct a thorough inquiry into each of these areas of concern. We believe that the health, safety and quality of life of millions of Americans deserves such an appropriate response. Thank you for your consideration.

Sincerely,

Robert B. Reich, Former Secretary of Labor; Ray Marshall, Former Secretary of Labor; Edward Montgomery, Former Deputy Secretary of Labor; Charles N. Jeffress, Former Assistant Secretary of Labor for Occupational Safety & Health; Eula Bingham, Former Assistant Secretary of Labor for Occupational Safety & Health; Davitt McAteer, Former Assistant Secretary for Labor for Mine Safety and Health.

Lynn Goldman, Former Assistant Administration for Office of Prevention, Pesticides and Toxic Substances, Environmental Protection Agency; J. Charles Fox, Former Assistant Administrator for Water, Environmental Protection Agency; David Hawkins, Former Administrator, for Air Noise and Radiation, Environmental Protection Agency; Joan Claybrook, Former National Highway Traffic Safety Administration; Anthony Robbins, Former Director, National Institute for Occupational Safety and Health.

Mr. WELLSTONE. There are any number of former Federal regulators who have signed on, along with former Secretary Reich. One paragraph:

In his written work and testimony before Congress, Dr. Graham has repeatedly argued for an increased reliance on cost-benefit and cost effectiveness analysis in the regulatory process. We agree that economic analysis plays an important role in policy making. But increasing the role that economic analysis plays in rulemaking threatens to crowd out considerations of equal or perhaps greater importance that are harder to quantify and to put in terms of dollars—for example, what is the dollar value of making public spaces accessible so a paraplegic participate fully in community values? How should we quantify the worth of protecting private medical information from commercial disclosure? Why is the value of preventing a child from developing a future cancer worth only a small fraction of the value of preventing her from dying in an auto accident? How do you quantify the real value of a healthy ecosystem?

That is what is at issue here. Did you notice the other day the report about how children are doing better but not with asthma? Where is the protection going to be for these children? In this cost-benefit analysis, the thing that is never looked at is the cost to the workers who suffer the physical pain in the workplace. What about the cost of a worker who has to quit working and can't support his family because he has lost his hearing or because of a disabling injury in the workplace? What about people who have years off their life and end up dying early from cancer when they shouldn't have, but they were working with these carcinogenic substances? What about the cost to children who are still exposed to lead paint who can't learn, can't do as well in school? What about the cost to all of God's children when we don't leave this Earth better than the way we found it? We are all but strangers and guests in this land. What about the cost of values when we are not willing to protect the environment, we are not willing to be there for our children?

I believe Senators should vote no. Frankly, the more people in the country who find out about this agenda of this administration, they are going to find it to be extreme and harsh and not in the national interest and not in their interest and not in their children's interest. This nomination is a perfect example of that.

I urge my colleagues to vote no and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THOMPSON. Mr. President, I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The assistant Republican leader.

Mr. NICKLES. Mr. President, I thank my friend and colleague Senator THOMPSON for yielding to me. I will be brief.

I have heard our colleagues. I heard part of Senator Wellstone's statement. He said he thought Mr. Graham would be extreme, out of the mainstream, as far as regulating a lot of our industries. I totally disagree.

I am looking at some of the people who are stating their strong support for Dr. John Graham. I will just mention a couple, and I will include for the RECORD a couple of their statements. One is former EPA Administrator William Reilly. No one would ever call him extreme. He said that John Graham has ''impressed me with his rigor, fairmindedness and integrity.'' Dr. Lewis Sullivan, former Secretary of Health and Human Services, said ''Dr.

Graham is superbly qualified to be the OIRA administrator.''

Former administrators from both Democrat and Republican administrations conveyed their confidence that John Graham ''is not an 'opponent' of all regulation but rather is deeply committed to seeing that regulation serves broad public purposes as effectively as possible.''

I looked at this letter. It is signed by Jim Miller and Chris DeMuth, Wendy Gramm, all Republicans, but also by Sally Katzen, who a lot us got to know quite well during a couple of regulatory battles, and John Spotila, both of whom were administrators during President Clinton's reign as President. They served in that capacity. They said he is superbly qualified.

Dr. Robert Leiken, a respected expert on regulatory affairs at the Brookings Institution said that Dr. Graham is ''the most qualified person ever nominated for the job.'' That is a lot when you consider people such as Chris DeMuth and Wendy Gramm, Sally Katzen and others, all very well respected, both Democrats and Republicans. If you had statements by people who have served in the job, both Democrats and Republicans, when you have people who have been former heads of EPA—incidentally, when we passed the clean air bill, I might mention, Administrator Reilly—when they are strongly in support of him, they say he is maybe the most qualified person ever, that speaks very highly of Dr. Graham.

If I believed all of the statements or thought that the statements were accurate that claim he would be bad for the environment, and so on, I would vote with my colleagues from Illinois and Minnesota. I don't happen to agree with that. It just so happens that several former Administrators don't agree with it either.

Dr. Graham is supported by many people who are well respected. He is more than qualified. I believe he will do an outstanding job as OIRA Administrator.

I urge our colleagues, both Democrats and Republicans, to give him an overwhelming vote of support.

I thank my colleagues, Senator THOMPSON and Senator LEVIN, for allowing me to speak.

I ask unanimous consent to print in the RECORD the letters I referenced.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

APRIL 27, 2001.

Hon. FRED THOMPSON,
Chairman.
Hon. JOSEPH I. LIEBERMAN,
Ranking Minority Member, Committee on Governmental Affairs,
Senate Dirksen Office Building, Washington, DC.

DEAR SENATORS THOMPSON AND LIEBERMAN: I am writing to support the nomination of John Graham to head OMB's Office of Information and Regulatory Affairs.

Throughout a distinguished academic career, John has been a consistent champion for a risk-based approach to health, safety and environmental policy. He is smart, he has depth, and he is rigorous in his thinking. I think that he would bring these qualities to the OIRA position and would help assure that the rules implementing our nation's health and environmental laws are as effective and as efficient as they can be in achieving their objectives.

There is a difference between Graham's work at Harvard's Center on Risk Analysis and the responsibilities which he would exercise at OIRA/OMB, and I think he understands that. At Harvard, he has concentrated on research about the elements of risk and their implications for policymakers, as well as on communicating the findings. At OMB, the charge would be quite different, involving the implementation of laws enacted by Congress, working with the relevant federal agencies—in short, taking more than cost-effectiveness into account.

I have no doubt that you and your colleagues on the Committee will put tough questions to him during his confirmation hearing and set forth your expectations for the position and his tenure should he be confirmed by the Senate. And I expect he will give the reassurances you require, of impartial and constructive administration of OIRA, and of avoiding the stalemates that have characterized OIRA–EPA relations, for example, in years past. The position at OIRA is fraught with potential for conflict and obstruction, but the advent of a thoroughgoing professional who has committed his career to the analysis and exposition of risk should be seen as positive. In sum, my interactions over the years with John Graham have impressed me with his rigor, fairmindedness and integrity.

With every good wish,
Sincerely yours,

WILLIAM K. REILLY.

MAY 3, 2001.

Hon. FRED THOMPSON,
Chairman.
Hon. JOE LIEBERMAN,
Ranking Democrat, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN AND SENATOR LIEBERMAN: The undersigned are former administrators of the Office of Information and Regulatory Affairs (OIRA), which was established within the Office of Management and Budget by the Paperwork Reduction Act of 1980. We are writing to urge prompt and fairminded Senate review of Professor John D. Graham's nomination to be OIRA Administrator.

The ''R'' in OIRA involves the regulatory aspects of the Office. These are in an important part of the OIRA Administrator's overall responsibilities. The five of us—like the Presidents we worked for—have differing views of the appropriate role of government regulation in the economy and society. All of us, however, came to appreciate three essential features of regulatory policy during our tours at OIRA.

First, regulation has come to be a highly important component of federal policy-making, with significant consequences for public welfare. Second, the importance of regulatory policy means that individual rules should be subject to solid, objective evaluation before they are issued. Third, the regulatory process should be open and transparent, with an opportunity for public involvement, and final decisions should be clearly and honestly explained. In our view, objective evaluation of regulatory costs and benefits, and open and responsive regulatory procedures, serve the same purpose: to avert policy mistakes and undue influence of narrow interest groups, and to ensure that federal rules provide the greatest benefits to the widest public.

We believe that John Graham understands and subscribes to these principles. His professional field, risk assessment, lies at the heart of many of the most important health, safety, and environmental rules. Despite some of the criticisms of Professor Graham's work that have appeared since his nomination was announced, we are confident that he is not an ''opponent'' of all regulation but rather is deeply committed to seeing that regulation serves broad public purposes as effectively as possible.

The Senate's role in the appointment process is a critical one, and Professor Graham's nomination merits careful scrutiny and deliberation in the same manner as other senior Executive Branch appointments. At the same time, the President is entitled to the services of qualified appointees as soon as possible—and this is a particularly important factor today, when many regulatory issues of great public importance and heated debate are awaiting decision by the President's political officials. We therefore urge prompt and fair-minded Senate review of Professor Graham's nomination.

Respectfully,

JAMES C. MILLER III.
CHRISTOPHER DEMUTH.
WENDY L. GRAMM.
SALLY KATZEN.
JOHN SPOTILA.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I yield time to the Senator from Michigan. I ask how much time he would require?

Mr. LEVIN. Perhaps 15 minutes.

Mr. THOMPSON. I yield 15 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, at the heart of this debate on the nomination of John Graham to be Administrator of the Office of Information and Regulatory Affairs is the issue of cost-benefit analysis and risk assessment in agency rule making. Some of the groups opposed to this nomination, I believe, are concerned that Dr. Graham will live up to his promise and actually require agencies to do competent and comprehensive cost-benefit analyses and risk assessments of proposed rules. I hope he will. The goal of competent cost-benefit analysis and risk assessment is to ensure that the public will be able to get the biggest bang for its buck when it comes to federal regulation and that the requirements agencies impose to protect the environment and public health and safety will do more to help than to hurt. That is what we should all want.

I have been at odds over the past 20 years with some of my closest friends in the environmental, labor, and consumer movements over this notion of cost-benefit analysis. I have supported legislation to require cost-benefit analysis by agencies when issuing regulations since I first came to the Senate because, while I believe Government can make a positive difference in people's lives, I also know that Government can waste money on a good cause.

When we waste money on lesser needs, when we waste our resources on

things where the benefits do not justify the costs, it seems to me that we, at a minimum, have an obligation to tell the public why we are regulating them. If we don't do that, if we do not take the time to analyze benefits, analyze costs, and explain why, if benefits don't justify the costs, we are regulating, then we jeopardize public support for the very causes that so many of us came here to fight for—the environment, health, and safety, including workplace safety.

I came out of local government. I fought hard for housing programs, programs to clean up the environment, neighborhood protection programs, public safety programs. I spent a good part of my life in local government fighting for those programs. Too often, I found my Federal Government wasting resources and failing to achieve the very ends which those programs were supposed to achieve. Too often. When that happens, we jeopardize public support for the very programs of which we profess to be so supportive. When we waste dollars—in whatever the program is—on things which cannot be justified, as when we spend thousands of dollars with OSHA regulations, as we used to do before some of us got involved in getting rid of hundreds of OSHA regulations that made no sense, when we spent money telling people in OSHA regulations that when climbing a ladder you had to face forward, that doesn't protect public health. It doesn't protect workplace safety; it wastes resources on things that are useless, and it brings disrepute to the regulatory process—a process I believe in. I don't make any bones about that. I believe in regulation.

We need regulation to protect people against abuse, to protect their health and safety. But we don't do that if we waste money and if we are not willing to at least ask ourselves: What are the benefits of a proposed regulation? What are the costs of a proposed regulation? Do the benefits justify the costs? And if they don't, why are we regulating then?

I have fought on this floor against regulatory reform measures which I thought went too far. I have filibustered against regulatory reform measures on this floor which I thought went too far, and which, in fact, would have required that agencies do some things which I thought they should not have to do. For instance, we had a regulatory reform bill here which said, even though the law said you could not consider the cost, you would have to do it anyway. No, I don't buy that. If the law says you may not consider cost, that is the law of the land and that must be enforced, and no regulatory reform bill should override that legislative intent.

By the way, I have also opposed measures which said you have to quantify benefits. As my good friend from Minnesota points out, there are hundreds of benefits which cannot be quantified, at least in terms of dollars. You cannot say what the value of a life is. We don't know the value of a life. We don't know the value of a beautiful, unrestricted view in a national park. We don't know the value, in dollars, of a child who is disabled being able to get to a higher floor because of the Americans with Disabilities Act. We cannot put a dollar value on those benefits. And we should not. But we should weigh the benefit of that and ask ourselves whether or not, with the same resources, we can get more kids a better education, or more kids to a higher floor in a building—not to quantify in dollars those benefits, but to know what those benefits are.

If we spend a billion dollars to save a life, if that is my loved one's life, it is worth it. But if we can spend that same billion dollars and save a thousand lives, or 10,000 lives, do we not want to know that before we spend a billion dollars? Is that not worth knowing? Are we afraid of knowing those facts? Not me. I am not afraid of knowing those facts. I think we want to know those facts.

We should want to know the costs and benefits of what we propose to do. The people who should want to know them the most are the people who believe in regulation as making a difference, because if the same amount of resources can make a greater difference, people who believe in regulation should be the first ones to say let's do more with the same resources, let's not waste resources.

We know that effective regulatory programs provide important benefits to the public. We also know from recent studies that some of our regulations cost more than the benefits they provide, and that cost-benefit analysis when done effectively can result in rules that achieve greater benefits at less cost.

OMB stated in their analysis of costs and benefits of federal regulations in 1997, ''The only way we know to distinguish between the regulations that do good and those that cause harm is through careful assessment and evaluation of their benefits and costs.'' In a well-respected analysis of 12 major EPA rules and the impact of cost-benefit analysis on those rules, the author, Richard Morgenstern, former Associate Assistant Administrator of EPA and a visiting scholar at Resources for the Future, concluded that in each of the 12 rule makings, economic analysis helped reduce the costs of all the rules and at the same time helped increase the benefits of 5 of the rules. Report after report acknowledges the importance of good cost-benefit analysis and risk assessment for all agencies.

Yet some of the groups that support regulations to protect public health and safety appear to be threatened by cost-benefit analysis and risk assessment. They seem to fear it will be used as an excuse to ease up on otherwise tough standards. But I think to fear cost-benefit analysis and risk assessment is to fear the facts, and when it comes to these vitally important issues of the environment and public health and worker safety, we shouldn't be afraid of the facts. We shouldn't be afraid to know whether the approach an agency may want to take to solving an environmental or public health problem is not as effective as another approach and one that may even be less expensive.

Justice Stephen Breyer wrote about the value of cost-benefit analysis in his book called ''Breaking the Vicious Circle.'' He describes one example of the need for cost-benefit analysis in what he calls ''the problem of the last 10 percent.'' It was written by Justice Breyer when he served on the First Circuit Court of Appeals:

> He talks about a case ''. . . arising out of a ten-year effort to force cleanup of a toxic waste dump in southern New Hampshire. The site was mostly cleaned up. All but one of the private parties had settled. The remaining private party litigated the cost of cleaning up the last little bit, a cost of about $9.3 million to remove a small amount of highly diluted PCBs and ''volatile organic compounds'' . . . by incinerating the dirt. How much extra safety did this $9.3 million buy? The 40,000-page record of this ten-year effort indicated (and all the parties seemed to agree) that, without the extra expenditure, the waste dump was clean enough for children playing on the site to eat small amounts of dirt daily for 70 days each year without significant harm. Burning the soil would have made it clean enough for the children to eat small amounts daily for 245 days per year without significant harm. But there were no dirt-eating children playing in the area, for it was a swamp. Nor were dirt-eating children likely to appear there, for future building seemed unlikely. The parties also agreed that at least half of the volatile organic chemicals would likely evaporate by the year 2000. To spend $9.3 million to protect nonexistent dirt-eating children is what I mean by the problem of ''the last 10 percent.''

That was Justice Breyer speaking. As I have indicated, I have tried for the last 20 years just to get consideration of costs and benefits into the regulatory process. I have worked with Senator THOMPSON most recently, and I worked with Senators Glenn and Roth and GRASSLEY in previous Congresses. Each time we have tried, we have been defeated, I believe, by inaccurate characterizations of the consequences of the use of cost-benefit analysis and risk assessment.

That is what is happening, I believe, with Dr. Graham's nomination. Dr. Graham's nomination presents us with the question of the value of cost-benefit analysis and risk assessment in agency rule making once again. That's because Dr. Graham's career has been founded on these principles. He believes in them. So do I. And, Dr. Graham sees cost-benefit analysis not as the be-all and end-all in regulatory decisionmaking; rather, like many of us, he sees it as an important factor to consider. Dr. Graham supported the regulatory reform bill Senator THOMPSON and I sponsored in the last Congress—which was also supported by Vice President Gore—that would require an agency to perform a cost-benefit analysis and risk assessment and

state to the public whether the agency believes, based on that analysis, that the benefits of a proposed regulation justify the costs. If the agency believes they don't, then the agency would be required to tell the public why it has decided to regulate under those circumstances. It doesn't hold an agency to the outcome of a strict cost-benefit analysis. It doesn't diminish an agency's discretion in deciding whether or not to issue a regulation. It does mandate, though, that the agency conduct a comprehensive cost-benefit analysis and, where appropriate, risk assessment before it issues a proposed rule. I believe that is a reasonable, fair and appropriate standard to which to hold our federal agencies accountable. And of course our bill also required that in doing cost-benefit analysis agencies take into account both quantifiable and nonquantifiable benefits, a principle in which Dr. Graham firmly believes.

So how do Dr. Graham's opponents attack him? They attack him by saying his science has been influenced by the donors to his Center and that he supports industry in its opposition to environmental, health and safety regulation. And they attack him by taking many of his statements out of context to create what appears to be an extremist on the role of environmental and health regulation but which is really a fabricated character that doesn't reflect reality. I think Dr. Graham is a fair, thoughtful, and ethical person who believes in the value of cost-benefit analysis and risk assessment as tools we can and should use for achieving important public policy decisions. I believe Dr. Graham has also found it useful to be provocative when it comes to understanding risk, in an effort to shake us out of our customary thinking and see risks in a practical and real-life dimension.

Let me first discuss the allegation of bias with respect to funding sources. When various groups have questioned John Graham's independence, they have suggested that his science has been skewed by his corporate sponsorship. Frank Cross, Professor of Business and Law at the University of Texas, said ''this criticism is unwarranted, unfair and inconsistent with the clear pattern and practice of most (if not all) similarly situated research centers.'' Yes, Dr. Graham's center received significant sums of money from corporate sponsors. But it also established a conflict of interest policy in line with Harvard University School of Public Health's conflict of interest policy, requiring peer review of research products disseminated publicly by the Center and a complete disclosure of all sponsors. The policy requires that any restricted grants received by the Center adhere to all applicable Harvard University rules including the freedom of the Center's researchers to design projects and publish results without prior restraint by sponsors. I asked Dr. Graham a number of questions on this subject during our committee hearing and found his answers to be forthright and satisfactory. Dr. Graham confirmed for the record that he has never delayed the release of the results of his studies at the request of a sponsor, never failed to publish a study at the request of a sponsor, and never altered a study at the request of a sponsor. Moreover, there are numerous studies where the conclusions Dr. Graham or the Center reached were contrary to the interests of the Center's sponsors.

The other line of attack against Dr. Graham is taking Dr. Graham's statements out of context, to unfairly paint him as an extremist, and I would like to go over just a few examples where this has happened.

Opponents say, ''[John Graham] has said that dioxin is an anticarcinogen'' and that he said that ''reducing dioxin levels will do more harm than good.''

Those are quotes. Standing alone, that sounds pretty shocking, but let's look at what John Graham actually said. The issue came up while Dr. Graham was participating as a member of the EPA's Science Advisory Board, Dioxin Reassessment Review Subcommittee, when the subcommittee was reviewing EPA's report on dioxin. Here is what he said during one of the meetings:

(T)he conclusion regarding anticarcinogenicity . . . [in the EPA report on dioxin] should be restated in a more objective manner, and here's my suggestive wording, ''It is not clear whether further reductions in background body burdens of [dioxin] will cause a net reduction in cancer incidence, a net increase in cancer incidence, or have no net change in cancer incidence.'' And I think there would be also merit in stating not only that [dioxin] is a carcinogen—

That is John Graham speaking—

And I think there would be also merit in stating not only is dioxin a carcinogen, but also I would put it in a category of a likely anticarcinogen using the draft guidelines in similar kinds of criteria that you have used as classifying it as a carcinogen.

He said this at another point in the meeting: ''I'd like to frame it''— referring to a subcommittee member's comment—''in a somewhat more provocative manner in order to stimulate some dialogue.''

He discusses two studies that look at different levels of dioxin and identified some anticarcinogenic effects. Dr. Graham said the following:

If, as body burdens of dioxin decline the adverse effects disappear more rapidly than the adaptive or beneficial effects, and this is as suggested by certain experimental data both the Pitot study I mentioned and the Kociba study. As the dose comes down, the adverse effects go away faster than the anticarcinogenic effects. Then it's possible that measures to reduce current average body burdens of dioxin further could actually do more harm for public health than good.

''Possible,'' ''if,'' as two studies suggest. I want to repeat that. ''If'' something occurs, as two studies—not his—two studies ''suggest,'' then it is ''possible'' that at low levels there are anticarcinogenic effects. That is what he said in the meeting.

Then he went on to say the following:

The alternative possibility which EPA emphasizes is that the adverse effects outweigh these beneficial or adaptive effects. And I think that they're clearly right at the high doses. For example, total tumor counts are up so even if there's some anticarcinogenicity in there, the overall tumor effects are adverse. The question is, what happens when the doses come down.

Mr. President, I ask for 7 additional minutes. I do not know what time agreement we are under. What is the time agreement? What are the constraints?

The PRESIDING OFFICER. The Senator from Tennessee controls 3 hours, of which there are 150 minutes remaining.

Mr. THOMPSON. I yield an additional 5 minutes to the Senator from Michigan.

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

Mr. LEVIN. I thank my friend from Tennessee.

Mr. President, Dr. Graham has consistently said, as he stated in the above quotations, dioxin is a known carcinogen. What he went on to suggest as an EPA subcommittee member is that there be an additional comment, supported by two studies, that very low levels of dioxin may reduce the risk of cancer, calling for full disclosure about two studies. It turns out, Mr. President, that in the final report of that EPA subcommittee, his suggestions were adopted.

The final report—not his, but the EPA subcommittee—says:

There is some evidence that very low doses of dioxin may result in decreases in some adverse responses, including cancer . . .

That may sound absurd to us, but we are not experts—at least I am not an expert—and it seems to me that where you have somebody of this reputation who, as part of an EPA subcommittee, points to two studies which he says suggests that it is possible that at low levels dioxin could actually be an anticarcinogen, and then the EPA subcommittee actually adopts that suggestion, for that to be characterized that he thinks dioxin is good, or something similar to that, is a serious mischaracterization of what happened.

I am not in a position to defend the dioxin studies, nor am I arguing the substance of their outcome. I am pointing out, however, that Dr. Graham, when he discussed this point, wasn't making it up; he was bringing two scientific studies to the attention of the EPA subcommittee, and in the final review report by the EPA Science Advisory Panel, Dr. Graham's suggestion and the two studies to which he refers are mentioned.

Who would have thought in the year 2000 that cancer victims would be taking thalidomide and actually seeing positive results. That is counterintuitive to me. I was raised believing thalidomide to be the worst, deadly substance just about known. The idea that last year people would be taking thalidomide as an anticarcinogen is surely

counterintuitive to me, but we must not be afraid of knowing cost-benefits. It must not strike fear in our hearts, those of us who believe that regulation can make such a positive difference in the lives of people.

We should not be terrorized by labels, by characterizations which are not accurate. We should, indeed, I believe more than anybody, say: We want to know costs and benefits. We do not want to quantify the value of a human life. That is not what this is about. We should not quantify in dollars the value of a human life. It is invaluable—every life.

There is no dollar value that I can put on any life or on limb or on safety or on access. But we should know what is produced by a regulation and what is the cost of that regulation and what resources we are using that might be better used somewhere else to get greater benefits and still then make a judgment—not be prohibited from regulating, but at least know cost-benefit before we go on.

Lets look at another issue where John Graham has been quoted out of context by his critics. Critics say that Dr. Graham has said that the risk from pesticides on food is ''trivial.'' In January 1995, Dr. Graham participated in a National Public Radio broadcast discussing upcoming congressional hearings on regulatory reform. At the time, he was attempting to bring to light the importance of risk-based priorities, the importance of identifying and understanding the most serious risks vis a vis less significant risks. In putting this comment in the right context, lets look at what he actually said:

> It [the federal government] suffers from a syndrome of being paranoid and neglectful at the same time. We waste our time on trivial risks like the amount of pesticides residues on foods in the grocery store at the same time that we ignore major killers such as the violence in our homes and communities.

It was a provocative statement, and Dr. Graham did refer to pesticide residues as ''trivial,'' but it was done in the context of a larger discussion of overall risks. Dr. Graham was making a statement to make people think about risk-based priorities. Dr. Graham has consistently stated that since we have limited funds, there should be ''explicit risk-based priority setting'' of regulations. In other words, we have to make smart choices and strongly supported decisions and we need full disclosure of the differing risks to do this.

Dr. Graham's statements from an oped that he wrote for the Wall Street Journal on the merits of conducting cost-benefit analysis have also been mischaracterized. Critics say that John Graham has said that banning pesticides that cause small numbers of cancers is ''nutty.'' In the op-ed, Dr. Graham was opining on the adequacy of EPA's risk assessments supporting proposals to ban certain pesticides. Dr. Graham points out that the EPA did not look at all the costs and benefits associated with banning or not banning certain pesticides. He wrote:

> Pesticides are one example of the problem at EPA. EPA chief Carol Browner has proposed banning any pesticide that poses a theoretical lifetime cancer risk to food consumers in excess of one in a million, without regard to how much pesticides reduce the cost of producing and consuming food. (The best estimates are that banning all pesticides that cause cancer in animals would raise the price of fruits and vegetables by as much as 50%). This is nutty. A baby's lifetime risk of being killed on the ground by a crashing airplane is about four in a million. No one has suggested that airplanes should be banned without regard to their benefits to consumers.

Dr. Graham was making the point that we do not live in a risk-free world and that some risks are so small that while they sound bad, relatively speaking, they are minor compared to other risks we live with every day. Dr. Graham believes we should consider all the facts, that we should disclose all the costs and benefits associated with proposed regulations so we make smart common sense decisions.

Dr. Graham writes in the same article that ''One of the best cost-benefit studies ever published was an EPA analysis showing that several dollars in benefits result from every dollar spent de-leading gasoline.'' His critics don't quote that part.

Continuing with the pesticides issue, critics say that Dr. Graham has said that ''banning DDT might have been a mistake.'' This is not what Dr. Graham said. He actually said:

> Regulators need to have the flexibility to consider risks to both consumers and workers, since new pesticide products that protect consumers may harm workers and vice versa. For example, we do not want to become so preoccupied with reducing the levels of pesticide residues in food that we encourage the development and use of products that pose greater dangers to farmers and applicators. As an example, consider the pesticide DDT, which was banned many years ago because of its toxicity to birds and fish. The substitutes to DDT particularly organophosphate products, are less persistent in food and in the ecosystem but have proven to be more toxic to farmers. When these substitutes were introduced, a number of unsuspecting farmers were poisoned by the more acutely toxic substitutes for DDT.

These statements were part of Dr. Graham's testimony for a joint hearing on legislative issues pertaining to pesticides before the Senate Committee on Labor and Human Resources and the House Subcommittee on Health and Environment in September 1993. Dr. Graham was addressing his concerns on the lack of disclosure and review of the costs and benefits associated with the proposal of certain pesticides regulations. To properly show where Dr. Graham is on the pesticide issue, let me quote Dr. Graham's summary comments on risk analysis he made at that hearing. Dr. Graham testified:

> Pesticides products with significant risks and negligible benefits should be banned. Products with significant benefits and negligible risks should be approved. We should not give much attention to products whose risks and benefits are both negligible. When the risks and benefits are both significant, the regulator faces a difficult value judgement. Before approving use of a pesticide, the regulator should certainly assure himself or herself that promising alternatives of the pesticide are not available. If they are not, a conditional registration may be the best course of action—assuming that the benefits to the consumer are significant and the health risks are acceptable (even if non-negligible). There is nothing unjust or unethical about a society of consumers who subject themselves to some degree of involuntary risk from pesticide use in exchange for consumer benefits. If possible, its preferable to let each consumer make this judgement. But our society certainly accepts a considerable amount of (irreducible) involuntary risk from automobiles and electric power production in exchange for the substantial benefits these technologies offer the consumer.

In other words, Dr. Graham is saying that risks need to be disclosed and weighted based on the level of risk to make a fair decision. We need to have full disclosure and consideration of all the costs and benefits to make smart common sense decisions. In that same testimony, Dr. Graham also said:

> Each year thousands of poisonings occur to pesticide users, often due to application and harvesting practices that violate safety precautions. Recent studies suggest that the rates of some types of cancer among farmers may be associated with the frequency of herbicide use. It is not yet known whether or not these associations reflect a cause-and-effect relationship. Congress should examine whether EPA's recent occupational health rule is adequate to protect the health of farmworkers and applicators.

But his opponents don't mention those statements.

Dr. Graham was criticized in a recent op-ed for saying that our nation is overreacting ''in an emotional gush'' to school shootings at places such as Columbine High School. But the Sunday New York Times article in which those words are quoted, has a completely different context. It is an article about real dangers for teenagers, and whether schools are now dangerous places to be. The article notes that while homicide is the second leading cause of death among youngsters, according to the Centers for Disease Control and Prevention, ''fewer than 1 percent of the child homicides occur in or around schools.'' The article quotes Dr. Jim Mercy, associate director for science in the division of violence prevention at the Centers for Disease Control and Prevention, as saying, ''The reality is that schools are very safe environments for our kids.'' Later on in the article the other risks to adolescents are discussed and that's where Dr. Graham comes in. The article says:

> When public health experts look at risks to young people, homicides, which account for 14 percent of all deaths among children, come in second. The biggest threat is accidents, primarily car crashes, which are responsible for 42 percent of childhood deaths. Dr. Graham of Harvard says there is a danger to the ''emotional gush'' over Littleton: ''It diverts energies from the big risks that adolescents face, which are binge drinking, traffic crashes, unprotected sex''.

The last mischaracterization I would like to discuss relates to Dr. Graham's

work on cell phones. Dr. Graham's critics say that he has said that ''there is no need to regulate the use of cell phones while driving, even though this causes a thousand additional deaths on the road each year.'' The Executive Summary of the Harvard Center for Risk Analysis (HCRA) report, entitled, ''Cellular Phone Use While Driving: Risks and Benefits'' states that there is a risk of using a cell phone while driving, although the level of that risk is uncertain. It states:

The weight of scientific evidence to date suggests that use of a cellular phone while driving does create safety risks for the driver and his/her passengers as well as other road users. The magnitude of these risks is uncertain but appears to be relatively low in probability compared to other risks in daily life.

Look at the stated objective of the cell phone study. The report states, ''The information in this report does not provide a definite resolution of the risk-benefit issue concerning use of cellular phones while driving. The objective of the report is to stimulate greater scientific and public policy discussion of this issue.'' Dr. Graham states up-front that the study is promoting further discussion and research on the issue of cell phone use. The report also does not completely rule out the need for regulation; it states that further study is necessary. The Executive Summary states:

Cellular phone use while driving should be a concern of motorists and policymakers. We conclude that although there is evidence that using a cellular phone while driving poses risks to both the drivers and others, it may be premature to enact substantial restrictions at this time. Indecision about whether cellular phone use while driving should be regulated is reasonable due to the limited knowledge of the relative magnitude of risks and benefits. In light of this uncertainty, government and industry should endeavor to improve the database for the purpose of informing future decisions of motorists and policymakers. In the interim, industry and government should encourage, through vigorous public education programs, more selective and prudent use of cellular phones while driving in order to enhance transport safety.

Here, as is in the other examples, Dr. Graham is recommending that all data be considered so we can make a smart, common sense decision on any proposed regulation. There is no doubt that as a college professor, Dr. Graham has made some provocative statements on different issues. And I don't agree with all of the statements or considerations he has made, but, I do believe, these statements are within the context of reasonable consideration of the risks and that he has made these statements to promote free thinking to generate thoughts and ideas so we can make the best decisions.

Mr. President, I don't take any pleasure today in opposing some of my good friends and colleagues on a matter about which they appear to care so much. They have characterized the nomination of John Graham as a threat to our progress in protecting the environment, consumer safety and the safety of the workplace. If I believed that, I would vote ''no'' in an instant. But, contrary to what has been said by his opponents, I find John Graham to be a balanced and thoughtful person. So do other individuals in the regulatory field whom I respect. Dr. Graham has received letters of support from, among others, former EPA Administrator and now head of the Wilderness Society, William Reilly; five former OIRA Administrators from both Republican and Democratic Administrations; 95 academic colleagues; Harvey Fineberg, the Provost of Harvard College, numerous Harvard University professors, and Cass Sunstein, University of Chicago Law Professor. Professor Sunstein has written a particularly compelling letter of support which I would like to read.

Dr. Graham has supported common sense, well-analyzed regulations because they use resources wisely against the greatest risks we face. That is the best way to assure public support for health and safety regulatory programs. I think Dr. Graham will serve the public well as Administrator of OIRA, and I look forward to working with him on these challenging issues.

Mr. President, I ask unanimous consent to print in the RECORD the letter from Professor Sunstein.

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

THE UNIVERSITY OF CHICAGO,
THE LAW SCHOOL,
Chicago, IL, March 28, 2001.

Senator JOSEPH LIEBERMAN,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing to express the strongest possible support for John Graham's nomination to be head of the Office of Information and Regulatory Affairs. This is an exceptional appointment of a truly excellent and nonideological person.

I've known John Graham for many years. He's a true believer in regulatory reform, not as an ideologue but as a charter member of the ''good government'' school. In many ways his views remind me of those of Supreme Court Justice, and Democrat, Stephen Breyer (in fact Breyer thanks John in his most recent book on regulation). Unlike some people, John is hardly opposed to government regulation as such. In a number of areas, he has urged much more government regulation. In the context of automobile safety, for example, John has been one of the major voices in favor of greater steps to protect drivers and passengers.

A good way to understand what John is all about is to look at his superb and important book (coauthored with Jonathan Wiener), Risk vs. Risk (Harvard University Press). A glance at his introduction (see especially pp. 8–9) will suffice to show that John is anything but an ideologue. On the contrary, he is a firm believer in a governmental role. The point of this book is to explore how regulation of some risks can actually increase other risks—and to ensure that government is aware of this point when it is trying to protect people. For example, estrogen therapy during menopause can reduce some risks, but increase others at the same time. What John seeks to do is to ensure that regulation does not inadvertently create more problems than it solves. John's concern about the possible problems with CAFE standards for cars—standards that might well lead to smaller, and less safe, motor vehicles—should be understood in this light. Whenever government is regulating, it should be alert to the problem of unintended, and harmful, side effects. John has been a true pioneer in drawing attention to this problem.

John has been criticized, in some quarters, for pointing out that we spend more money on some risks than on others, and for seeking better priority-setting. These criticisms are misplaced. One of the strongest points of the Clinton/Gore ''reinventing government'' initiative was to ensure better priority-setting, by focusing on results rather than redtape. Like Justice Breyer, John has emphasized that we could save many more lives if we used our resources on big problems rather than little ones. This should not be a controversial position. And in emphasizing that environmental protection sometimes involves large expenditures for small gains, John is seeking to pave the way toward more sensible regulation, not to eliminate regulation altogether. In fact John is an advocate of environmental protection, not an opponent of it. When he criticizes some regulations, it is because they deliver too little and cost too much.

John has also been criticized, in some quarters, for his enthusiasm for cost-benefit analysis. John certainly does like cost-benefit analysis, just like President Clinton, whose major Executive Order on regulation requires cost-benefit balancing. But John isn't dogmatic here. He simply sees cost-benefit analysis as a pragmatic tool, designed to ensure that the American public has some kind of account of the actual consequences of regulation. If an expensive regulation is going to cost jobs, people should know about that—even if the regulation turns out to be worthwhile. John uses cost-benefit analysis as a method to promote better priority-setting and more ''bang for the buck''—not as a way to stop regulation when it really will do significant good.

I might add that I've worked with John in a number of settings, and I know that he is firmly committed to the law—and a person of high integrity. He understands that in many cases, the law forbids regulators from balancing costs against benefits, or from producing what he would see as a sensible system of priorities. As much as anyone I know, John would follow the law in such cases, not his own personal preferences.

A few words on context: I teach at the University of Chicago, in many ways the home to free market economics, and I know some people who really are opposed to regulatory programs as such. As academics, these people are excellent, but I disagree with them strongly, and I believe that the nation would have real reason for concern if one of them was nominated to head OIRA. John Graham is a very different sort. He cannot be pigeonholed as ''conservative'' or ''liberal''; on regulatory issues, he's unpredictable in the best sense. I wouldn't be at all surprised if, in some settings, he turned out to be a vigorous voice for aggressive government regulation. In fact that's exactly what I would expect. When he questions regulation, it is because he thinks we can use our resources in better ways; and on this issue, he stands as one of the most important researchers, and most promising public servants, in the nation.

From the standpoint of safety, health, and the environment, this is a terrific appointment, even an exciting one. I very much hope that he will be confirmed.

Sincerely,

CASS R. SUNSTEIN.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, we have speakers in support. I see my friend from Connecticut. In the interest of balance, if the Senator desires time, I yield. Not my time, of course.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my friend from Tennessee for his graciousness and fairness. I yield myself up to 15 minutes from the time I have under the prevailing order.

Mr. President, the nomination of John Graham to administer the Office of Information and Regulatory Affairs, known as OIRA, is an important nomination, although the office is little known. I say that because the office, though little known, has a far reach throughout our Government. It particularly has a significant effect on a role of Government that is critically important and cherished by the public. That is the protective role. This responsibility, when applied to the environment or the health and safety of consumers and workers, is worth a vigorous defense. It is a role which the public wants and expects the Government to play. I fear it is a role from which the present administration seems to be pulling away. It is in that context I view this nomination.

With that in mind, I have weighed Dr. Graham's nomination carefully. I have reviewed his history and his extensive record of advocacy and published materials. I listened carefully to his testimony before the Governmental Affairs Committee. I did so, inclined, as I usually am, to give the benefit of the doubt to the President's nominees. In this case, my doubts remained so persistent and the nominee's record on issues that are at the heart of the purpose of the office for which he has been nominated are so troubling that I remain unconvinced that he will be able to appropriately fulfill the responsibilities for which he has been nominated. I fear in fact, he might—not with bad intentions but with good intentions, his own—contribute to the weakening of Government's protective role in matters of the environment, health, and safety. That is why I have decided to oppose Dr. Graham's nomination.

Let me speak first about the protective role of Government. Among the most essential duties that Government has is to shield our citizens from dangers from which they cannot protect themselves. We think of this most obviously in terms of our national security or of enforcement of the law at home against those who violate the law and commit crimes. But the protective function also includes protecting people from breathing polluted air, drinking toxic water, eating contaminated food, working under hazardous conditions, being exposed to unsafe consumer products, and falling prey to consumer fraud. That is not big government; that is responsible, protective government. It is one of the most broad and supportive roles that Government plays.

OIRA, this office which Dr. Graham has been nominated to direct, is the gatekeeper, if you will, of Government's protective role. OIRA reviews major rules proposed by agencies and assesses information on risk, cost, benefits, and alternatives before the regulations can go forward. Then if the Administrator of OIRA finds an agency's proposed rule unacceptable, they return the rule to the agency for further consideration. That is considerable power.

This nominee would continue the traditional role but charter a further, more ambitious role by declaring that he intends to involve himself more in the front end of the regulatory process, I assume. That is what he said before our committee. I assume by this he meant he will take part in setting priorities in working with agencies on regulations even before they have formalized and finalized their own ideas to protect the public.

So his views on regulation are critically important, even more important because of this stated desire he has to be involved in the front end of the process. It also means he could call upon the agencies to conduct time-consuming and resource-intensive research and analysis before they actually start developing protections needed under our environmental statutes.

Some others have referred to this as paralysis by analysis; in other words, paralyzing the intention, stifling the intention of various agencies of our Government to issue regulations which protect the environment, public health, safety, consumers, by demanding so much analysis that the regulations are ultimately delayed so long they are stifled.

OIRA, looking back, was implicated during earlier administrations in some abuses that both compromised the protective role of Government and undermined OIRA's own credibility. There was a history of OIRA reviewing regulations in secret, without disclosure of meetings or context with interested parties. Rules to protect health, safety, and the environment would languish at OIRA, literally, for years. I am not making that up. Regulations would be stymied literally for years with no explanation. Then OIRA would return them to the agencies with many required changes, essentially overruling the expert judgment of the agencies, which not only compromised the health and safety of the public which was unprotected by those regulations for all that time but also frustrated the will of Congress which enacted the laws that were being implemented by those regulations.

To be fair, of course, it is too soon to say whether similar problems will occur at OIRA during the Bush administration, and Dr. Graham himself expressed a desire to uphold the transparency of decisionmaking at OIRA. However, the potential for abuse remains. That is particularly so for delaying the process, with question after question, while the public remains unprotected.

Let me turn directly to Dr. Graham's record. In the hearing on his nomination, Dr. Graham acknowledged, for instance, his opposition to the assumptions underlying our landmark environmental laws —that every American has a ''right'' to drink safe water and breathe clean air. Indeed, Dr. Graham has devoted a good part of his career to arguing that those laws mis-allocate society's resources, suggesting we should focus more on cost-benefit principles, which take into consideration, I think, one view of the bottom line, but may sacrifice peoples' right to a clean and healthy environment and a fuller understanding of the bottom-line costs involved when people are left unprotected. Dr. Graham has written generally, for example, that the private sector should not be required to spend as much money as it does on programs to control toxic pollution, that he believes, on average, are less cost-effective than medical or injury-prevention efforts, where presumably more money should be spent. But why force us to make such a choice when both are necessary for the public interest?

Dr. Graham has said society's resources might be better spent on bicycle helmets or violence prevention programs than on reducing children's exposure to pesticide residues or on cutting back toxic pollution from oil refineries. This is the kind of result that his very theoretical and I would say, respectfully, impractical, cost-benefit analysis produces. Bicycle helmets save lives, and violence is bad for our society. But the problem is that Dr. Graham's provocative theorizing fails to answer the question of how to protect the health of, for instance, the family that lives next to the oil refinery or in the neighborhood. His rational priority setting may be so rational that it becomes, to those who don't make it past the cost-benefit analysis, cruel or inhumane, although I know that it is not his intention.

Dr. Graham sought to allay concerns by explaining that his provocative views were asserted as a university professor, and that in administering OIRA he would enforce environmental and other laws as written. I appreciate his assurances. But for me, his longstanding opinions and advocacy that matters of economy and efficiency supersede the environmental and public health rights of the citizenry still leave me unsettled and make him an unlikely nominee to lead OIRA.

Dr. Graham's writings and statements are controversial in their own right, but they are all the more so in light of the actions the Bush Administration has already taken with regard to protective regulations. It began with the so-called Card memo—written by the President's Chief of Staff, Andrew Card—which delayed a number of protective regulations issued by the Clinton administration. The Card memo was followed by a series of troubling

decisions—to reject the new standard for arsenic in drinking water; to propose lifting the rules protecting groundwater against the threat of toxic waste from ''hard-rock'' mining operations on public lands; to reconsider the rules safeguarding pristine areas of our national forests; and to weaken the energy-efficiency standard for central air conditioners.

So his views are disconcerting. In the context of this administration and the direction in which it has gone, they are absolutely alarming.

We have received statements from several respected organizations opposing this nomination. I do at this time want to read a partial list of those because they are impressive: the Wilderness Society, the League of Conservation Voters, the Sierra Club, the National Resources Defense Council, Public Citizen, National Environmental Trust, OMB Watch, AFL–CIO, American Federation of State, County and Municipal Employees, American Rivers, Center for Science and the Public Interest, Defenders of Wildlife, Earthjustice Legal Defense Fund, Friends of the Earth, Greenpeace, Mineral Policy Center, Physicians for Social Responsibility, Southern Utah Wilderness Alliance, the United Auto Workers, the United Food and Commercial Workers International Union, The United States Public Interest Research Group.

We have received, Members of this body, letters from many of these organizations and others urging us to oppose this nomination. We have also received letters against the nomination from over 30 department heads and faculty members at medical and public health schools across the United States, from numerous other scholars in the fields of law, economics, science, and business, and from former heads of Federal departments and agencies that have been referred to earlier in this debate.

I ask unanimous consent that these various letters of opposition to Dr. Graham's nomiantion be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OMB WATCH,
Washington, DC, June 8, 2001.

U.S. Senate,
Washington, DC.

DEAR SENATOR: We are writing to express our opposition to President Bush's nominee to head OMB's Office of Information and Regulatory Affairs, John Graham. We believe Dr. Graham's track record raises serious concerns that warrant your careful consideration. In particular:

As director of the Harvard Center for Risk Analysis, which is heavily funded by corporate money, Dr. Graham has been a consistent and reliable ally of almost any industry seeking to hold off new regulation. As OIRA administrator, Dr. Graham will sit in ultimate judgment over regulation affecting his former allies and benefactors. This gives us great concern that OIRA will take a much more activist role in the rulemaking process, reminiscent of the 1980s when the office came under heavy criticism from Congress from continually thwarting crucial health, safety, and environmental protections. At a minimum, this raises serious concerns about his independence, objectivity, and neutrality in reviewing agency rules.

In critiquing federal regulation, Dr. Graham has employed questionable analytical methods that have the inevitable effect of deflating benefits relative to costs. For example, he's downplayed the health risks of diesel engines, as well as second-hand smoke, and argued against a ban on highly toxic pesticides (all after receiving funds from affecting industries). As administrator of OIRA, Dr. Graham will be in position to implement these analytical methods, which would not bode well for health, safety, and environmental protections.

In pushing his case for regulatory reform, Dr. Graham has often invoked a study he conducting with one of his doctoral students. ''[B]ased on a sample of 200 programs, by shifting resources from wasteful programs to cost-effective programs, we could save 60,000 more lives per year in this country at no additional cost to the public sector or the private sector,'' Dr. Graham told the Governmental Affairs Committee on Sept. 12, 1997. Senators clearly took this to mean existing regulatory programs. Yet in fact, most of the 200 ''programs'' were never actually implemented, as Lisa Heinzerling, a professor at Georgetown Law Center has recently pointed out. This includes 79 of the 90 environmental ''regulations,'' which, not surprisingly, were scored as outrageously expensive. Despite repeated misrepresentations of his study by the press and members of Congress, Dr. Graham has never bothered to correct the record. In fact, he has perpetuated the myth by continually using the study to criticize our real-world regulatory system.

Dr. Graham has promoted the view that cost-benefited analysis should be the determinative criteria in deciding whether a rule goes forward. This position is frequently at odds with congressional mandates that place public health considerations as the preeminent factor in rulemaking deliberations. For instance, Dr. Graham was recently part of an amicus brief filed before the Supreme Court that argued EPA should consider costs in devising clean air standards (currently costs are considered during implementation), which the Court unanimously rejected. We are concerned that as regulatory gatekeeper, Dr. Graham would elevate the role of cost-benefit analysis in ways Congress never intended.

Dr. Graham has little to no experience with information issues, which have taken on even greater importance with the advent of the intent. OIRA was created in 1980 by the Paperwork Reduction Act, which gives the office chief responsibility for overseeing information collection, management, and dissemination. We fear that information policy will suffer with Dr. Graham at the helm, and that he is more likely to focus on regulatory matters—his natural area of interest and expertise. Ironically, Congress has never asked OIRA to review agency regulations. This power flows from presidential executive order.

Dr. Graham's track record does not demonstrate the sort of objectivity and dispassionate analysis that we should expect from the next OIRA administrator. Indeed, he has demonstrated a consistent hostility to health, safety, and environmental protection—once telling the Heritage Foundation that ''[e]nvironmental regulation should be depicted as an incredible intervention in the operation of society.'' Dr. Graham's nomination threatens to bring back the days when OIRA acted as a black hole for crucial public inspections. Accordingly, this nomination deserves very careful scrutiny and should be opposed.

Sincerely,

GARY D. BASS,
Executive Director.

Re: Oppose the nomination of Dr. John Graham to be OIRA administrator.

JULY 17, 2001.

U.S. Senate,
Washington, DC.

DEAR SENATOR, The League of Conservation Voters (LCV) is the political voice of the national environmental community. Each year, LCV publishes the National Environmental Scorecard, which details the voting records of Members of Congress on environmental legislation. The Scorecard is distributed to LCV members, concerned voters nationwide, and the press.

LCV opposes the nomination of Dr. John D. Graham to direct the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget. The Administrator of OIRA plays an extremely powerful role in establishing regulatory safeguards for every agency of our government. This position requires a fair and even-handed judge of the implications of regulatory policies: John Graham's record makes him an unsuitable choice for this important position.

OIRA is the office in the Executive Office of the President through which major federal regulations and many other policies must pass for review before they become final. The office has great leeway in shaping proposals it reviews or holding them up indefinitely. One of the principal ways in which OIRA influences rulemakings is through its use of risk assessment and cost-benefit analysis. Graham has a perspective on the use of risk assessment and cost-benefit analysis that would greatly jeopardize the future of regulatory policies meant to protect average Americans. He advocates an analytical framework that systematically reinforces the worst tendencies of cost-benefit analysis to understate benefits and overstate costs. As head of OIRA, he would be in a position to impose this approach throughout the government.

Graham's approach has led him to challenge—either directly or through his support of others who use the approach—some of the most valuable environmental requirements that exist, including regulations implementing the Clean Air Act and the Food Quality Protection Act. He has used comparative risk assessments to rank different kinds of risk and to argue that society should not take actions to reduce environmental risks as long as there are other risks that can be reduced more cheaply. His approach makes no distinction between risks that are assumed voluntarily and those that are imposed involuntarily.

Graham's considerable financial support from industry raises serious questions about potential conflicts of interest and his ability to be truly objective. His close ties to regulated industry will potentially offer these entities an inside track and make it difficult for Dr. Graham to run OIRA free of conflicts of interests and with the public good in mind.

For these reasons, we strongly urge you to oppose the nomination of Dr. Graham to be the Administrator of OIRA. LCV's Political Advisory Committee will consider including votes on these issues in compiling LCV's 2001 Scorecard. If you need more information, please call Betsy Loyless in my office at 202/785–8683.

Sincerely,

DEB CALLAHAN,
President.

NATIONAL ENVIRONMENTAL TRUST,
Washington, DC, May 15, 2001.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing on behalf of the National Environmental Trust (NET) to urge your opposition to the nomination of John Graham to head OMB's Office of Information and Regulatory Affairs. As Ranking Member on the Senate Government Affairs Committee, Mr. Graham's scheduled to come before you at a confirmation hearing on May 16, 2001.

Mr. Graham's approach to regulation includes heavy reliance on business friendly ''risk analysis'' and ''cost-benefit analysis'' creating a higher barrier for agencies to overcome in order to issue a rule other than the one which is most ''cost effective''. Furthermore, Mr. Graham is hostile to the very idea of environmental regulation. In 1996, Graham told political strategists at the Heritage Foundation that ''environmental regulation should be depicted as an incredible intervention in the operation of society.'' He has also stated that support for the regulation of chemicals in our water supply shows the public's affliction with ''a syndrome of paranoia and neglect.'' (''Excessive Reports of Health Risks Examined,'' The Patriot Ledger, Nov. 28, 1996, at 12.)

We are also greatly concerned that Mr. Graham is being considered for this position given the Harvard Center for Risk Analysis' record of producing reports that strongly match the interests of those businesses and trade groups that fund them. For instance a 1999 Risk Analysis Center report found that banning older, highly toxic pesticides would lower agricultural yields and result in an increase in premature childhood deaths, because food production would be hampered. This widely criticized report was funded by the American Farm Bureau Federation, which opposes restrictions on pesticides.

In 1999, Mr. Graham supported the Regulatory Improvement Act of 1999 (S. 746). The late Senator John Chafee, then chairman of the Senate Environmental and Public Works Committee promised to vehemently oppose this bill due to its omnibus approach to ''regulatory reform''. Under S. 746, regulations would have been subject to just the type of cost-benefit analysis and risk assessments that Mr. Graham advocates, across the board, regardless of the intent of the proposed regulation. This bill was strongly opposed by environmental, consumer, and labor groups.

For these reasons and more, Mr. Graham's appointment to the Office of Information and Regulatory Affairs within OMB represents a serious threat to public health and environmental protections. Please oppose his nomination to head OIRA.

Sincerely,

PHILIP F. CLAPP,
President.

NATURAL RESOURCES DEFENSE COUNCIL,
Washington, DC, May 15, 2001.

Hon. FRED THOMPSON,
Chairman, Senate Governmental Affairs Committee,
Washington, DC.

Hon. JOSEPH LIEBERMAN,
Ranking Minority Member, Senate Governmental Affairs Committee, Washington, DC.

DEAR CHAIRMAN THOMPSON AND RANKING MINORITY MEMBER LIEBERMAN. I am writing on behalf of the over 400,000 members of the Natural Resources Defense Council to make clear our strong opposition to the nomination of Dr. John D. Graham to direct the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget. We encourage you to very carefully consider his anti-regulatory record and controversial risk management methodology during your confirmation proceedings.

The Administrator of OIRA plays an extremely powerful role in establishing regulatory safeguards for every agency of our government. This position requires a fair and even-handed judge of the implications of regulatory policies. Upon close review, we believe that you will agree that John Graham's record makes him an unsuitable choice for this important position.

Dr. Graham possesses a decision-making framework that does not allow for policies that protect public health and the environment. He has consistently applied controversial methodology based on extreme and disputable assumptions without full consideration of benefits to public health and the environment. Graham's record puts him squarely in opposition to some of the most important environmental and health achievements of the last two decades. His record of discounting the risks of well-documented pollutants raises questions about his ability to objectively review all regulatory decisions from federal agencies.

Complicating matters further, John Graham and his colleagues at the Harvard Center for Risk Analysis have been handsomely rewarded by industry funders who oppose regulations protective of public health and the environment and have directly benefited from Dr. Graham's work. These relationships form a disturbing pattern that makes it very difficult to imagine how Dr. Graham could effectively run this office free of conflicts of interests and with the public view in mind.

Dr. Graham's inherently biased record clearly demonstrates that he is not an objective analyst of regulatory policies and would not be a proper choice for this position. We therefore strongly urge you to oppose the nomination of Dr. Graham to be the Administrator of OIRA.

Sincerely,

JOHN H. ADAMS,
President.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, May 17, 2001.

Hon. FRED THOMPSON,
Chairman, Senate Committee on Governmental Affairs, Dirksen Senate Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to convey the opposition of the AFL–CIO to the nomination of John D. Graham, Ph.D. to direct the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB).

As Administrator of OIRA, Dr. Graham would be the gatekeeper for all federal regulations. In our view, Dr. Graham, with his very strong anti-regulatory views, is simply the wrong choice to serve in this important policy making position.

For years as Director of the Harvard Center for Risk Analysis, Dr. Graham has repeatedly taken the position that cost and economic efficiency should be a more important, if not the determinative consideration, in settling standards and regulations. He has argued for the use of strict cost-benefit and cost-efficiency analysis, even though for many workplace safety and environmental regulations, such analyses are not appropriate or possible or are explicitly prohibited by the underlying statute. If Dr. Graham's views dictated public policy, workplace regulations on hazards like benzene and cotton dust would not have been issued because the benefits of these rules are hard to quantify and are diminished because they occur over many years. Similarly, regulations pertaining to rare catastrophic events such as chemical plant explosions or common sense requirements like these for lighted exit signs couldn't pass Dr. Graham's strict cost-benefit test.

In enacting the Occupational Safety and Health Act, the Clean Air Act and other safety and health and environmental laws, Congress made a clear policy choice that protection of health and the environment was to be the paramount consideration in setting regulations and standards. Dr. Graham's views and opinions are directly at odds with these policies.

We are also deeply concerned about Dr. Graham's close ties to the regulated community. The major source of Dr. Graham's funding at the Harvard Center for Risk Analysis has been from companies and trade associations who have vigorously opposed a wide range of health, safety and environmental protections. Much of Dr. Graham's work has been requested and then relied upon by those who seek to block necessary protections.

Given Dr. Graham's extreme views on regulatory policy and close alliance with the regulated communities, we are deeply concerned about his ability to provide for a fair review of regulations that are needed to protect workers and the public. If he is confirmed, we believe that the development of important safeguards to protect the health and safety of workers across the country would be impeded.

Therefore, the AFL–CIO urges you to oppose Dr. Graham's confirmation as Administrator of the Office of Information and Regulatory Affairs.

Sincerely,

WILLIAM SAMUEL,
Director, Department of Legislation.

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL–CIO,
Washington, DC, June 7, 2001.

DEAR SENATOR: On behalf of the 1.3 million members of the American Federation of State, County and Municipal Employees (AFSCME), I write to express our strong opposition to the nomination of John D. Graham, Ph.D. to serve as director of the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB).

As gatekeeper for all federal regulations, the Administrator of OIRA has an enormous impact on the health and safety of workers and the public. Yet Dr. Graham's record as Director of the Harvard Center for Risk Analysis demonstrates that he would minimize consideration of worker and public health in evaluating rulemaking and instead rely almost exclusively on considerations of economic efficiency.

Dr. Graham's approach to regulatory analysis frequently ignores the benefits of federal regulation, indicating that reviews under his leadership will lack balance. His anti-regulatory zeal causes us to question whether he will be able to implement regulations that reflect decisions by Congress to establish health, safety and environmental protections. We are also deeply concerned that Dr. Graham's extreme views and close alliance with regulated entities will prevent the OIRA from providing a fair review of regulations that are needed to protect workers and the public.

For the foregoing reasons, we urge you to oppose Dr. Graham's confirmation as Administrator of the Office of Information and Regulatory Affairs.

Sincerely,

CHARLES M. LOVELESS,
Director of Legislation.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,
Washington, DC, May 11, 2001.

Hon. FRED THOMPSON,
Chair, Committee on Governmental Affairs,
U.S. Senate, Washington, DC

DEAR CHAIRMAN THOMPSON: On May 17, 2001, the Committee on Governmental Affairs is holding a hearing on the nomination of John Graham to head the Office of Information and Regulatory Analysis of the Office of Management and Budget. On behalf of 1.3 million active and retired UAW members and their families, we urge you to oppose the nomination of John Graham. In this critical job, he would oversee the promulgation, approval and rescission of all federal administrative rules protecting public health, safety, and the environment as well as those concerning economic regulation. We believe his extreme positions on the analysis of public health and safety regulations render him unsuited for this job.

The UAW strongly supports Occupational Safety and Health Administration standards to protect against workplace hazards. We are also concerned about clean air, clean water, toxic waste, food, drug and product safety, and consumer protection rules. The OIRA serves as the gatekeeper for these standards and rules as well as for government collection of information on which to base public health protections.

The Harvard Center for Risk Analysis, which John Graham founded, has been the academic center for the deconstruction of our public health structure. Mr. Graham and his colleagues have advocated the full range of obstruction of new public protections: cost-benefit, cost-per-lives saved, comparative risk analysis, substitution risk, and so-called ''peer review'' which would give regulated industries a privileged seat at the table before the public could comment on a rule. Mr. Graham has testified before Congress in favor of imposing such obstacles on all public health agencies and all public health laws. His academic work is entirely in support of this agenda as well.

It already takes decades to set a new OSHA standard. Our members and their families need stronger public health protections, and Mr. Graham has demonstrated his opposition to such protections. We are concerned that, with Mr. Graham as the head of OIRA, public health and safety regulations will be further delayed, protections on the book now will be jeopardized, and the interests of workers and consumers will not be given adequate weight.

For these reasons, we urge you to vote against the nomination of John Graham to head OIRA.

Sincerely,

ALAN REUTHER,
Legislative Director.

PUBLIC CITIZEN,
Washington, DC, March 13, 2001

Hon. FRED THOMPSON,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Shortly, the Senate will consider the nomination of John Graham for a position as the regulatory czar at the head of the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB). We are writing to call your attention to the threat that Graham's nomination poses to the environment, consumer safety, and public health, and to urge his rejection by the committee.

Graham's appointment to OIRA would put the fox in charge of the henhouse. His agenda is no secret. Over the past decade, Graham has amply demonstrated his hostility—across the board—to the system of protective safeguards administered by the federal regulatory agencies. In 1996, Graham told an audience at the Heritage Foundation that ''environmental regulation should be depicted as an incredible intervention in the operation of society.''

Graham has repeatedly advocated for sweeping regulatory rollback bills that would trump the statutory mandates of all the regulatory agencies. He would also impose rigid, cost-benefit analysis criteria well beyond that which has been used in previous administrations, virtually guaranteeing that many new regulations will fail to see the light of day. Moreover, his special White House clearance procedures may make it likely that virtually any agency response to public health hazards, such as the Surgeon General's pronouncements on the dangers of tobacco use, will not be made. At OMB, Graham would undoubtedly be the new master of ''paralysis by analysis.''

Grahm has represented himself as a neutral academic ''expert'' from the Harvard School of Public Health when testifying before Congress and speaking on risk issues to the media. In fact, as our investigative report indicates, his Harvard-based Center accepts unrestricted funding from over 100 major industrial, chemical, oil and gas, mining, pharmaceutical, food and agribusiness companies, including Kraft, Monsanto, Exxonmobil, 3M, Alcoa, Pfizer, Dow Chemical and DuPont.

As just one example of the connections between his funding and his agenda, in the early 1990s Graham solicited money for his activities from Philip Morris, while criticizing the Environmental Protection Agency's conclusion that second-hand smoke was a Class A carcinogen. In short, Graham has long fostered deep roots throughout an entire network of corporate interests that are hostile to environmental and public health protections, who would expect to call upon his sympathy at OIRA.

A major area of controversy between Congress and the Reagan and Bush I administrations concerned the use of back channels in the OIRA office by major corporations and trade associations to delay, eviscerate or block important public health protections that federal agencies had promulgated following Congress' statutory authorization and open government procedures. The head of OIRA should be an honest broker, reviewing regulatory proposals from federal agencies and deferring to agency expertise on most scientific and technical matters. Inviting Graham to head that office, given his close connections to broad sectors of the regulated industries, would signal a return to back-door intervention by special interests.

We urge you to read the attached report detailing Graham's shoddy scholarship and obeisance to his corporate funders, and to vigorously oppose his nomination to OIRA. As a start, Congress should request full access to Graham's and the Harvard Center for Risk Analysis' funding records and records as to speaking and consulting fees from the industries that he could not be charged with regulating.

Graham's confirmation would constitute a serious threat to our tradition of reasonable and enforceable health, safety and environmental safeguards, and should be rejected.

Sincerely,

JOAN CLAYBROOK,
President, Public Citizen.

FRANK CLEMENTE,
Director, Public Citizen, Congress Watch.

UFCW,
Washington, DC, June 28, 2001.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: On behalf of the 1.4 million members of the United Food and Commercial Workers International Union (UFCW), I am writing to express our opposition to President Bush's nomination of John D. Graham, Ph.D., to head the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA).

As Administrator of OIRA, Dr. Graham would be the gatekeeper for all federal regulations, including those dealing with environmental protection, workplace safety, food and drug safety, and consumer safety. He has consistently viewed cost-benefit analysis as the determinative criteria in deciding whether a rule goes forward—a position that is frequently at odds with congressional mandates that place public health considerations as the preeminent factor in rule-making deliberations. In addition to our concerns regarding the fairness of Dr. Graham, we have strong concerns about his extreme versions of regulatory reform, which the Senate has considered but never approved and which we sought to defeat.

Furthermore, we are also concerned with Dr. Graham's close ties to industry. As Director of the Harvard Center for Risk Analysis, he has received financial support from more than 100 corporations and trade associations over the last 12 years. At the same time, Dr. Graham has produced numerous reports, given testimony, and provided media commentary that directly benefited those who have funded the Center, which include food processors, oil and chemical companies, and pharmaceutical industries. In addition, many of these companies have staunchly opposed new regulatory initiatives and have been leading proponents of extreme regulatory reform.

Dr. Graham's track record does not demonstrate the sort of objectivity and dispassionate analysis that we should expect from the next OIRA Administrator. Given his extreme views on regulatory policy, and his close ties with the regulated communities, we are deeply concerned about his ability to provide for a fair review of regulations that are needed to protect workers and the public.

For these reasons, the UFCW urges you to oppose confirmation of John D. Graham, Ph.D., as Administrator of the Office of Information and Regulatory Affairs.

Sincerely,

DOUGLAS H. DORITY,
International President.

U.S. PUBLIC INTEREST RESEARCH GROUP,
Washington, DC, June 13, 2001.

DEAR SENATOR: The U.S. Public Interest Research Group (U.S. PIRG), as association of state-based organizations that are active in over 40 states, urges that you oppose the nomination of Dr. John Graham to the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA), and that you support closer scrutiny of his suitability to lead OIRA. As Administrator of OIRA, Dr. Graham could use a closed-door process to stop much-needed protections prior to any public debate, and to construct regulatory procedures that would weaken consumer, environmental or public health protections contemplated by any federal agency.

Dr. Graham has a long history of espousing highly controversial and academically suspect positions against protections for consumers, public health, and the environment. He also has a history of taking money from

corporations with a financial interest in the topics on which he writes and speaks. Unfortunately, this pattern of soliciting money from polluting corporations, taking controversial positions that are favorable to his benefactors, and failing to fully disclose conflict of interests calls into question his fitness to be the Administrator of OIRA.

Dr. Graham's positions are based on theories of risk assessment that fall far outside of the mainstream, and in fact, are contrary to positions taken by esteemed academics and scientists. Widespread opposition to Dr. Graham's nomination from well-respected professionals is indicative of his unbalanced approach. Indeed, eleven professors from Harvard (where Dr. Graham is employed) and 53 other academics from law, medicine, economics, business, public health, political science, psychology, ethics and the environmental sciences drafted letters of opposition to Dr. Graham's nomination. These experts all concluded that Dr. Graham is the wrong person to supervise the nation's system of regulatory safeguards.

Overwhelming opposition to Dr. Graham reflects deep concern regarding his pattern of pushing controversial and unsupported theories, combined with his failure to disclose financial conflicts of interests. In constructing his positions on regulatory affairs, Dr. Graham has employed dubious methodologies and assumptions, utilized inflated costs estimates, and failed to fully consider the benefits of safeguards to public health, consumers and the environment. Dr. Graham has used these tools when dealing with the media to distort issues related to well-established dangers, including cancer-causing chemicals (such as benzene), the clean up of toxic waste sites (including Love Canal), and the dangers of pesticides in food. In each instance, Mr. Graham's public statements failed to include an admission that he was being paid by corporate interests with a financial stake in rulemaking related to those topics.

Widespread opposition to Dr. Graham is buttressed by the unquestioned need for a balanced leader at OIRA. This office is the gatekeeper of OMB's regulatory review process, and dictates the creation and use of analytical methodologies that other agencies must employ when developing protections for public health, consumers, and the environment. In his role as gatekeeper, Dr. Graham will have the ability to stop much-needed protections before they ever see the light of day. In his role as director of analysis, he will be able to manipulate agency rulemakings—without Congressional approval or adequate public discussion—by issuing new OMB policies that force other agencies to conform to his narrow and highly controversial philosophy. This could result in a weakening of current protections, and a failure to create adequate future safeguards.

OIRA needs a fair and balanced individual at its helm. A review of Dr. Graham's record demonstrates an unmistakable pattern of placing the profits of polluters, over protections for public health, the environment, and consumers. In the interests of balance and accountability, we urge you to oppose Dr. Graham's nomination, and to support ongoing Congressional efforts to carefully scrutinize his record.

Sincerely,

GENE KARPINSKI,
Executive Director.

Mr. LIEBERMAN. As a Senator reviewing a President's nominee, exercising the constitutional advice and consent responsibility we have been given, I always try not to consider whether I would have chosen this nominee because it is not my choice to make. However, it is my responsibility to consider whether the nominee would appropriately fulfill the responsibilities of this office; whether I have sufficient confidence that the nominee would do so to vote to confirm him.

Where we are dealing, as we are here, with what I have described as the protective role of government, where people's safety and health and the protection of the environment is on the line, I approach my responsibility with an extra measure of caution because the consequences of confirming a nominee who lacks sufficient commitment to protecting the public health and safety through protective regulations are real and serious to our people and to our principles.

Dr. Graham, in the meetings I have had with him, appears to me to be an honorable man. I just disagree with his record and worry he will not adequately, if nominated, fulfill the responsibilities of this office.

So taking all of those factors into account, I have reached the conclusion that I cannot and will not support the nomination of Dr. Graham to be the Director of OIRA.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I had spoken to Senator DURBIN and Senator THOMPSON. I ask unanimous consent that all time but for 1 hour on this nomination be yielded back and that there be, following the conclusion of that debate, which would be evenly divided between Senator THOMPSON and Senator DURBIN, with Senator THOMPSON having the ability to make the final speech—he is the mover in this instance—following that, there will be 1 hour evenly divided and we will have a vote after that.

Mr. DURBIN. Reserving the right to object, if I could ask Senator THOMPSON, could we agree that in the last 10 minutes before debate closes we each have an opportunity to speak, with Senator THOMPSON having the final 5 minutes?

Mr. THOMPSON. Yes. I have no objection.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. REID. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. THOMPSON. Mr. President, I yield 8 minutes to the Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise today to wholeheartedly support the nomination of Dr. John Graham to be Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget.

I view the Office of Information and Regulatory Affairs, or, OIRA, as a key office in the Federal Government. It is charged, among other things, with ensuring that cost-benefit analyses are completed on major Federal rules.

Fortunately, President Bush has nominated an individual who has the experience, the knowledge and the integrity to uphold the mission of OIRA and who will be a first-rate Administrator.

Dr. John Graham is a tenured professor at Harvard University. He has published widely, has managed the Harvard Center for Risk Analysis at the Harvard School of Public Health, and is considered a world-renowned expert in the field of risk analysis.

When I was active in the National Governors' Association, I had the pleasure of meeting Dr. Graham and hearing his testimony about risk assessment and cost benefit analysis. He is, by far, one of the most qualified people ever to be nominated for this position.

As my colleagues know, I served as Governor of Ohio for 8 years. I know what it's like to operate in an environment of scarce resources where tough choices have to be made on resource allocation among a state's various programs.

In many instances, new federal regulations have a habit of costing state and local governments tremendous sums of money to implement. That is why it is so important to have an OIRA Administrator who understands the significance of sound regulations and the usefulness of cost-benefit analysis when determining how federal regulations will be applied to our state and local governments.

As one who was very involved in the development of the passage of the Unfunded Mandates Reform Act of 1995, I believe it is important that the OIRA Administrator work to encourage agencies to consult with State and local governments while developing new Federal rules. OIRA is an enforcer of UMRA and a protector of the principle of federalism.

It is important that OIRA produces accurate cost-benefit analyses for major Federal regulations. For governments, businesses, and those concerned with protecting the environment, accurate accounting of the costs and benefits of Federal regulations is a critical tool in formulating both public and private decisions.

And accurately assessing risks, costs and benefits is what John Graham has done successfully throughout his career, and he will bring this experience to OIRA as its Administrator.

Given his background and his years of experience, I am confident that Dr. Graham will bring a reasoned approach to the federal regulatory process.

Dr. Graham is widely respected and his nomination has received support from many of his colleagues and public health officials at Harvard, from numerous business groups, from dozens of academics, from labor unions such as the International Brotherhood of Boilermakers and from environmental advocates such as former Environmental Protection Agency Administrator William Reilly.

Robert Litan, a Democrat who heads economic studies for the Brookings Institution, has said that Graham ''is the most qualified person ever nominated for the job.''

John Graham is so well-qualified for this job that the last five OIRA administrators, Democrats and Republicans alike, wrote to the Governmental Affairs Committee on May 3rd, saying that ''We are confident that [John Graham] is not an 'opponent' of all regulation but rather is deeply committed to seeing that regulation serves broad public purposes as effectively as possible.''

These five individuals know what it takes to be an effective Administrator because they have done the job themselves. In their view, Dr. Graham has the skills and he has the qualifications to be a responsible steward of the public interest.

I agree with their assessment.

John Graham makes objective analyses. He throws the ball right over the plate, contrary to what some of my colleagues have said about his record this evening. Dr. Graham has a distinguished record. He makes well-reasoned judgments about the use of public resources.

For example, Dr. Graham has supported additional controls on outdoor particulate pollution while also highlighting the need to give some priority to indoor air quality.

The American Council on Science and Health has stated that ''the comparative risk methods that Professor Graham and his colleagues have pioneered have been particularly useful to our organization and others in efforts to highlight the health dangers of smoking.''

Maria New of Cornell University Medical School has stated that ''Graham has dedicated his life to pursuing cost-effective ways to save lives (and) prevent illness. . . .''

According to Cass Sunstein, a Professor at the University of Chicago Law School, ''. . . [Graham] is seeking to pave the way toward more sensible regulation, not to eliminate regulation. In fact [Graham] is an advocate of environmental protection, not an opponent of it.''

And the American Trauma Society has concluded that, ''Graham cares about injury prevention and has made many important and significant contributions to the field of injury control.''

Before I conclude, I would like to raise one other point about John Graham's nomination.

There has been strong support for Dr. Graham's nomination from a variety of sources. However, there have also been some criticism of Dr. Graham and the Harvard Center for Risk Analysis regarding their corporate funding. I see this criticism as totally unfounded.

While some corporate funding has been provided to the Harvard Center, what is generally not revealed is the fact that Federal agencies also fund Dr. Graham's work.

Moreover, John Graham and the Harvard Center for Risk Analysis have financial disclosure policies that go beyond even that of Harvard University.

The Harvard Center for Risk Analysis has a comprehensive disclosure policy, with the Center's funding sources disclosed in the Center's Annual Report and on their Web Site.

You just turn on your computer, get in their Web site, and it is all there for everyone to see. They do not hide one thing.

If reporters, activists, or legislators want to know how the Harvard Center is funded, the information is publicly available. It is well known that the Harvard Center has substantial support from both private and public sectors.

The Harvard Center also has an explicit, public conflict-of-interest policy, and as for Dr. Graham, he has a personal policy that goes beyond even Harvard's as he does not accept personal consulting income from companies, trade associations, or other advocacy groups.

We should publicly thank individuals such as Dr. Graham who are willing to serve our Nation, even when they are put through our intense nomination process. I know this has been very hard on his family.

As my mother once said, ''This too will pass.''

I am sure my colleagues will see through the smokescreen that is being put out here this evening by some of my colleagues.

Dr. Graham has answered his critics. It is now time for the Senate to get on with the business of the people. It is time to confirm Dr. Graham as the next Administrator of OIRA.

The PRESIDING OFFICER. Who yields time?

Mr. THOMPSON. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I wanted to come over and speak on this nomination for several reasons.

One, OIRA is an office I know something about. My wife held this position during the Reagan administration. It is a very powerful position. It is the M in OMB. If there is one position in Government where we want someone who understands cost-benefit analysis and who is committed to rationality, it is at OIRA.

As I have listened to Dr. Graham's critics, it strikes me that, first of all, there is a broad misunderstanding about what cost-benefit analysis is. Cost-benefit analysis is not the dollars of cost versus the dollars of benefits. Cost-benefit analysis is when you are a kid and you climb over this wall and your momma comes out and says, Phil, get off that wall; so you weigh, A, you are liable to get a beating if you do not do it; B, you might fall off and break your neck; or, C, Sally is next door and might see you on the wall and figure that you actually are cool. And you weigh that in a rational way and decide whether to get off the wall. That is cost-benefit analysis.

In reality, what Dr. Graham's opponents object to is rationality. That is what they object to. If there is a garbage dump in the middle of the desert that no one has been close to in 50 years, they object to the fact that someone will stand up and say, ''We could probably do more for child safety by improving traffic safety, by buying helmets for people who ride bicycles than by going out in the desert and digging up this garbage dump.''

They object to that statement because it is rational. And they are not rational. They want to dig up that garbage dump not because it makes sense in a society with limited resources, not because it is a better use than sending kids from poor neighborhoods to Harvard University—a better use of money than that—but it is because it is their cause.

Let me also say there is something very wrong with the idea that someone who takes the scientific approach is dangerous in terms of setting public policy. It seems to me that you can agree or disagree with the finding, but the fact that somebody tries to set out systematically what are the benefits of an action, and what are the costs of an action, and puts those before the public in a public policymaking context—how can society be the loser from that? It seems to me society must be the winner from that process.

Let me make two final points.

First of all, I take strong exception to this criticism, which I think is totally unfair, that Dr. Graham, in his center at Harvard University, is somehow tainted because corporate America is a supporter of that center—along with the EPA, the National Science Foundation, the Center for Disease Control, the Department of Agriculture, and numerous other sources of funding. Where do you think money comes from? Who do you think supports the great universities in America? Corporate America supports the great universities.

I have to say, I think there is something unseemly about all these self-appointed public interest groups. I always tell people from my State: Anybody in Washington who claims to speak for the public interest, other than I, be suspicious. But these self-appointed public interest groups, where do they get their money from? They don't tell you. You don't know where their money comes from. Harvard University tells you, and they are corrupted. All of these self-appointed special interest groups don't tell you where their money comes from, and they are pure. How does that make any sense?

Finally, let me just say I have heard a lot of good speeches in this Senate Chamber, and have heard many weak ones, and given some of them, but I congratulate our colleague, Senator LEVIN. Senator LEVIN is one of our smartest Members in the Senate. I

have often heard him make very strong statements, but I have never heard him better than he was tonight. I think there has been no finer debate in this Senate Chamber, certainly in this Congress, than CARL LEVIN's statement tonight. It was a defense of rationality. That is what this debate is about.

The opposition to Dr. John Graham of Harvard University is opposition to rationality in setting public policy, because there are many people who believe—I do not understand it, but they believe it—that there are some areas where rationality does not apply, that rationality should not apply in areas such as the environment and public safety. I say they should because the world operates on fixed principles and we need to understand it.

The PRESIDING OFFICER (Mr. CORZINE). The Senator's time has expired.

Mr. GRAMM. I appreciate the Chair's indulgence.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois.

Mr. DURBIN. Mr. President, I have listened very carefully to the defenders of John Graham this evening. I listened very carefully to CARL LEVIN, the Senator from Michigan. I respect him very much. It is a rare day when Senator CARL LEVIN and I disagree on an important issue such as this, but we do disagree.

Senator LEVIN, Senator VOINOVICH, Senator GRAMM, and others have come to this Chamber and have talked about the fact that when you enact a rule or regulation in America to protect public health or the environment or workers' safety, you should take into consideration the cost of that rule. I do not argue with that at all. You cannot argue with that. There has to be some rationality, as the Senator from Texas says, between the rule and the perceived protection and result from it.

I do not quarrel with the fact that John Graham is capable of understanding the value of a dollar. What I quarrel with is the question of whether he is capable of understanding the value of sound science and the value of human life. That is what this is all about. When you make this mathematical calculation—which he makes as part of his daily responsibilities at his center for risk studies; he can make that mathematical calculation; I am sure he can; we can all make it—the question is, What do you put into the calculation?

Let me give you an example. People have come to this Chamber to defend John Graham, but very few of them have tried to defend what he has said on the record throughout his public career.

Here he is quoted in a magazine called Priorities, in 1998:

> The evidence on pesticide residues on food as a health problem is virtually nonexistent. It's speculation.

John Graham, in 1998: Pesticides on food as a health problem is virtually nonexistent; speculation.

We asked him the same question at the hearing. He took the same position. He backed off a little bit, but he does not believe that pesticides on food present a health hazard.

Let's look at the other side of the ledger. You decide whether these people are credible people or whether, as the Senator from Texas has suggested, they have their own special interest at stake.

Here is one. Here is a really special interest group, the National Academy of Sciences. They released a study entitled ''Pesticides in the Diets of Infants and Children'' in 1993. They concluded:

> Changes needed to protect children from pesticides in diet.

Not John Graham, the gatekeeper for the rules of public health in America, he doesn't see it; the National Academy of Sciences does.

Take a look at Consumers Union. I read the Consumers Union magazine. I think it is pretty credible. And they go straight down the center stripe. They tell you about good products and bad ones. That is why they are credible and we buy their magazines.

In their report of February 1999 entitled ''Do You Know What You're Eating,'' they said:

> There is a 77% chance that a serving of winter squash delivers too much of a banned pesticide to be safe for a young child.

Well, obviously, the Consumers Union knows nothing about risk analysis. They don't understand John Graham's idea of the world, his scientific revolution, his paradigm.

John Graham said: Pesticides on food? Virtually nonexistent as a health problem—not to the Consumers Union. They got specific: Winter squash, young children, 77-percent chance that they will have a serving of pesticide they should not have in their diet.

How can a man miss this? How can John Graham, who has spent his professional life in this arena, miss this? This is basic. And he wants to go to OMB and decide what the standards will be for pesticides in food for your kids, my grandson, and children to come, for generations?

Do you wonder why I question whether this is the right man for the job?

Here is the last group—another ''special interest'' group—the Environmental Protection Agency. Here is what they said:

> EPA's risk assessment showed that methyl parathion could not meet the FQPA [Food Quality Protection Act] safety standard. . . . The acute dietary risk to children age one to six exceeded the reference dose (or amount that can be consumed safely over a 70-year lifetime) by 880%.

Methyl parathion—this was applied to crops in the field. After we came out with this protective legislation, they had to change its application so it did not end up on things that children would consume.

The EPA knew it. The National Academy of Sciences knew it. The Consumers Union knew it. But John Graham, the man who is being considered this evening, he did not know it. So what minor job does he want in the Bush administration? The last word at the OMB on rules and regulations on the environment and public health and safety. That is why I oppose his nomination.

I at this point am prepared to yield the floor to the Senator from Massachusetts. I do not know if there will be a request at this point from the Senator from Nevada, but I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have spoken to Senator THOMPSON. The Senator from Massachusetts wishes to speak for up to 15 minutes. The way we have been handling this is, whatever time is used on this side would be compensated on the other side. So I ask unanimous consent for an additional 15 minutes for this side. And for the information of everyone, maybe everyone will not use all the time because there are people waiting around for the vote. But I ask unanimous consent there be an additional 30 minutes for debate on this matter, equally divided.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the distinguished majority whip and the Senator from Tennessee for his courtesy. I will try not to use all that time. I cannot guarantee it.

I obviously rise to discuss the nomination of John Graham. Having served now for a number of years as chairman or ranking member, in one role or the other, of the Committee on Small Business, I have watched firsthand and listened firsthand to the frustration of a great many business owners dealing with Federal regulation. I think all of us have heard these arguments at one time or another.

I have obviously also witnessed, as many of you have, how needlessly complex and redundant regulations can stifle economic growth and innovation and also how regulation that was designed for a large corporate entity is often totally incompatible with small firms.

Always the intention of the underlying rule or law is sound, whether it is protecting the environment or public health or worker safety or consumers, but too often the implementation becomes excessive, overzealous, onerous, restrictive and, in the end, it is harmful.

Recognizing this problem, I have supported a range of efforts to ensure that regulations are reasonable, cost effective, market based, and business friendly. In particular, I supported the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act. Since its passage, the RFA has played an increasingly important role in protecting our Nation's small businesses from the unintended consequences of Government regulation.

Additionally, with the passage of SBREFA, small businesses have been given valuable new tools to help ensure that their special needs and circumstances are taken into consideration. The RFA and SBREFA, if used as intended, work to balance the very real need of our Federal agencies to promulgate important and needed regulations with those of small business compliance costs. They can differ substantially from those of large business cousins.

The Small Business Administration reports that these laws I just mentioned have saved over $20 billion in regulatory compliance costs between 1998 and 2000 alone without sacrificing needed safeguards.

On the other side of the ledger, though, I also believe very strongly that the Federal Government has a responsibility to protect the environment, public health, consumers, and workers. It was 6 years ago that I joined with others in the U.S. Senate to oppose the enactment of a bill that was incorrectly called the Comprehensive Regulatory Reform Act, a bill which, for many of us who looked at it closely and examined what were good intentions, we determined would have undermined important Federal protections.

I listened to the Senator from Texas a moment ago ask how society can be the loser for looking at cost-benefit. I support looking at cost-benefit. I support looking at the least-intrusive, most effective, least-cost solution to a number of enforcement measures which we seek to put in place.

But to answer the question of the Senator from Texas, how can society be a loser, the answer is very simple. Society can be a loser when people bring you a bill such as the Comprehensive Regulatory Reform Act that pretended to do certain things but actually, both in intent and effect, would have done an enormous amount of damage to the regulatory scheme.

The reason society can be a loser, in answer to the question of the Senator from Texas, is that if you apply the wrong standards, if you apply the wrong judgments about how you make your cost analysis, you can completely skew that analysis to obliterate the interests of health, of the environment, of workers, and of consumers.

Some of my colleagues may have forgotten that there are people in the Senate and the House of Representatives who voted against the Clean Air Act, who voted against the Clean Water Act, who voted against the Safe Drinking Water Act. There are people who have voted against almost every single regulatory scheme that we seek to implement in the interest of protecting clean water, clean air, hazardous waste, and a host of others. There has long been a movement in this country by those people who have most objected to those regulations in the first place to create a set of criteria that empower them, under the guise of reform, to actually be able to undermine the laws that they objected to in the first place. That is how society can be a loser, a big loser.

In point of fact, what came to us called the Comprehensive Regulatory Reform Act was, in fact, the planks of the Contract with America, championed by Speaker Newt Gingrich, that began with the premise that they wanted to undo the Clean Water Act altogether. When we looked at this act and began to read through it very closely, we learned that what was purported to be a straightforward attempt to streamline the regulatory process and ensure that Federal and private dollars were spent efficiently and to consider the costs as well as benefits of Federal safeguards, while that may have been the stated purpose, that would not have been the impact of that legislation.

In fact, I stood on the floor of the Senate with a group of colleagues who defined those differences, and we stopped that legislation. It would have upended Federal safeguards impacting clean air, clean water, public health, workers, air travel, cars, food, medicine, and potentially every other area regulated for the common good.

It did this by creating a complex scheme of decisional criteria, cost-benefit analysis, and judicial review that skewed the entire process away from the balance that we tried to seek in the regulatory reform that many of us have talked about.

I am in favor of regulatory reform. Do I believe there are some stupid environmental laws that have been applied in stupid ways by overzealous bureaucrats? The answer is yes, I do. Does it make sense to apply exactly the same clean air standard of a large powerplant to smaller entities, and so forth? I think most people would agree there are ways to arrive at a judgment about cost and analysis that is fair.

In working on that legislation, I saw how the regulatory process under the guise of regulatory reform can be weakened to the point that the laws of the Congress that we have enacted to protect the public would be effectively repealed. It is partly because of the work that I did at that time that I join my colleague from Illinois and others. I congratulate my colleague from Illinois for his steadfast effort. We know where we are on this vote, but we also know where we are in what is at stake.

I have serious concerns with this nomination because during that period of time, this nominee strongly supported and helped draft the regulation that I just described and other omnibus regulatory rollback measures that I strongly opposed in the 104th Congress.

As Administrator, Dr. Graham will be in a position to profoundly impact a wide range of issues and to execute administratively some of the failed proposals that he has supported previously legislatively.

We all understand what this office is. We understand that OMB Director Daniels has already signaled the amount of increased power that Dr. Graham will have over his predecessor in the Clinton administration.

Let me give an example of one of the ways this would have an influence. The way in which these rules can be obviously skewed to affect things is clear in the work that we have already seen of Dr. Graham. For instance, his approach to risk assessment and cost-benefit analysis, in my judgment, has been weighed, if you look at it carefully, against a fair and balanced judgment of what also ought to be measured about public health and environmental protection itself.

For instance, he focuses on the age of a person saved by a particular safeguard. In doing so, he argues that the life of an elderly person is inherently less valuable than that of a younger person and thus less worthy of protection.

Now, I don't know how many Americans want to make a judgment about their family, their grandmother, or grandfather on that basis. But if you weight it sufficiently, you could come out with a judgment on cost that clearly diminishes the level of protection. In addition to that, you make a judgment that people who die in the future are deemed less valuable than people who die in the present.

The doctor has neglected benefits from avoided injury alone, such as the prevention after nonfetal adverse health effects or ecological damage. These are things many of us believe ought to be weighted as a component in the balance, and they are not. That is how you wind up skewing the consequences.

I am not telling you that it is inherently wrong, if you want to make a hardnosed statistical judgment, but I am saying that when the value of life, health, and our environment are discounted too far, then even reasonable protections don't have a prayer of passing muster under any such analysis.

I am concerned that Dr. Graham's preferred methodology in this area, such as comparative risk analysis, would make it extraordinarily difficult for a new generation of safeguards to be approved under his or anybody else's tenure.

In addition, Dr. Graham made his views known on a range of issues, and it is apparent that if the past is a prelude to the future, he would be hostile to a number of important public safeguards. For example, he argued against the EPA's determination that dioxin is linked to serious health problems—a hypothesis that EPA's Deputy Assistant Administrator for Science called ''irresponsible and inaccurate.'' Those are the words of the Deputy Administrator of EPA.

In 1999, Dr. Graham's center published a report funded by the American Farm Bureau Federation that concluded that banning certain highly toxic pesticides would actually increase the loss of life because of disruptions to the food supply caused by a

shortage of pesticides to protect crops. If anybody thinks that is an analysis on which we ought to base the denial of regulations, I would be surprised.

However, the report also ignored readily available, safer substitutes. Dr. Graham's center concluded that the EPA overestimated the benefits of clean air protections because most acute air pollution deaths occur among elderly persons with serious pre-existing cardiac respiratory disease. Under Dr. Graham's approach, the benefits would be lowered to reflect his view that older citizens are worth less in raw economic terms.

Dr. Graham's center issued a study funded by AT&T Wireless Communications that argued against a ban on using cellular phones while driving. An independent 1997 study published in the New England Journal of Medicine found that the risk of car crashes is four times greater when a driver uses a cell phone.

In 1995, while debating the merits of the Comprehensive Regulatory Reform Act, I said then that I was prepared to embrace a legitimate effort to streamline and improve the regulatory process. We worked very hard to find a compromise to do that. I believe that with SBREFA and other measures we have made good progress. I still believe we can make more progress. But I am deeply concerned that the record suggests this balance that we look for, which we want to be sensitive and fair, would be absent with this nominee.

In closing, let me acknowledge the fact that Dr. Graham is from my home State of Massachusetts. My office has been contacted by residents who support and residents who oppose this nomination. I have deep respect for many of those who took the time to discuss this with me and my office. I am grateful for friends of mine and friends of Dr. Graham's who have suggested that I should vote for him. I note that I was contacted by several individuals from Harvard University, which is home to Dr. Graham's center. I heard both points of view. I thank each and every person who took the time to contact my office. I intend to cast my vote absolutely not on personal terms at all but exclusively on the experience I had with the Comprehensive Regulatory Reform Act and based on what I believe is an already-declared intention and a declared willingness of this administration to disregard important safeguards with respect to the environment.

I would like to see a nominee who has a record of a more clear balance, if you will, in the application of those laws. I thank the Chair for the time, and I thank my colleagues.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

Mr. DURBIN. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Illinois controls 25 minutes. The Senator from Tennessee has 31 minutes.

Mr. DURBIN. I say to the Senator from Tennessee, I don't know if a UC is necessary, but I would be prepared to reduce the amount of remaining time if he will join me. I suggest—and he can amend it if he would like—that we ask unanimous consent that we each have 10 minutes and I am given 5 minutes to close and you are given 5 minutes to close. Unless you have other speakers, I would like to make that request.

Mr. THOMPSON. Reserving the right to object, I ask my friend, are you suggesting a total of 15 minutes on each side?

Mr. DURBIN. Yes.

Mr. THOMPSON. I have no objection.

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

Mr. DURBIN. Mr. President, as I understand it, if we can keep to the time we have agreed to, in about a half hour we should reach a vote. I also thank my colleague from Massachusetts, Senator KERRY, for joining me in opposing this nomination.

I will tell you about dioxin. I am not a scientist, and I don't pretend to be. I am a liberal arts lawyer who has practiced politics and political science for a long time. But let me tell you what I have learned about dioxin.

Dioxin is a highly toxic and deadly chemical. According to the National Toxicology Program at the National Institutes of Health, dioxin is the ''most toxic manmade chemical known.'' It is not just very toxic—extremely toxic—it is the most toxic chemical human beings know how to create. It is not manufactured deliberately. There are no commercial uses for it. It is a waste product, a contaminant, the most deadly manmade toxic chemical in existence. And astonishingly, small amounts of dioxin can kill people and animals.

One of the insidious features of dioxin is your body accumulates it, and over time it can reach a toxic level. The World Health Organization and the NIH brand it as a ''human carcinogen.'' If a man came before us and asked to be in charge of the OMB, which rules on safety for the public health and environmental standards of chemicals and pesticides and residues, you would think there would be no doubt in his mind about the danger of dioxin. There doesn't seem to be a doubt in the minds of any credible scientist.

John Graham, the man we are considering this evening, not only doesn't question the toxicity of dioxin; he actually thinks it has medicinal qualities. Let me read what John Graham, the nominee before us this evening, has said about dioxin, the most dangerous chemical created by the human race known today:

> It's possible that measures to reduce current average body burdens of dioxin further could actually do more harm for public health than good.

That is interesting. Then he goes on to say:

> I think there would be also merit in stating not only that TCDD (dioxin) is a carcinogen, but also I would put it in the category of a likely anti-carcinogen.

Where did he say that? Was that a casual statement that someone picked up on a tape recorder? No. It was a statement to the EPA Science Advisory Board on November 1 and 2 of the year 2000. John Graham, gatekeeper, rules and regulations, protecting American families from health risks—he thinks dioxin, the most dangerous chemical known to man, a known carcinogen, actually stops cancer.

Let's see what others have said.

The National Institutes of Health: ''Dioxin is a known human carcinogen.''

EPA: ''The range for cancer risk indicates about a ten-fold higher chance than estimated in EPA's earlier assessment, in terms of the damage and danger.''

EPA: ''The promulgation of this theory—

They are referring to the statement by Mr., Dr., Professor John Graham.

''The promulgation of this theory that dioxin is an anti-carcinogen hypothesis is irresponsible and inaccurate.''

That John Graham, whom President Bush's wants to put in a position to judge questions of public health and safety, who has said on the record and he acknowledges he is not a chemist, not a biologist, he is not a toxicologist, not a medical doctor, could stand before the EPA's Science Advisory Board and tell them dioxin could stop cancer is almost incredible. It is incredible he would be nominated for this job after he said it. That is what we face this evening.

People have come before us and said it is all about measuring the dollar value of rules and regulations with the risk involved. Let me repeat, I do not quarrel with that premise, but I do believe the person making the measurement should be engaged in sound science, and in this situation we have a man with advanced degrees in public policy who goes around telling us that dioxin, the most dangerous chemical created on the Earth, can cure cancer.

I do not know how we can really look at that statement and this nomination and ignore the simple fact. Why would he say things such as that? Because he has made his life work representing corporate interests, industries, and manufacturers who want to reduce the standards when it comes to environmental protection. He has been in States such as Louisiana, Alabama, and Maine testifying on behalf of one of his major clients, the paper industry—which, incidentally, discharges dioxin from paper mills—saying you should not be that concerned about dioxin. He is a chorus of one in that belief.

Thank goodness the State of Maine rejected his point of view and said that they would have zero tolerance for dioxin, despite John Graham's arguments to the contrary.

In his testimony for these companies, Graham stated:

Based on a comparison of breast cancer screening programs and other cancer prevention programs, dioxin standards ''would be a poor investment in cancer prevention.''

That is what it comes down to. He does not want to get into this argument on the merits of dioxin, and cancer, other than these few outrageous statements. He says there is a better way to spend the dollars. In Maine and other States they were trying to decide what is a safe amount of dioxin that we might release in streams that may accumulate in the fish or the children who eat the fish or the people who drink the water. He could find a way out for his corporate clients.

Thank goodness the State of Maine rejected his point of view. The New York Times said it came out with the toughest standards in the Nation when it came to protecting the people of Maine from dioxin contamination.

The same man who said pesticides on fruits and vegetables were not a public health hazard, the same man who finds in dioxin some medical merit, wants to now be the last word in Washington on rules and regulations on safety and public health.

Excuse me; I think President Bush can do better; I think America can do better, better than this man.

A lot of people have talked about the endorsements he received. No doubt he has. We received a letter originally sent to Senator THOMPSON on May 17, 2001, from those who are members of the faculty who work with John Graham and know of him at Harvard University, and others who have worked with him in the past. This group which signed the letter includes Dr. Chivian, director of the Center for Health and the Global Environment at Harvard Medical School, who shared the 1985 Nobel Peace Prize, and the list goes on and on, from Johns Hopkins to the University of Pittsburgh School of Medicine, dean of the School of Public Health at UCLA. What do they have to say about John Graham?

It is a cardinal rule of scientific research to avoid at all costs any conflict of interest that could influence the objectivity of one's findings. This rule takes on added significance in the context of biomedical and public health research, for peoples' lives are at stake.

For more than a decade, John Graham, Director of the Center for Risk Analysis at the Harvard School of Public Health and candidate for position of Director of the Office of Information and Regulatory Affairs at the Office of Management and Budget, has repeatedly violated this rule. Time and again, Professor Graham has accepted money from industries while conducting research and policy studies on public health regulations in which those same industries had substantial vested interests. Not surprisingly, he has consistently produced reports, submitted testimony to the Congress, and made statements to the media that have supported industry positions, frequently without disclosing the sources of his funding.

They give some examples:

Soliciting money from Philip Morris while criticizing the EPA's risk assessment on the dangers of secondhand smoke;

Greatly overestimating the costs of preventing leukemia caused by exposure to benzene in gasoline while accepting funds from the American Petroleum Institute;

Downplaying EPA's warnings about cancer risk from dioxin exposure while being supported by several major dioxin producers, including incinerator, pulp, and paper companies;

While simultaneously talking on cell phones in research underwritten by a $300,000 grant by AT&T Wireless communications.

Major spokesman before Congress on behalf of industries' ''regulatory reform'' agenda, while being supported by large grants of unrestricted funds from chemical, petroleum, timber, tobacco, automobile—automobile—electric power, mining, pharmaceutical, and manufacturing industries.

They continue:

We, the undersigned, faculty members at schools of medicine and public health across the United States, go to great pains to avoid criticizing a colleague in public. Indeed, in most circumstances we would rejoice over the nomination of a fellow public health professional for a senior position. . . . Yet, in examining the record of John Graham, we are forced to conclude there is such a persistent pattern of conflict of interest, of obscuring and minimizing dangers to human health with questionable cost-benefit analyses, and of hostility to governmental regulation in general that he should not be confirmed for the job. . . .

The PRESIDING OFFICER (Mr. DORGAN). The Chair advises the Senator from Illinois he has 5 minutes remaining.

The Chair recognizes the Senator from Tennessee.

Mr. THOMPSON. I thank the Chair.

Mr. President, in listening to the criticism of Dr. Graham and the implicit suggestion that he is a little less than a menace to society and that his opinions are for sale, my first reaction is that it is a very bad reflection on Harvard University that has let this kind of individual roam the streets for the last 15 years. They obviously are not aware of what he is doing.

It makes me wonder also why a professor at the University of Chicago Law School would say ''in emphasizing that environmental protection sometimes involves large expenditures for small gains, Graham is seeking to pave the way with more sensible regulation.''

I wonder, in listening to why former EPA Administrator Mr. Reilly would say: Graham would help ensure the rules implementing our environmental laws are as effective and efficient as they can be in achieving their objectives.

I am wondering in light of this man's ridiculous notions concerning scientific matters, matters of chemistry, for example, which we acknowledge we do not know anything about—we are not experts—we criticize him for not being an expert in his area; we criticize this Ph.D. scientist from Harvard for not knowing his subject matter, then we launch into a rendition of his deficiencies for his scientific analysis.

Mr. President, we are wading in way over our heads in criticizing Dr. Graham for his scientific analysis based upon excerpts, based upon false characterizations, based upon unfair characterizations of what he has said and what he has done, and we will deal with some of those.

Again, I wonder if there is any semblance of truth of this man who has headed up the Harvard Center for Risk Analysis, who has been associated with Harvard for 15 years, who has received the endorsements of Democrats and Republicans alike, who has received the endorsements of the last two people who served in this position, who are from the Clinton administration, who has received endorsements from some of the foremost authorities in the areas involved, who has received endorsements from noted scientists from around the country, and I wonder why the dean of academic affairs for the Harvard School of Public Health would say that Dr. Graham is an excellent scientist who has encouraged rationality in the regulatory process.

I wonder why a professor at Rollins School of Public Health would say: Often these public health issues are approached in a partisan way, but Dr. Graham is dedicated to using careful analysis to weigh the costs and benefits, et cetera. Dr. Hemmingway, director of Harvard Injury Control Research Center: Dr. Graham's interest is in improving the Nation's health in the most cost-effective manner.

I am wondering how all these people could be so wrong. You are going to find people who disagree with anybody, and I respect that people have differences of opinion. I wish it were sufficient to argue on the basis of those differences of opinion, on the basis of the science that is involved to the extent that we can, as nonscientists, but instead of doing that, what we are being introduced to here is an unfair rendition, what I would call basically a know-nothing kind of approach to a very complex series of scientific decisions with which we are dealing, and placing an unfair characterization on them.

I guess the one dealt with the most is dioxin. We would be led to believe that Dr. Graham's statements with regard to dioxin are outrageous. Why? Not because of any scientific knowledge we have or that has been presented on the floor of the Senate but because everybody knows dioxin is a bad thing. If he says any amount of it is not carcinogenic, he must not know what he was talking about.

I was looking at the testimony that Dr. Graham gave before our committee. He was asked by Senator DURBIN:

Do you believe that exposure to dioxin can increase your likelihood of cancer?

Mr. GRAHAM: Thank you for reminding me. I think that at high doses in laboratory animals, there is clear evidence that dioxin causes cancer.

Then he says:

In humans, I think the database is more mixed and difficult to interpret.

With regard to the low levels of dioxin not being carcinogenic, I refer to the Science Advisory Board. Their conclusion is as follows: There is some evidence that very low doses of dioxin may result in decreases in some adverse responses, including cancer, but can produce other adverse effects at the same or similar doses.

The Science Advisory Board panel recommends that the totality of evidence concerning this phenomenon continues to be evaluated by the agencies as studies become available.

This consensus conclusion by the panel is almost exactly in accord with Mr. GRAHAM's stated position at the public meeting: the other adverse effects at the very low doses we are talking about are noncancerous. He is trying to be a responsible scientist.

By placing so much emphasis on the low doses, we, because of the cancer issue, are missing the boat on the noncancer problems that dioxin causes. I don't have enough time to go into all of the detail on this, but I think we can see how unfair the characterization has been with regard to this complicated issue. We have a counterintuitive situation that Senator LEVIN pointed out with regard to thalidomide. Who would think doctors today would prescribe thalidomide under certain circumstances?

At a Governmental Affairs Committee hearing a couple of days ago, a couple of scientists attending from the National Academy of Sciences had just done a study on global warming. They pointed out certain aerosols released into the atmosphere, which we all know is a bad thing, can actually have a cooling effect in the atmosphere. We are all concerned about global warming, and this has a cooling effect. Does this mean we need to release a lot of additional aerosol? Of course not. It does not mean that. It is a scientific fact that needs to be taken into consideration.

I am sure, somewhere, if ever nominated for office, their opponents will take that statement from our hearings yesterday saying that these idiots believe we ought to be releasing aerosols in the atmosphere because it can have a cooling effect. I hope that does not happen. Unfortunately, it is sometimes the cost of public service today.

It is pointed out this man is anti-EPA and that some official somewhere at some time in the EPA has disagreed with his assessment. EPA partially funded this man's education. EPA contracts with him to do work, as we speak—not since he has been nominated. The center at Harvard has been hired by EPA to do work.

I should rest my case at that point. Of course, we never do when we should, so I will continue that fine tradition. I do have another point to make, in all seriousness, that is what this is about, which is Dr. Graham has been caught up in the debate over cost-benefit analysis. There are certain people in this country—I am sure their intentions are noble—who band together, who believe all regulations are good by definition; that there should be no questions asked about those regulations; that we should not take into account possible costs to society, whether they be tangible costs in dollars and cents or intangible costs; should not take into account whether resources could be better used for more significant environmental problems; should not take into account unintended consequences or any of those things; and that no one should ever bring up anything that challenges the common wisdom with regard to these issues, and we should only listen to sciences and promote the regulations.

When times like this come about, they band together and pull excerpts together to try to defeat people who want to bring rationality to the regulatory process.

I think they harm sensible, reasonable legislation, where moderate, reasonable people certainly want to protect us, protect this country, and protect our citizens, but, at the same time, know we are not doing our citizens any favor if we are using our resources in a way not most productive.

For example, it is proven we have been spending money on regulations pertaining to water, when the real risk was not being addressed. Some of the money should have been placed elsewhere in our water program.

How much time remains?

The PRESIDING OFFICER. Four minutes.

Mr. THOMPSON. I think that is what has happened. It has to be recognized we make the cost-benefit tradeoffs all the time. If we really wanted to save lives at the exclusion of consideration of cost to society, we would take all the automobiles off the streets and not allow anybody to drive. We know the examples, I am sure, all of us, by heart. Or we would make people drive around in tanks instead of automobiles.

There are tradeoffs we have to make. They need to be done in the full context of the political discourse by responsible people with proven records. I suggest that is the nominee we have before the Senate.

I yield the floor.

Mrs. CARNAHAN. Mr. President, the Administrator of the Office of Information and Regulatory Affairs, OIRA, within the Office of Management and Budget has the important duty of reviewing the regulations issued by all Executive Branch agencies. These regulations are critical to environmental protections, worker safety, public health, and a host of other issues. I have carefully reviewed the credentials of Dr. John Graham for this position and his testimony before the Governmental Affairs Committee. I support Dr. Graham's nomination to be the Administrator of OIRA.

Dr. Graham brings a wealth of experience and expertise to this position, including the use of cost-benefit analysis as a tool in evaluating regulations. As my colleagues know, the Clinton administration issued an Executive Order requiring the use of cost-benefit analysis to inform regulatory decisionmaking. I have no objections to the use of cost-benefit analysis as long as it is not carried too far. After all, we should not implement regulations if the costs of compliance grossly exceed the benefits the regulation would produce. It is appropriate for cost-benefit analysis to be one factor, but not the exclusive factor, in making regulatory decisions. Dr. Graham's testimony indicates that he shares this approach.

While I may not agree with Dr. Graham's application of cost-benefit analysis in every instance, I believe that President Bush is entitled, within the bounds of reason, to have someone in this position that shares his approach to governing. In my view, Dr. Graham falls within this criteria.

Mr. SMITH of New Hampshire. Mr. President, I rise in support of the confirmation of John D. Graham to be Administrator of the Office of Information and Regulatory Affairs.

Dr. Graham has been a Professor of Policy & Decision Sciences at the Harvard School of Public Health since 1991, and is the Director of the Harvard Center for Risk Analysis. Prior to that, he was an assistant professor and then associate professor at Harvard. Graham holds a B.A. in Economics and Politics from Wake Forest University, an M.A. in Public Affairs from Duke University, and a Ph.D. in Urban and Public Affairs from Carnegie-Mellon University where he was an assistant professor for the 1984–1985 academic year. Given OIRA responsibility's for ensuring that government regulations are drafted in a manner that reduces risk without unnecessary costs, Dr. Graham's qualifications to head the agency are unquestionable.

Since his nomination, he has come under fire for his work at the Harvard Center for Risk Analysis. Some who have opposed Dr. Graham have charged that he and the Center have a pro-business bias. Typically, those same people who oppose Dr. Graham, also oppose the use of comparative risk as one of many tools to be used in determining environmental policy. That is unfortunate, because the use of science and cost/benefit analysis is vital if we are to adequately focus resources on our most challenging environmental concerns.

I believe risk analysis and comparative risks give us much needed information to better understand the potential consequences and benefits of a range of choices. We all recognize that there aren't enough resources available to address every environmental threat. The Federal Government, States, local communities, the private sector, and even environmental organizations all have to target their limited resources on the environmental problems that present the greatest threat to human

health and the environment. Our focus, therefore, is, and should be, on getting the biggest bang for the limited bucks.

Comparative risk is the tool that enables us to prioritize the risks to human health and the environment and target our limited resources on the greatest risks. It provides the structure for decision-makers to: One, identify environmental hazards; two, determine whether there are risks posed to humans or the environment; and three, characterize and rank those risks. Risk managers can then use that analysis to achieve greater environmental benefits.

Last year, as the Chairman of the Environment & Public Works Committee, I held a hearing on the role of comparative risk in setting our policy priorities. During that hearing, we heard how many states and local governments are already using comparative risk assessments in a public and open process that allows cooperation, instead of confrontation, and encourages dialogue, instead of mandates. States are setting priorities, developing partnerships, and achieving real results by using comparative risk as a management tool. They are using good science to maximize environmental benefits with limited resources. I believe we should encourage and promote these successful programs.

It is important that this nation have someone like Dr. Graham to lead the OIRA. We must use reliable scientific analysis to guide us in our decision making process when it comes to environmental regulations. Dr. Graham's resume and record proves that he is the optimal person to head the office that will be making many of those decisions. Every person, Republican and Democrat, who has held the position of OIRA Administrator, except for two who are now federal judges and prohibited from doing so, have urged Senate action on his behalf. They state in a letter to the Committee Chairman and Ranking Member that, ''we are confident that [Dr. Graham] is not an 'opponent' of all regulation but rather is deeply committed to seeing that regulation serves broad public purposes as effectively as possible.''

I am a strong proponent of protecting and preserving our environment—my record proves that fact. I am also a strong believer that we must use sound science, comparative risk analysis and cost/benefit in making environmental decisions. Science, not politics, should be our guide. We must focus our efforts in a manner that assures the maximum amount of environmental protection given the resources available. Scientific analysis allows us to make good decisions and determine where to focus our resources to ensure that our health and a clean environment are never compromised.

Mr. President, I urge my colleagues to support John Graham for Administrator of the Office of Information and Regulatory Affairs.

Mr. FEINGOLD. Mr. President, today the Senate will vote to confirm John Graham to be the head of the Office of Information and Regulatory Affairs at the Office of Management and Budget. Though I will vote for Mr. Graham, much of the information that has been presented during the nominations process to the Governmental Affairs Committee by labor, environmental and public health organizations and other respected academics creates concerns regarding this nominee and I want to share my views on the concerns that have been raised.

The individual charged with the responsibility to head OIRA will indirectly set the direction of our national policies for our natural resources, labor and safety standards. I have tried, as a member of this body, to cast votes and offer legislation that fully reflects the importance and lasting legacy of America's regulatory decisions. I also have another tradition to defend and uphold. I have committed myself to a constructive role in the Senate's duty to provide advice and consent with respect to the President's nominees for Cabinet positions. I believe that the President should be entitled to appoint his own advisors. I have evaluated Presidential nominees with the view that, except in rare of cases, ideology alone should not be a sufficient basis to reject a Cabinet nominee. Mr. Graham is not a nominee for a Cabinet post. The Office of Management and Budget, OMB, is housed within the Executive Office of the President, making Mr. Graham one of the President's closest advisors. I believe that the President should be accorded great deference by the Senate on the appointment of this advisor.

During the nominations process, I have been disturbed to learn of the fears that Mr. Graham will not live up to his responsibility to fully implement regulatory protections. I am particularly troubled by concerns that he may allow special interests greater access to OMB, and therefore greater influence in OMB's deliberations. The concerns that have been raised are that Mr. Graham will allow special interests another opportunity to plead their case during final OMB review of regulations and may permit changes to be made to regulatory proposals that those interests were unable to obtain on the merits when the regulations were developed and reviewed by the federal agency that issued them. I also have been concerned about allegations that Mr. Graham's background might cloud his judgement and objectivity on a number of regulatory issues and place him at odds with millions of Americans including members of the labor, public interest and conservation community and with this Senator.

During the 1980s, OIRA came under heavy criticism for the way in which it conducted reviews of agency rules. The public was concerned that agency rules would go to OIRA for review and sometimes languish there—for years in some cases—with little explanation to the public. Rather than a filter for regulation, it became a graveyard.

Shortly after taking office, President Clinton responded to this problem by issuing Executive Order 12866. This order set up new guidelines for transparency—building on a June 1986 memorandum by former OIRA Administrator Wendy Gramm—that have helped bring accountability to OIRA.

With my vote for this nominee, I am calling for a commitment from him. I believe that it is essential that he maintain this transparency, and even strengthen it, in this Administration. Mr. Graham, having been the center of a controversial nominations proceeding, should be the first to call for letting sunshine disinfect OIRA under his watch.

At his confirmation hearing before the Senate Governmental Affairs Committee, the new OMB Director Mitch Daniels expressed general support for transparency and accountability, but refused to endorse specifically key elements of President Clinton's executive order. At that time, Mr. Daniels would only commit to work with the Committee should the Administration decide to alter Executive Order 12866.

Now that President Bush has nominated John Graham as administrator of OIRA, and he is being confirmed today, this Senate must receive more specific assurances regarding transparency and accountability. OIRA is an extremely powerful office that has the power to approve or reject agency regulations. This makes it critical that OIRA's decision-making be open to public scrutiny. I agree strongly with the sentiments expressed in today's Washington Post editorial:

> . . . conflicts of interest must be taken seriously if there is to be any chance of building support for more systematic cost-benefit efforts. At a minimum, the experts who carry out these analyses need to disclose their financial interests (as Mr. Graham's center did), and analysts with industry ties should not dominate government advisory panels. There may be room for dispute as to what constitutes 'ties'—should an academic who accepted a consultancy fee 10 years ago be viewed as an industry expert?—but conflict-of-interest rules should err on the strict side.

The Post editorial continues,

> Mr. Graham's acceptance of industry money opened him to opportunistic attacks from those who favor regulation almost regardless of its price. The lesson is that those who would impose rigor on government must observe rigorous standards themselves. Even apparent conflicts of interest can harm the credibility of the cost-benefit analyses that Mr. Graham champions.

In the days following his confirmation, Mr. Graham should aggressively affirm OIRA's public disclosure policies and make clear the office's continued commitment to transparency. Executive Order 12866 requires that OIRA maintain a publicly available log containing the status of all regulatory actions, including a notation as to whether Vice Presidential and Presidential consideration was requested, a notation of all written communications between OIRA and outside parties, and the dates and names of individuals involved in all substantive oral

communications between OIRA and outside parties. Moreover, once a regulatory action has been published or rejected, OIRA must make publicly available all documents exchanged between OIRA and the issuing agency during the review process. Mr. Graham must continue this disclosure policy, and he should expand it to make the information more widely accessible, and make the logs available through the Internet.

Executive Order 12866 gives OMB 90 days to review rules. OMB may extend the review one time only for 30 days upon the written approval of the OMB Director and upon the request of the agency head. Mr. Graham should make clear that OIRA will stick to this time frame for reviews. Moreover, OMB has invested in making this 90 day clock an action that can be tracked by the public, which must continue. Currently, the OMB web site documents when a rule is sent to OIRA, the time it took to act on the rule, and the OMB disposition. Mr. Graham has the ability to improve the public's access to this information by making the web site searchable by agency, rule, and date, rather than posting the information in simple tabular form.

Executive Order 12866 requires OMB to provide a written explanation for all regulations that are returned to the agency, ''setting forth the pertinent provision of the Executive Order on which OIRA is relying.'' OIRA must continue to provide written justification for returned rules, and Mr. Graham should consider expanding this policy to require written justification for any modifications that are made to a rule.

Mr. Graham must take particular care in the area of communications with outside interests and set the tone for OIRA staff actions in this regard. Executive Order 12866 directs that only the administrator of OIRA can receive oral communications from those outside government on regulatory reviews. Mr. Graham should continue this standard and be stringent that this standard be employed for all personnel working in OIRA. Present policy directs OIRA to forward an issuing agency all written communications between OIRA and outside parties, as well as ''the dates and names of individuals involved in all substantive oral communications.'' Moreover, affected agencies are also to be invited to any meetings with outside parties and OIRA. These are important procedures that protect the integrity of our regulatory system.

Beyond this, however, Mr. Graham should rigorously guard against contacts that present the appearance of a conflict of interest. He is entering into a position that will, in many ways, act as judge and jury for the fate of proposed regulations. He should, like those arbiters, guard carefully his objectivity and his appearance of objectivity.

I have reviewed these procedural issues because they are critical to maintaining public confidence in OIRA's functioning. I hope that Mr. Graham will be mindful of my concerns, and that he will embrace his duty to take into account the future and forseeable consequences of his actions. I also hope that he will be guided by the knowledge that this Senator will scrutinize those consequences, and will look very carefully at the question of special interest access to OMB at every appropriate time.

Ms. COLLINS. Mr. President, I support the nomination of Dr. John Graham to be Administrator of the Office of Information and Regulatory Analysis at the Office of Management and the Budget. Dr. Graham has been a leader in the nonpartisan application of analytical tools to regulations in order to ensure that such rules really do what policymakers intend and that they represent the most effective use of our Government's limited resources.

As a professor at the Harvard School of Public Health and founder of the Harvard Center for Risk Analysis, Dr. Graham has devoted his life to seeing that regulations are well crafted and effective—and that they help ensure that our world is truly a safer and cleaner place.

The alleged ''conflicts of interest'' argued by some of Dr. Graham's opponents are clearly baseless. The Harvard Center has some of the strictest conflict of interest rules in academia, and Dr. Graham has complied fully with them. It is absurd to suggest that the bare fact of corporate research sponsorship creates a conflict. By that standard, most of the studies produced in America's universities and colleges are worthless, and few academics can ever again be found suitable for public office. Dr. Graham's critics miss their mark.

I have had the opportunity to receive input from many knowledgeable sources about Dr. Graham's nomination. One of these is Maine State Toxicologist Andrew Smith. Dr. Smith studied with Dr. Graham at Harvard, and subsequently served as a staff scientist at an organization opposed to the Graham nomination. He has told us, however, that Dr. Graham approaches regulatory analysis with an open mind and is ''by no means an apologist for anti-regulation.'' Even a quick glance at Dr. Graham's record bears this out.

Like other members of the Governmental Affairs Committee, I do not need to rely solely on second-hand information about Dr. Graham. I myself was able to work with Dr. Graham on regulatory reform legislation that had strong bi-partisan support. My personal experience in working with him confirms that what his supporters say is true: he has the experience, integrity, and intelligence to be an excellent Administrator the Office of Information and Regulatory Analysis has ever had.

Mr. President, the Senate should vote to confirm John Graham.

Mr. REID. Mr. President, I rise today to express my strong concerns regarding the President's nominee to head the Office of Information and Regulatory Affairs at the Office of Management and Budget—John Graham.

This office oversees the development of all Federal regulations. The person who leads it holds the power to affect a broad array of public health, worker safety and environmental protections.

While John Graham has impressive professional credentials, his body of work raises serious questions concerning his ability to assume the impartial posture this job demands.

To do it, this nominee would be required to put aside his passionate and long-standing opposition to public health, worker safety and environmental protections.

As any of us who have felt passionately about an issue know, this is often difficult—if not impossible—to do.

It might be like asking me to argue against nuclear safety controls and protections. I can tell you I couldn't do it.

And my concern today is that John Graham will not be able to put aside his passionate and long-held views opposing those protections.

As some of my colleagues have outlined, the nominee has argued in his writings that certain regulations are not cost-effective and don't protect the public from real risks.

He makes that judgment based upon radical assumptions about what a human life is worth—assumptions that fail to account for the benefits of regulation. His assumptions are well outside of the mainstream.

The nominee concludes that those who fail to reallocate government resources to other more cost-effective actions are, in his words, guilty of ''statistical murder.''

And who did John Graham find to be guilty of statistical murder—opponents of Yucca Mountain.

This is what the nominee had to say about it:

> The misperception of where the real risks are in this country is one of the major causes of what I call statistical murder. . . . We're paranoid about . . . nuclear waste sites in Nevada, and that preoccupation diverts attention from real killers.

Can Nevadans rely upon John Graham to impartially weigh decisions regarding Yucca Mountain when he views their concerns as ''paranoid'' and considers measures to address those concerns through public health protections as equivalent to murder?

And the nominee's strong views aren't limited to Yucca Mountain.

He holds strong views in opposition to many other public health, environmental and worker safety protections broadly supported by my colleagues and the American people—from reducing dioxin levels to protecting children from toxic pesticides.

My concerns about those views are also informed by the context in which we weigh his nomination today.

Beginning with the Card Memorandum issued the day after President Bush's inauguration—which placed important public health, worker safety and environmental protections on hold—we have seen one important public protection after another eroded.

By sending up a nominee who has dedicated the better part of his career to fighting those broadly supported protections, the President sends an unfortunate signal that the public health and environmental rollback is not at an end.

Mr. DASCHLE. Mr. President, I am voting today against the nomination of Dr. John Graham to head the Office of Information and Regulatory Affairs, OIRA, at the Office of Management and Budget.

I do not take this action lightly. I respect the tradition that deference should be given to a President's nominations for posts within an administration. Nevertheless, it is the role of the Senate to provide advice and consent to the President, and I take this responsibility seriously as well.

OIRA is a little known department that has some of the most sweeping authority in the Federal Government. It is the gatekeeper for all new regulations, guiding how they are developed and whether they are approved. Its actions affect the life of every American, everyday.

The director of this office must have unquestioned objectivity, good judgement and a willingness to ensure that the laws of the Nation are carried out fairly and fully. I regret to say that Dr. Graham's record has led me to conclude that he cannot meet these high standards.

Dr. Graham currently heads the Harvard Center for Risk Analysis, and in this capacity he has produced numerous studies analyzing the costs and benefits of Federal regulations. These studies raise serious and troubling questions about the way in which Dr. Graham would carry out his duties.

First and foremost, I am concerned that Dr. Graham has consistently ignored his own conflicts-of-interest in the studies he has conducted, and that he had not demonstrated an ability to review proposed regulations in an even-handed manner. Time after time, he has conducted studies of regulations affecting the very industries providing him with financial support. Virtually without fail, his conclusions support the regulated industry.

Dr. Graham downplayed the risks of second-hand smoke while soliciting money from Philip-Morris. He overestimated the cost of preventing leukemia caused by exposure to benzene in gasoline while accepting funds from the American Petroleum Institute. He even downplayed the cancer risk from dioxin exposure while being supported by several major dioxin producers.

This last item is perhaps the most troubling of all. Virtually since entering Congress, I have fought on behalf of the victims of Agent Orange who have suffered from cancer and other terrible illnesses due to their exposure to dioxin. There is absolutely no question that this chemical is a known carcinogen with many devastating health effects. Yet remarkably, with funding from several dioxin producers, Dr. Graham suggested that exposure to dioxin could actually protect against cancer.

I also question the analytical methods Dr. Graham uses in his studies. He contends that the cost of regulations should be the primary factor we consider, instead of the benefits they provide for health or safety. This position is totally inconsistent with many of our basic health, workplace safety and environmental laws. After all, we may be able to calculate the value of putting a scrubber on a smokestack, but how do you assign a value to a child not getting asthma? We can calculate the value of making industries treat their waste water, but what is the value of having lakes and streams in which we can swim and fish?

If Dr. Graham brings this way of thinking to OIRA, I can only conclude that it will lead to a profound weakening of the laws and regulations that keep food safe, and our air and water clean. As over two dozen of Dr. Graham's colleagues in the public health community wrote, ''We are forced to conclude that there is such a persistent pattern of conflict of interest, of obscuring and minimizing dangers to human health with questionable cost-benefit analyses, and of hostility to governmental regulation in general that [Dr. Graham] should not be confirmed for the job of Director of the Office of Information and Regulatory Affairs.''

Mr. DURBIN. It is my understanding I have 5 minutes remaining.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Mr. President, of all the people who live in America who might have been considered for this position, I find it curious this man, John Graham, is the choice of President Bush to head up a sensitive office, this office which literally will make a decision on rules and regulations which will have an impact on families not only today but for generations to come.

During the course of this debate, we have come to the floor and spelled out how Mr. John Graham has been more than just a person making a mathematical calculation about the cost of a regulation and whether it is warranted. He has held himself out to have scientific knowledge about things that are, frankly, way beyond his education. He is a person who has written in one of his books with the forward by Cass Sunstein, who has been quoted at length on the floor here supporting Mr. Graham, that he thinks in comparison to today's fertilizers, DDT is relatively nontoxic.

Of course, that is a view that has been rejected not only by the World Health Organization but by 90 nations, and banned with only two nations in the world making DDT.

For John Graham, there is doubt. He sees no health hazard on pesticides for fruit and vegetables, but the National Academy of Sciences, the National Institutes of Health, Consumers Union, and others say he is just plain wrong.

We have heard and read his statements on dioxin, which the Senator from Tennessee has valiantly tried to reconstruct here so they do not sound quite as bad, but it is the most dangerous toxic chemical known to man, and John Graham, the putative nominee here, thinks it has medicinal qualities. He is alone in that thinking. The EPA said his statement was irresponsible and inaccurate. They read it, too. He did not have his defense team at work there. They just read it and said from a scientific viewpoint it was indefensible.

What is this all about? What is the bottom line? Why is this man being nominated? Don't take my word for it. Go to the industry sources that watch these things like a hawk: the Plastic News, the newsletter of the plastic industry in America, May 7, 2001, about Mr. Graham:

> He could lend some clout to plastics in his new job. The job sounds boring and inside the beltway, but the office can yield tremendous behind-the-scenes power. It acts as a gatekeeper of Federal regulations ranging from air quality to ergonomics. It has the power to review them and block those if it chooses to. The Harvard Center for Risk Analysis, which Graham founded and directed until Bush nominated him, gets a significant part of its $3 million annual budget from plastics and chemical companies. The Center's donor list reads like a who's who of the chemical industry.

And they go on to list some of the sponsors of Dr. Graham's institute.

Graham is well thought of by the plastics industry. A person from the industry said the Bush administration intends to make this office more important than it was in the Clinton administration, elevating it to its intended status.

They have a big stick. If the President in office allows them to use it and if they have someone in office who knows how to use it. How would they possibly use it?

Do you remember arsenic in drinking water, how the administration scrambled away from it as soon as they announced it, and the American people looked at it in horror and disgust, that they would increase the tolerance levels of arsenic in drinking water? During the course of the Governmental Affairs hearing, we asked Dr. Graham, who tells us all about DDT and pesticides and dioxin, what he thought about arsenic. He said he didn't have an opinion.

Let me give you a direct quote. I want the RECORD to be complete on exactly what he said here. I asked him:

> You have no opinion on whether arsenic is a dangerous chemical?

Professor Graham replied:

I haven't had any experience dealing with the arsenic issue, neither the scientific level nor the cost-effectiveness level of control.

You have an open mind, my friend. Give him this job and he will have an open mind about arsenic in drinking water. He has an open mind about pesticides on fruits and vegetables. He has an open mind about dioxin and its medicinal purposes. He has an open mind about the future of DDT in comparison with other chemicals. And this is the man we want to put in control, the gatekeeper on rules and regulations about public health and safety and the environment?

That is why I have risen this evening to oppose this nomination. I thank my colleagues and all those who participated in this debate. I appreciate their patience. I know we have gone on for some time, but this much I will tell you. If Mr. Graham is confirmed, and it is likely he will be, he can rest assured that many of us in this Senate will be watching his office with renewed vigilance. To put this man in charge of this responsibility requires all of us who care about public health and safety and environmental protection to stay up late at night and read every word, to watch what is going on.

We don't need any more arsenic in drinking water regulations. We don't need to move away from environmental protection. We don't need to second-guess the medical experts on the dangers of pesticide residues on fruits and vegetables and the danger of dioxin. We need sound science and objectivity, and, sadly, John Graham cannot bring them to this position, and that is why I will vote no on his confirmation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee has 3 minutes.

Mr. THOMPSON. Mr. President, let's listen to the scientists on the Science Advisory Board to which the Senator referred.

Dr. Dennis Passionback:

I think John's point [meaning John Graham] is what you thought his point was, Mort, and that is in several studies and hypotheses over the years that there are some hormonic beneficial effects associated with dioxin and related chemicals for certain disease influences. Of course that is at very low dose of course.

These are scientists. It is easy for the rhetoric to get out of hand here, and I want to try to do my part to not engage in escalating, but I find some of the statements attributed to this man amazing. I think our colleagues know better. I think the letters of endorsement and the public endorsements belie this. I think the reflection on Harvard University is unfair. It is not uncommon for centers doing work similar to Harvard's center to receive 40 to 60 percent of their funding from the private sector.

I think what we have here is just a back and forth with regard to a man whose opponents are desperately trying to undermine this nomination. I think we have here a question concerning public service and whether or not we are going to get decent people to come into these thankless jobs to do them if we are going to see the confluence of scientific work on the one hand and the political process on the other produce such an ugly result.

I think we need to ask ourselves that question. I think we need to ask ourselves also whether or not we want to have these decisions based upon sound scientific analysis, one that is endorsed by all of the people who endorsed Dr. Graham, and say that analysis, that sound analysis that will work to our benefit.

I have a chart of all the areas where lead and gasoline, sludge, drinking water—where Dr. Richard Morganstern, economic analyst at the EPA, has shown where cost-benefit analysis, the kind that Dr. Graham proposes, has been beneficial both from a cost standpoint and increasing benefits. Let's not get into an anti-intellectual no-nothing kind of mode here and try to label these fine scientists and this fine institution with labels that do not fit and are not deserved.

I sincerely hope my colleagues will vote for this nomination.

Mr. REID. Is all time yielded back?

The PRESIDING OFFICER (Mr. BAYH). All time has expired.

LEGISLATIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate now resume legislative session.

The PRESIDING OFFICER. Without objection it is so ordered.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the Senate turn to the consideration of the legislative branch appropriations bill, S. 1172; that the only amendments in order be a managers' amendment and an amendment by Senator SPECTER; that there be 10 minutes for debate on the bill and the managers' amendment, equally divided between the two managers, Senators DURBIN and BENNETT; that there be 5 minutes for debate for Senator SPECTER; that upon the disposition of these two amendments, the Senate proceed to third reading and vote on final passage of S. 1172; that when the Senate receives from the House of Representatives their legislative branch appropriations bill, the Senate proceed to its immediate consideration; that the text of the bill relating solely to the House remain; that all other text be stricken and the text of the Senate bill be inserted; provided that if the House inserts matters relating to the Senate under areas under the heading of ''House of Representatives'' then that text will be stricken; that the bill be read the third time and passed, and the motion to reconsider be laid on the table; that following the vote tonight on the Senate legislative branch appropriations bill, the Senate return to executive session and vote on the Graham nomination, followed by a vote on the Ferguson nomination, with 2 minutes for debate equally divided between these two votes; that the motions to reconsider be laid on the table, the President be immediately notified of the Senate's action; the Senate then return to legislative session, that S. 1172 remain at the desk and that once the Senate acts on the House bill, passage of the Senate bill be vitiated and it be returned to the calendar.

I further ask unanimous consent that after the first vote, the subsequent two votes be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Tennessee.

Mr. THOMPSON. At the appropriate time I will ask for the yeas and nays on the Graham nomination.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2002

The PRESIDING OFFICER. Under the previous order, the clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1172) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, and for other purposes.

Mr. DURBIN. Mr. President, pursuant to the unanimous consent request which was just allowed regarding procedures for the remainder of the evening, I will give a brief summary of this bill.

I am pleased to present to the Senate the fiscal year 2002 legislative branch appropriations bill, as reported by the full committee.

I thank Chairman BYRD for his support and the high priority he has placed on this bill. He has provided an allocation which has ensured we could meet the highest priorities in the bill. In addition, I wish to thank the ranking member of the full Committee Senator STEVENS who has been actively involved in and very supportive of this bill.

I am grateful to my ranking member, Senator BENNETT, for his important role in this process and his excellent stewardship of this subcommittee for the past 4½ years.

The fact is that this bill bears the imprint of Senator BENNETT and his hard work in keeping an eye on this particular appropriations bill. I was happy to join him in bringing this bill to the floor. I couldn't have done it without him. I appreciate all of his assistance.

The bill before you today totals $1.94 billion in budget authority and $2.03 billion in outlays. This is $103 million—5.6 percent—over the fiscal year 2001 enacted level and $104 million or 5 percent below the request level.

The bill includes $1.1 billion in title I, Congressional Operations, which is $88 million below the request and $123 million above the enacted level.

For title II, other agencies, a total of $848 million is included, $15 million below the request and $20 million below the enacted level.

The support agencies under this subcommittee perform critical functions enabling Congress to operate effectively. We have sought to provide adequate funding levels for these agencies—particularly the Library of Congress, the General Accounting Office, the Capitol Police, and the Congressional Budget Office.

For the Library of Congress and the Congressional Research Service, the bill includes $443 million. While this is $66 million below the enacted level, the decrease is attributable to last year's one-time appropriation for the digital preservation project.

The recommendation for the Library will enable the Congressional Research Service to hire staff in some critical areas—particularly technology policy.

In addition, a significant increase is provided for the National Digital Library within the Library of Congress, including information technology infrastructure and support to protect the investment that has been made in digital information.

Also in the Library's budget is additional funding to reduce the Law Library arrearage, funding for the newly-authorized Veterans Oral History Project, and funds to support the preservation of and access to the American Folklife Center's collection.

For the General Accounting Office, a total of $419 million is included. This level will enable GAO to reach their full authorized staffing level. The total number of employees funded in this recommendation is 3,275 which would put GAO at their fiscal year 1999 level and is well below their fiscal year 1995 staffing level of 4,342 FTE.

A total of $125 million is provided for the Capitol Police. This is an increase of $19 million over the enacted level. This will provide for 79 additional officers above the current level, which conforms with security recommendations, as well as related recruitment and training efforts.

It will also provide comparability for the Capitol Police in the pay scales of the Park Police and the Secret Service-Uniformed Division so the Capitol Police are able to retain their officers.

The Architect of the Capitol's budget totals $177 million, approximately $8 million above the enacted level, primarily for additional worker-safety and financial management-related activities.

We have sought to trim budget requests wherever appropriate and where we have identified problem areas. The most significant difference from the budget request is a reduction of $67 million from the Architect of the Capitol—$42 million of which is attributable to postponement of the Capitol Dome project pursuant to the request of the Architect.

We have appropriated money for the painting of the Dome to preserve it. We believe that we can get into this important building project in another year or so.

We have also recommended some very strong report language within the Architect's budget, directing them to improve their management with particular attention to worker safety, financial management, and strategic planning. I am very troubled by the Architect's operation and intend to work to make much-needed changes. I hope this language sends a strong message to the Architect that we expect major overhauls of this agency—especially in the areas of worker safety and financial management.

We have made it clear to the Architect of the Capitol that the rate of worker injury is absolutely unacceptable in the Architect of the Capitol, which is four times the average rate of the Federal Government. This must end, and we will work to make it end.

Also included is approximately $6 million for the Botanic Garden, which is to open in November 2001.

For the Government Printing Office, a total of $110 million is included, of which $81 million is for Congressional printing and binding. The amount recommended will provide for normal pay and inflation-related increases.

For the Senate a total of $603.7 million is included. This represents an increase of $81.7 million above the current level and $14 million below the request.

Of the increase, $24 million is needed to meet the Senate funding resolution, another $24 million is associated with information technology-related activities such as the digital upgrade and studio digitization of the Senate recording studio, and the balance is attributable primarily to anticipated increases for agency contributions and cost-of-living adjustments.

This is a straight-forward recommendation and I urge my colleagues to support it.

With respect to the manager's amendment, it includes a provision on behalf of Senator BINGAMAN, adding $1 million to GAO's budget for a technology assessment pilot project, offset by a $1 million reduction in the Architect of the Capitol's budget. It also includes authority for the Architect to lease a particular property for the Capitol Police, for a vehicle maintenance facility, and technical corrections.

I thank two staffers who worked tirelessly on this bill. I thank Carolyn Apostolou with the Appropriations Committee. I thank her very much for the continuity which she has shown working first for Senator BENNETT, and now for myself; and Pat Souters on my personal staff. I thank Chip Yost for his contribution to this as well.

I yield the floor to my colleague, Senator BENNETT.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, the Senator from Illinois has been very generous in his comments. I thank him for his generosity. He is being a bit modest because he took over the subcommittee with great vigor and has moved ahead on those portions of this bill in which he has a particular interest. That was demonstrated in both the report language and the priorities of the bill.

I congratulate him for the way he handled his stewardship of this particular assignment.

This is not the most glamorous subcommittee on the Appropriations Committee. But in some cases, it may be the most fun because we get to deal with people who interact with the Senate all of the time.

The Senator from Illinois has my thanks and congratulations on the work he has done. I will not review the specifics of the bill that he has gone over. I will point out that I think the increases he has cited are appropriate.

This bill has my full support. One of the items that is in the bill that the press has expressed great interest about is the million dollars that we put in for the Visitors Center. The million dollars is obviously not adequate to begin the Visitors Center. But since the House didn't put in anything, this becomes a placeholder for us to discuss an appropriation for the Visitors Center when we get to conference. I think the Congress needs the Visitors Center. The current schedule calls for it to be done prior to the inauguration of the next President, whether it be a reelection or a new election in January of 2005. That is the tight time schedule, and it will not yield. We will have an inauguration in the Capitol in January of 2005, whether the Visitors Center is done or not.

We had conversations with the Architect of the Capitol about that during his hearing. We need to get on with that as quickly as we can.

I look forward to working with Senator DURBIN as he leads us in the effort to see to it that we get the proper funding and the proper direction to see that the Visitors Center comes to pass in a timely fashion.

I am grateful to Senator DURBIN for addressing the requirement of GAO to make an updated evaluation of the feasibility of consolidating all of the Capitol Hill Police forces. They are the Capitol Police that protects us. They are the Library police. They are the Government Printing Office police. Then there is the Supreme Court Police Force.

The question is, what kind of efficiency could be gained by having all of them coordinated to produce some cost savings? That is a question that I have been addressing for some time. I appreciate Senator DURBIN's willingness to support the GAO study to look in that direction.

All in all, it has been a pleasure to work with Senator DURBIN and a delight to help put this bill together with him.

I thank the staff that have toiled late into many nights to put this before us today.

I urge the Senate to adopt it. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 1027

Mr. SPECTER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1027.

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

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

The amendment is as follows:

(Purpose: To provide additional funding for Members of the Senate which may be used by a Member for mailings to provide notice of town meetings)

At the appropriate place, insert the following:

MAILINGS FOR TOWN MEETINGS

For mailings of postal patron postcards by Members for the purpose of providing notice of a town meeting by a Member in a county (or equivalent unit of local government) with a population of less than 50,000 that the Member will personally attend to be allotted as requested, $3,000,000, subject to authorization: *Provided* That any amount allocated to a Member for such mailing under this paragraph shall not exceed 50 percent of the cost of the mailing and the remaining costs shall be paid by the Member from other funds available to the Member.''.

On page 33, line 6, strike ''$419,843,000'' and insert ''$416,843,000''.

Mr. SPECTER. Mr. President, only 5 minutes has been allotted for my presentation. I have asked for that limited time only realizing the lateness of the hour.

This amendment would establish a relatively small fund of $3 million to pay for notices sent to residents of small counties when a Senator comes to that county to have a town meeting.

Town meetings are in the greatest tradition of American democracy. But they have fallen into disuse in the Senate for a number of reasons. One reason is that it is very tough for Senators to go out and face constituents and listen to a variety of complaints and defend a Senator's voting record. It is more comfortable to stay inside the beltway.

But there is another reason; that is, the mail accounts are inadequate to provide for all of the funds necessary.

For my State alone, it would cost about three-quarters of a million dollars. My total budget is a little over $2 million for all of my office expenses. This is an effort to start on what I think could be a very important project.

It provides only for notices in small counties under 50,000 population. It is possible in Pennsylvania, illustratively, to cover the big cities and the suburban counties for television and newspapers. But if you take the northern tier of Pennsylvania, or the southern tier, or some of the counties, you simply can't get there unless you go there.

If a Senator is to go there, the only way you could tell people that you are coming is if you send them a simple postal paper notice—not even a name or address—just to every resident.

I had anticipated that perhaps a lively debate on this subject might have taken an hour or two.

But when I saw that the legislative appropriations bill was going to be listed this evening at about 9:30, I added three magic words to this amendment, and they are, ''subject to authorization.'' I know the Senator from Illinois is opposed to the amendment; the Senator from Utah is in favor of the amendment. We will present this matter, on another occasion, to the Rules Committee. But it is my understanding that pursuant to practice, if it passes the Senate, it is not subject to conference. I do not want to have an amendment accepted and then dropped in conference. That frequently happens.

Mr. President, how much time remains of my 5 minutes?

The PRESIDING OFFICER. The Senator retains 2 minutes 10 seconds.

Mr. SPECTER. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois.

Mr. DURBIN. Mr. President, the Chair has advised me, through staff, I have 32 seconds remaining of my initial 5 minutes. I ask unanimous consent for an additional 60 seconds, for a total of 92 seconds to reply to the Senator from Pennsylvania.

Mr. SPECTER. I am not going to object to that.

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

Mr. DURBIN. Mr. President, I will accept this amendment this evening, but as I made it clear to the Senator from Pennsylvania, I do not believe this is necessary. We appropriated about $8 million a year for Senate mailing, and the Senators did not use it. They returned $4 million.

The Senator from Pennsylvania has suggested that we need an additional $3 million when we are returning $4 million. I do not quite understand it.

I think there is adequate money to send out town meeting notices for any Senator who wishes to do so. Many Senators, including some who are in this Chamber, who will go unnamed, did not even use their mailing account last year. They left almost $100,000 in the account. And they are suggesting we need to put more money on the table for mailing.

I believe in townhall meetings. I had over 400 as a Congressman, and I support them as a Senator.

I am going to, of course, allow this amendment to go forward without objection. I will tell you, as a member of the Rules Committee, the Senator from Pennsylvania has a job to do to convince me to support it there.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I am prepared to undertake that job. And if the Senator from Illinois does not understand why I am offering this amendment, let me explain it to him.

It would cost, to circulate in Pennsylvania, $735,000, which will be about a third of my budget. We have a grave crisis in America where people think that Members of Congress are up for sale.

Campaign finance reform has been a heated subject in this Chamber and in the House Chamber. It is necessary to have fundraisers, and you cannot deny that the people who come to fundraisers have access. But I find that the best answer to that is to tell my constituents that I go to all the counties in Pennsylvania—67 counties. It is onerous. It is very worthwhile in many respects.

It is very refreshing to get outside the beltway, to find out what people are thinking about in upstate Pennsylvania; and to say that people will get a notice that ARLEN SPECTER is coming to town, and you can come there, you do not have to buy a ticket. You can listen to a short speech, about 5 minutes on an hour, and the balance of the hour is for questions and answers. That way you have participatory democracy.

So it is a partial answer to the problem of fundraisers which we hold. I think it would be great if this sort of financing would encourage Senators to go out and do town meetings, and I intend to pursue this in the Rules Committee. This is just a start. Let's see how it works. My instinct is that most of the $3 million will not be used. And while it is first-come-first-serve, you cannot spend a lot of money for the postal patron postcards going to people in counties with a population of under 50,000.

I thank the managers for accepting this amendment. I think it can prove very beneficial to the Senators and, more importantly, to America.

Mr. President, how much time remains?

The PRESIDING OFFICER. Twenty seconds.

Mr. SPECTER. If that is all the debate, I yield back the remainder of my time.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 1027.

The amendment (No. 1027) was agreed to.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 1026

Mr. DURBIN. Mr. President, I call up the managers' amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself and Mr. BENNETT, proposes an amendment numbered 1026.

Mr. DURBIN. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To authorize the Architect of the Capitol to secure certain property, to fund a technology assessment pilot project, and for other purposes)

On page 8, insert between lines 9 and 10 the following:

(e) EFFECTIVE DATE.—This section shall apply to fiscal year 2002 and each fiscal year thereafter.

On page 9, lines 13 and 14, strike ''as increased by section 2 of Public Law 106–57'' and insert ''as adjusted by law and in effect on September 30, 2001''.

On page 15, insert between lines 9 and 10 the following:

(d) This section shall apply to fiscal year 2002 and each fiscal year thereafter.

On page 16, add after line 21 the following:

(f) This section shall apply to fiscal year 2002 and each fiscal year thereafter.

On page 17, line 21, strike ''$55,000,000'' and insert ''$54,000,000''.

On page 17, line 25, insert ''after the date'' after ''days''.

On page 17, line 25, insert before the period the following: '': *Provided further*, That notwithstanding any other provision of law and subject to the availability of appropriations, the Architect of the Capitol is authorized to secure, through multi-year rental, lease, or other appropriate agreement, the property located at 67 K Street, S.W., Washington, D.C., for use of Legislative Branch agencies, and to incur any necessary incidental expenses including maintenance, alterations, and repairs in connection therewith: *Provided further*, That in connection with the property referred to under the preceding proviso, the Architect of the Capitol is authorized to expend funds appropriated to the Architect of the Capitol for the purpose of the operations and support of Legislative Branch agencies, including the United States Capitol Police, as may be required for that purpose''.

On page 33, line 6, strike ''$419,843,000'' and insert ''$420,843,000''.

On page 34, line 4, insert before the period the following: ''*Provided further*, That $1,000,000 from funds made available under this heading shall be available for a pilot program in technology assessment: *Provided further*, That not later than June 15, 2002, a report on the pilot program referred to under the preceding proviso shall be submitted to Congress''.

On page 38, line 15, strike ''to read''.

On page 39, line 2, insert ''pay'' before ''periods''.

Mr. DURBIN. Unless the Senator from Utah wants to speak to it, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1026.

The amendment (No. 1026) was agreed to.

Mr. DURBIN. Mr. President, I ask for the yeas and nays on the bill.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

INFORMATION TECHNOLOGY

Mr. NICKLES. Mr. President, I want to express my concerns to the chairman and ranking member of the Legislative Branch appropriations subcommittee about the information technology capabilities of the Senate.

I am particularly concerned that the e-mail and networking systems of the Senate do not allow Senators and their staffs to take advantage of the latest in technology innovations. For example, the cc:mail e-mail system employed by the offices of every Senator is no longer even supported by the company that developed it. It is an antiquated system that makes remote access slow and cumbersome, and does not allow for the use of wireless e-mail.

At this time, the Sergeant of Arms is looking at a January 2002 rollout of a modernized system that will bring the Senate into the 21st Century. This bill contains substantial increases in spending for the IT Support Services Division of the Sergeant of Arms. It is my understanding that some of this increase will be used for other purposes. Therefore, I ask the chairman and ranking member what portion of these increases will be used for the upgrade of the e-mail system?

Mr. DURBIN. The bill includes $1.8 million for the maintenance and support of the new e-mail system that is to be implemented beginning in January 2002. In addition, there is $6 million available in the current fiscal year that will be used for the rollout of the new system, including the necessary hardware and software.

Mr. BENNETT. The Senator from Illinois is correct, and I support the funding for the replacement of the cc:mail system.

Mr. NICKLES. I thank the Chairman and Ranking Member for their commitment to the upgrade. After two years of delays, I urge them to monitor the Sergeant of Arms to see that the system is upgraded as expeditiously as possible.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

Mr. NICKLES. I announce that the Senator from Tennessee (Mr. FRIST) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 9, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—88

Akaka	Burns	Conrad
Allard	Byrd	Corzine
Allen	Campbell	Craig
Baucus	Cantwell	Crapo
Bennett	Carnahan	Daschle
Bingaman	Carper	Dayton
Bond	Chafee	DeWine
Boxer	Clinton	Dodd
Breaux	Cochran	Domenici
Bunning	Collins	Dorgan
Durbin	Kohl	Roberts
Edwards	Kyl	Rockefeller
Enzi	Landrieu	Santorum
Feingold	Leahy	Sarbanes
Feinstein	Levin	Schumer
Fitzgerald	Lieberman	Sessions
Graham	Lincoln	Shelby
Grassley	Lott	Smith (OR)
Gregg	Lugar	Snowe
Hagel	McCain	Specter
Harkin	McConnell	Stabenow
Hatch	Mikulski	Stevens
Hollings	Miller	Thompson
Hutchinson	Murkowski	Thurmond
Hutchison	Murray	Torricelli
Inouye	Nelson (FL)	Warner
Jeffords	Nelson (NE)	Wellstone
Johnson	Nickles	Wyden
Kennedy	Reed	
Kerry	Reid	

NAYS—9

Bayh	Ensign	Smith (NH)
Brownback	Gramm	Thomas
Cleland	Inhofe	Voinovich

NOT VOTING—3

Biden	Frist	Helms

The bill (S. 1172), as amended, was passed.

(The bill will be printed in a future editon of the RECORD.)

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

EXECUTIVE SESSION

NOMINATION OF JOHN D. GRAHAM, OF MASSACHUSETTS, TO BE ADMINISTRATOR OF THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS

The PRESIDING OFFICER. The Senate will now proceed to executive session. Under the previous order, the question occurs on agreeing to the nomination of John D. Graham of Massachusetts to be Administrator of the Office of Information and Regulatory Affairs.

Mr. THOMPSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DURBIN. Mr. President, point of clarification. Under the unanimous consent request, Senator THOMPSON and I each have a minute before the vote; is that correct?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, John Graham has had a distinguished career. He has been head of the Harvard Center for Risk Analysis for the last 15 years and has been called the ''best-qualified person'' who has come down the road for this position by Bob Leiken of the Brookings Institution.

Some people don't like scientific facts that don't comport with their ideology, even if it is supported in the scientific community. He has been criticized, he has had selected excerpts taken from his works, and he has been unfairly characterized.

They have taken complex scientific issues and even though they might be

counterintuitive for many of us, they are supported by the scientific community.

Mr. President, the merging of scientific analysis and the political process sometimes is not a pretty picture, and this one has not been either. But I suggest there have been a lot of people asleep on the job and very negligent if this gentleman is not qualified and has really adhered to some of the views attributed to him.

Leaders of public policy in this country: scientists, academics, Democrats and Republicans, the last two Democrats who have held this position, support this man. I suggest a strong vote for him is merited, and I sincerely urge that. I yield the floor.

Mr. DURBIN. Mr. President, if my colleagues followed the debate this evening, they know John Graham's views on science really are not in the mainstream by any stretch. He has made statements that pesticide residues on fruits and vegetables are not a public hazard. He has some theory described as irresponsible and inaccurate: Dioxin somehow cures cancer and does not cause cancer.

He questions whether or not DDT should have been banned, and this is the man who will be in charge of the agency which has the last word on rules and regulations for public health and safety and environmental protection.

We can do better in America. President Bush can do better. I urge my colleagues to join Senators LIEBERMAN, KERRY, and myself in opposing this nomination.

The PRESIDING OFFICER. All time is yielded back. The question is, Will the Senate advise and consent to the nomination of John D. Graham, of Massachusetts, to be Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Tennessee (Mr. FRIST) and the Senator from North Carolina (Mr. HELMS) are necessarily absent.

The PRESIDING OFFICER (Mr. CARPER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 37, as follows:

[Rollcall Vote No. 242 Ex.]

YEAS—61

Allard	Collins	Hutchinson
Allen	Craig	Hutchison
Bayh	Crapo	Inhofe
Bennett	DeWine	Jeffords
Bond	Domenici	Johnson
Breaux	Ensign	Kyl
Brownback	Enzi	Landrieu
Bunning	Feingold	Levin
Burns	Fitzgerald	Lincoln
Byrd	Graham	Lott
Campbell	Gramm	Lugar
Carnahan	Grassley	McCain
Carper	Gregg	McConnell
Chafee	Hagel	Miller
Cochran	Hatch	Murkowski
Nelson (NE)	Smith (NH)	Thompson
Nickles	Smith (OR)	Thurmond
Roberts	Snowe	Voinovich
Santorum	Specter	Warner
Sessions	Stevens	
Shelby	Thomas	

NAYS—37

Akaka	Dorgan	Murray
Baucus	Durbin	Nelson (FL)
Biden	Edwards	Reed
Bingaman	Feinstein	Reid
Boxer	Harkin	Rockefeller
Cantwell	Hollings	Sarbanes
Cleland	Inouye	Schumer
Clinton	Kennedy	Stabenow
Conrad	Kerry	Torricelli
Corzine	Kohl	Wellstone
Daschle	Leahy	Wyden
Dayton	Lieberman	
Dodd	Mikulski	

NOT VOTING—2

Frist	Helms

The nomination was confirmed.

Mr. DASCHLE. Mr. President, for the information of our colleagues, the next vote will be the last vote. There will be three votes on judicial nominations at 9:45 tomorrow morning. Those will be the last votes of the day. The next vote will occur, then, on Monday, at 5:45. This is the last vote for the day.

NOMINATION OF ROGER WALTON FERGUSON, JR., OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

The PRESIDING OFFICER. Under the previous order, the clerk will report the nomination.

The legislative clerk read the nomination of Roger Walton Ferguson, Jr., of Massachusetts, to be a Member of the Board of Governors.

The PRESIDING OFFICER. There are 2 minutes equally divided on the nomination.

Mr. SARBANES. Mr. President, I urge Members to approve the nomination. Mr. Ferguson has been serving on the Federal Reserve Board and was nominated by President Clinton. His nomination was resubmitted by President Bush. The committee reported out overwhelmingly in favor of his nomination. I urge his approval.

I yield back the remainder of my time.

Mr. BUNNING. Mr. President, unfortunately I must rise today to oppose the nomination of Roger Ferguson to be a member of the Board of Governors of the Federal Reserve.

I usually don't vote against presidential nominees. I believe, in most cases, that we should defer to the president and allow him to appoint his own people.

However, there are times when I am forced to stand up and to vote against the president. I do not enjoy doing this, but I have no doubt that I will be making the right vote for Kentucky and the nation.

Roger Ferguson is a very accomplished man. He is quite qualified to be a Federal Reserve Governor.

He is currently vice chairman. But I cannot, in good conscience, support his nomination for a 14-year term.

It is not Dr. Ferguson's qualifications that concern me; it is his judgment that does.

Right now we are in an economic slowdown. The evidence was there last September. But Chairman Greenspan and the Federal Reserve did not act in September.

They did not act in October.

They did not act in November.

They did not act in December.

They did finally act in January.

Since then, the Fed, to its credit, has continued to move the federal funds rate, cutting it 6 times. But the damage has already been done.

What concerns me about Dr. Ferguson is the response he gave to me in the Banking Committee when I asked him this question: ''Hindsight being 20/20, do you think the Fed waited too long to reduce the target federal funds rate?''

Dr. Ferguson's response was: ''No, sir. Even with 20/20 hindsight, I do not believe that to be the case.''

Mr. President, I simply can't understand that answer. Knowing what we know now, it just doesn't make sense.

During that time last year, practically every single economic indicator was headed straight down.

The markets, especially the NASDAQ were dropping, causing wealth to be taken out of the economy. Corporations were announcing layoffs, not just dot-coms, but companies like GE.

The index of leading economic indicators started to fall. And consumer confidence started dropping. And GDP slowed markedly.

Anyone I've talked to since then, now says that, looking back, it's pretty clear that the Fed was slow at the switch in recognizing and reacting to the warning signs.

Six rate cuts this year is clear evidence of this. That's the most in such a short period of time in decades, and shows just how precarious a position our economy was in.

We're still having trouble turning the corner, and even now there are warning signs that our economic slowdown is causing a ripple effect around the globe.

Who knows what would have happened if the Fed had cut rates sooner. If Dr. Ferguson is confirmed, I'm afraid we probably never will.

That truly worries me.

I am afraid that he is looking over his shoulder already, and is concerned about how the Fed Chairman is going to react to his remarks.

I think Dr. Ferguson was afraid to criticize the chairman and to upset the apple cart.

But I believe that we need strong, independent Fed Governors who are willing to challenge the status quo and to make the hard call.

I am afraid that Dr. Ferguson does not fit this bill.

We do not need Alan Greenspan clones who will never question the chairman, who will never take the contrary view.

What we need are Fed nominees who will be independent. We need nominees who will stand up to the chairman if they believe he is wrong.

I do not believe Dr. Ferguson will assert that independence. I believe his answer to my question in the Banking Committee proves that.

For this reason, I reluctantly vote ''no'' on the nomination of Dr. Roger Ferguson, to a 14-year term as a member of the Board of Governors of the Federal Reserve.

The PRESIDING OFFICER. All time has been yielded back.

Mr. BREAUX. 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 Roger Walter Ferguson, Jr., to be a Member of the Board of Governors of the Federal Reserve System? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 243 Exec.]

YEAS—97

Akaka	Durbin	McCain
Allard	Edwards	Mikulski
Allen	Ensign	Miller
Baucus	Enzi	Murkowski
Bayh	Feingold	Murray
Bennett	Feinstein	Nelson (FL)
Biden	Fitzgerald	Nelson (NE)
Bingaman	Frist	Nickles
Bond	Graham	Reed
Boxer	Gramm	Reid
Breaux	Grassley	Roberts
Brownback	Gregg	Rockefeller
Burns	Hagel	Santorum
Byrd	Harkin	Sarbanes
Campbell	Hatch	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Corzine	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	Wyden
Domenici	Lott	
Dorgan	Lugar	

NAYS—2

Bunning	McConnell

NOT VOTING—1

Helms

The nomination was confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there now be 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.

NUCLEAR WASTE

Mr. REID. Mr. President, I hope everyone recognizes the tremendous tragedy we sadly heard of yesterday in Baltimore. A train derailed in a tunnel. The fire is still burning. The hydrochloric acid is still leaking from that tank. Last night, the city of Baltimore, one of the largest cities in America, was closed down. The Baltimore Orioles were in the middle of a doubleheader. They stopped the game and sent everybody home.

The reason I mention this is there has been a mad clamor about the nuclear power industry and shipping nuclear waste. The nuclear industry doesn't care where it goes, although they are focused on Nevada for the present time. I think everyone needs to recognize that transporting hazardous materials is very difficult. If people think hydrochloric acid is bad—which it is—think about how bad nuclear waste is. A speck the size of a pinpoint would kill a person. We are talking about transporting some 70,000 tons of it all across America.

I hope before everybody starts flexing their muscles about the reestablishment of nuclear power in this country that we recognize first there has to be something done with the dangerous waste associated with nuclear power.

It is estimated that some 60 million people live within a mile of the routes that may be proposed for transporting this nuclear waste by train or truck. Not to mention the problems related to terrorism, which we have discussed at some length on this floor in previous debates.

We should leave nuclear waste where it is. Eminent scientists say it is safe. It could be stored onsite in storage containers for a fraction of the cost of a permanent repository. It would be much less dangerous. It could be stored relatively safely for 100 years, the scientists say. During that period of time, we might develop a breakthrough idea as to what could be done safely with these spent fuel rods.

RADIATION EXPOSURE CLAIMS

Mr. DOMENICI. Mr. President, I would like to speak today about a group of Americans, some of whom are in my State. Some are in Arizona. Some are in Wyoming. Some are in Connecticut. These people have only one thing in common: they are the beneficiaries of an American law that is called RCRA, the Radiation Exposure Compensation Act. A number of us were part of getting that law passed. It was a recognition that there were certain Americans, including uranium miners and some others, who very well might have been overexposed to low-level radiation when they were mining in uranium mines that weren't aerated—where they did not have enough air conditioning and not enough clean air. They may have very well during their lives breathed in radiation and contracted serious illnesses. Some might have died. Some may today be suffering from cancer or other diseases.

In any event, this law was passed. It was kind of heralded as a very good commitment by the Government and very simple. You didn't have to get a lawyer for these claims. It was limited to $100,000 in exchange for making it simple and setting some standards: You can come in and prove your case. You could probably prove your claim in a relatively short period of time.

Lo and behold, if Congress put the money up, you would get your check. You could get it as a widow. You could get it as one who was sick. You could get it as anyone entitled to it under the statute. It worked pretty well for a while.

Then something very ghastly happened for the beneficiaries. Pretty soon, they started going to the Justice Department which has charge of these claims and asking them for money.

The Justice Department told this growing group of Americans: We don't have any money.

They said: What do you mean? Here is the law.

They said: Well, Congress didn't put up the money. We ran out. So you will not be worried, why don't we give you an IOU. Here is your assurance that the Government says it owes you $100,000.

These people started coming to see their Senators—not only me but Senator BINGAMAN and other Senators—saying, time is passing. I am getting sicker. I may even die, and I have an IOU from this great big American Government. Why can't they pay me?

Let me say in this Chamber that it is embarrassing to say it even here, but it is more embarrassing to say it to the victims. There is a big series of discussions going on between committees—even appropriations subcommittees—as to which one ought to appropriate the money.

In the meantime, no money is appropriated. People walk around with the IOUs filing their claims, and they are working on them day by day. And another law passes. It is for a larger group of Americans who come in to adjudicate their claims for exposure to low-level radiation. It is for radiation where we had uranium in a Richmond,

VA, mine or perhaps in Paducah, KY, and various places in Ohio. For this larger group of people, those claims are still being worked.

We say: Well, time has passed, and maybe these claims should be a little higher. So they are awarded $150,000 if they can prove the claim that they are either totally disabled or are an heir.

Congress in that case—coming out of a different committee—made that program an entitlement. Even the occupant of the Chair, who is a new Senator, would understand that those claims are paid without anybody appropriating it—just like the Social Security check or your veterans check.

Here is one group of Americans filing their claims. Some of them are already adjudicated; we stamp out a check, while over here another group of Americans carry around IOUs.

A number of Senators have been working on this issue. A number of House Members have been working on it. My friend, Senator BINGAMAN, has been working on it.

But essentially our last opportunity to cease the embarrassment and do something half fair was to put language in the supplemental appropriations bill that would see to it that for any claims already finished where people are carrying around the IOUs, or any that are completed for the rest of this year, there is money for them. We provided that in the Senate bill on supplemental appropriations.

Frankly, we even had to find a way to pay for it because it had to be budget neutral. So we found a way to pay for it. I did, out of a program I started a few years ago. I said: It is not being used, so cancel it so we have room.

Today, at about 10:30, 11 o'clock this morning, after a number of days of conferring, the House-Senate committee on that bill approved it. It should come back before us very soon and get approval. It has language in it that says whatever amount of money is needed for those holding those IOUs and for those finishing up their claims by the end of this fiscal year, they will have the money in the Justice Department to pay it.

I say to the Senate, I know it is difficult, unless you have this problem, for you to be as concerned as I or those in my particular region. But I thought maybe I should tell the whole Senate because it is time they know that this is a festering embarrassment.

Is it solved? No. The appropriations bill that is going to put in money for next year only carries a small amount of money because it expects, as does the President in his budget, to convert this program to an automatic payment program called a mandatory or an entitlement. But we have not been able to get that done yet.

So I have said it for a second reason. I hope the committees that are considering it—and I will do my best to go see the committees to make myself understood, and take with me whatever evidence I need to convince the chairmen and ranking members they ought to make this an entitlement. But in the meantime, the people who have claims right up until the end of this year will get paid. It will take a couple weeks, so they should not be coming into our offices saying thank you yet, nor should they come in and ask where is the money. They just have to wait a little while. It takes a little bit of time.

I thought, since we see them and we hear them, that maybe I should let the Senate vicariously hear them—you can't see them, but you can hear them through me.

What we have to do is not let another year pass because this is a problem, whether or not you come from a State that has ''down-winders'' and/or uranium miners; this carries with it some very serious kinds of overtones for the U.S. Government. You create a program. You tell people: We have been sorry for you up until now, but we will give you a little claim here—$100,000—and then, when you prove it up, you will take it, and you no longer have any claims, and we have said that we have paid you. It is just not right that you do not do it, just not right.

It is growing. The newspeople are starting to carry it. I guess they are starting to carry: ''Congress finally puts up the money today.'' That is good. But I hope there is a lingering interest in how we fix it. It should not be that 6 months into next year somebody exposed to low-level radiation at one of America's uranium enrichment plants proves their claim and gets an automatic check, but yet you have these people who might have worked 35 years ago, for 20 years, in a nonaerated uranium mine, where the U.S. Government, even through its heralded Atomic Energy Commission, which I know a lot about, made a mistake with reference to the quality of air in the mines—where acknowledgements were made many years later; and it is hard to get the acknowledgement, but we finally got it—yet a mistake was made.

So I thought it would be good, while we had nothing to do in this Senate Chamber, that maybe we could spread this story of what has happened and say thank you to the Appropriations Committee for the emergency measure today. And we look forward to one of our committees passing a bill that will make these few remaining people who are entitled to it know they will get their money when their claim is adjudicated.

JACKIE M. CLEGG

Mr. SARBANES. Mr. President, I seek recognition to express a deep appreciation for the dedicated service of Jackie M. Clegg as first Vice President and Vice Chair of the Export-Import Bank of the United States.

As I think many of my colleagues are aware, Jackie's 4-year term at the Eximbank will be concluding on tomorrow, July 20. As chairman of the Senate Committee on Banking, Housing, and Urban Affairs, I note our committee's gratitude and, indeed, the gratitude of the Senate for the many extraordinary contributions she has made to the Export-import Bank during her tenure.

Jackie spent more than 8 years in a series of senior positions at the Eximbank, devoting herself tirelessly to the agency's mission of supporting U.S. exporters and sustaining American jobs. She first joined the Eximbank in April of 1993, served as special assistant, chief of staff and vice president for congressional and external affairs, prior to her nomination, in May of 1997, to be first Vice President and Vice Chair of the Export-Import Bank.

Her exceptionally effective service at the Eximbank was a logical outgrowth of her extensive legislative staff career in the Congress. She worked for more than a decade as the legislative assistant for foreign policy, trade, and national security issues, for Senator Jake Garn of her home State of Utah, as an associate staff member to the Appropriations Committee, and later as a professional staff member on the Senate Banking, Housing, and Urban Affairs Subcommittee on International Finance and Monetary Policy.

It thus came as no surprise to us in the Congress when Jackie skillfully led the bank's efforts on its reauthorization legislation in 1997.

The legislation received overwhelming bipartisan support in the Congress and set the stage for the agency's excellent work on behalf of U.S. exporters during her term.

We on the Banking Committee have had the benefit of Jackie's wise counsel on export and trade matters for several years. She has an acute sense of the relationship among Federal agencies, Congress, foreign governments, and the business community.

In her travels on the Bank's behalf, and in her speeches, Jackie has raised awareness of the critical nature that international trade and trade finance can play in improving the lives of our citizens. Jackie has also devoted herself to improving the management of the Eximbank and its responsiveness to staff concerns. She has helped shepherd the Bank towards increased automation as a means of better fulfilling its objective of satisfying the needs of small business. She has served as both an institutional memory and a trailblazer—traits not often found in the same person.

The board of directors of the Eximbank today adopted a resolution expressing its appreciation and thanks to Jackie for her distinguished service to the Bank.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD after my remarks.

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

(See Exhibit 1.)

Mr. SARBANES. Mr. President, for those of us who have supported and

worked with the Eximbank, it is a loss that Jackie Clegg has chosen to leave public office at this time. We recognize, however, she has a special reason for moving on, and many of us have already extended our congratulations to Jackie and our colleague, the distinguished Senator from Connecticut, Senator DODD, as they start a family. But I want to thank her before she leaves office for her outstanding service to the Nation through her many contributions to the work of the Export-Import Bank of the United States.

EXHIBIT 1

EXPORT-IMPORT BANK OF THE UNITED STATES
RESOLUTION

Whereas Jackie M. Clegg has served with distinction as First Vice-President and Vice Chairman of the Export-Import Bank of the United States since June 17, 1997; and

Recognizing, that she has spent more than eight years in a series of senior positions at the Ex-Im Bank, devoting herself to the agency's mission of supporting U.S. exporters and sustaining American jobs; and

Recognizing further, that her success at the Ex-Im Bank is a logical outgrowth of her extensive U.S. Senate staff career, including more than a decade of work as a legislative assistant for foreign policy, trade, national security, banking, and appropriations issues; and

Recognizing further, that she led the Bank's efforts on its reauthorization legislation in 1997, which received overwhelming bipartisan support in the Congress and has made it possible for the Bank to serve better the needs of U.S. exporters, earning her the admiration and respect of numerous Members of Congress, the Executive Branch, and the exporting community; and

Recognizing further, that she demonstrated leadership and creativity as the Bank tackled critical issues such as resolving international financial challenges, balancing the need for environmental protection with promoting business opportunities, and increasing trade opportunities for small businesses, particularly those owned by women, minorities, and Americans who live in rural areas; and

Recognizing further, that she devoted herself to enhancing the quality of life for the Bank's career staff through innovation and a commitment to training, advancement, and empowerment; and

Recognizing further, that she has brought great credit to the Bank and succeeded in raising awareness of the agency and its mission, thereby expanding exporting opportunities for American companies and enhancing their competitiveness in the global marketplace; and

Recognizing further, that her intelligence, dedication, warmth, and leadership have earned her the friendship, affection, and respect of Export-Import Bank colleagues at all levels of the agency;

Now, therefore, be it resolved. That the Directors of the Bank, individually and on behalf of the entire Bank, hereby express their sincerest appreciation and thanks to Jackie M. Clegg for her distinguished service to the Bank and extend to her best wishes in all future endeavors.

JOHN E. ROBSON,
President and Chairman.
DAN RENBERG,
Director.
D. VANESSA WEAVER,
Director.

Mr. REID. Mr. President, I ask unanimous consent that the Senator's morning business time be extended.

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

Mr. REID. I say to my friend, I also have gotten to know Jackie Clegg. I met Jackie when she was a staff person for Senator Garn on the Appropriations Committee. She would come and be at his side and was his voice and ears on that committee—an important committee on which he did so well for the State of Utah. I got to know her better when she went to the Eximbank. We think of the Bank—I always did—as being something that was done in places other than in the United States. But she was kind and professional enough to do a meeting in Las Vegas for me of the Eximbank. There was tremendous interest of Las Vegas businesspeople in what that Bank could do and could not do. People were brought to a meeting in Las Vegas, and I can say it was one of the most successful of that type of meeting I have ever held.

She will be missed. Of course, being chairman of the Banking Committee and having worked in the area a long time, you certainly understand, having worked so closely with her, more than most of us how important that Bank is. I appreciate the Senator mentioning Jackie very much. However, I am very confident that her new role, as important as her old role was, will be even more important. I know she is looking forward to it. She will be a great mother, and I look forward to seeing her with her new baby in just a few months.

Mr. SARBANES. I thank the Senator for his comments.

Mr. REID. May I say also, while I have the Senator's attention, I say to my friend, the senior Senator from Maryland, I have been so impressed in watching what is taking place in Baltimore in the last 24 hours—almost exactly 24 hours now—to see the work of professionals there with the terrible tragedy that took place in the tunnel. I am confident that the Senator is as impressed as I am with the great work being done by the people from Maryland and Baltimore, and the other entities of which I am not totally aware, in averting a disaster that could have been much worse.

Mr. SARBANES. I thank the Senator. They are still working on that problem. It has not been fully resolved yet. I received a message from Mayor O'Malley that the fire is still smoldering. But they have had terrific intergovernmental cooperation throughout in trying to address this pressing issue. We are hopeful that it will be resolved soon. The tunnel is a mile and a half long, and so they are pulling these cars out of the tunnel—decoupling them and pulling them out. So that process is still underway, but we hope it can be carried through to completion without worsening of conditions.

Mr. REID. This points out how dangerous it is to transport hazardous materials. Certainly, this is a clear indication of how dangerous it really is.

Mr. SARBANES. The other thing—if the Senator will yield for a minute—I think it points out the need for us to make investment in our Nation's infrastructure. We have been trying for a long time to get a real commitment at the Federal level, to be matched at the State and local level, for operating infrastructure. I think it is something we need constantly to keep in mind and not lose sight of. We are making a number of these budget priorities, including sweeping tax cuts, for example, and at the same time all across the country we are being challenged by major needs in terms of the Nation's infrastructure. This is an obvious instance of transportation infrastructure and communications. I hope we will be able to come to grips with that issue and make a major national commitment with respect to upgrading the Nation's infrastructure.

Mr. REID. Mr. President, I am going to hold a hearing next week on the Environment and Public Works Committee. I am now the subcommittee chair on the committee with jurisdiction over this country's infrastructure. The first hearing I am going to do is going to be involved with the mayors of major cities in the United States, to have them start telling us what some of our major urban cities need. We are tremendously deficient in what we have not done to help cities and, of course, other parts of our country.

This is not a problem that developed today. We have been ignoring this for far too long. The Senator is absolutely right. We now are looking at budgetary constraints that make it very difficult for us to address some of the most grievous things facing this country as relates to infrastructure. That is one of the reasons I am holding this hearing. We can no longer hide our head, bury our heads in the sand, and say they don't exist. These problems exist. The Senator is so right, and the Public Works Committee is going to start addressing this next week.

Mr. SARBANES. I commend the Senator for that initiative. I think it is extremely important. I think we have to get across the understanding that these public investments in infrastructure are essential to the private sector activity. In other words, there is a relationship between making available a first-class public infrastructure—for example, transportation—and the ability then of the private sector to efficiently carry out its business. I think we need to perceive it in those terms because people come out and say you are just talking about making a public expenditure, but this is a public expenditure with wide-ranging consequences and implications for the effective working of the private sector of the economy.

Mr. REID. I will finally say to my friend, you are so right. Some of the people who want to spend less money than anyone else are the so-called market-oriented people. The fact is, Adam Smith, in his book ''Wealth of Nations,'' in 1776, said that governments

had certain responsibilities, and one of those responsibilities is things about which we are speaking, things we cannot do for ourselves. Only governments can do roads, highways, bridges, dams, sewers, water systems. So we go right back to the basic book of the free enterprise system, and that is what we are talking about.

Mr. SARBANES. That is right.

ENERGY, OPEC, AND ANTITRUST LAW

Mr. SPECTER. Mr. President, I have sought recognition to discuss briefly this afternoon, in the absence of any activity on the pending legislation, and in the absence of any other Senator seeking recognition, to discuss a subject which was talked about at the energy town meeting which Vice President CHENEY had in Pittsburgh on Monday of this week, July 16.

At that time, I had an opportunity to address very briefly a number of energy issues. I talked about the possibility of action under the U.S. antitrust laws against OPEC which could have the effect of bringing down the price of petroleum and, in turn, the high prices of gasoline which American consumers are paying at the present time.

I have had a number of comments about people's interest in that presentation. I only had a little more then 3 minutes to discuss this OPEC issue and some others. I thought it would be worthwhile to comment on this subject in this Senate Chamber today so that others might be aware of the possibility of a lawsuit against OPEC under the antitrust laws.

I had written to President Clinton on April 11 of the year 2000 and had written a similar letter to President George Bush on April 25 of this year, 2001, outlining the subject matter as to the potential for a lawsuit against OPEC. The essential considerations involved whether there is sovereign immunity from a lawsuit where an act of state is involved, and the decisions in the field make a delineation between what is commercial activity contrasted with governmental activity. Commercial activity, such as the sale of oil, is not something which is covered by the act of state doctrine, and therefore is not an activity which enjoys sovereign immunity.

There have also been some limitations on matters involving international law, as to whether there is a consensus in international law that price fixing by cartels violates international norms. In recent years, there has been a growing consensus that such cartels do violate international norms, so that now there is a basis for a lawsuit under U.S. antitrust laws against OPEC and, beyond OPEC, against the countries which comprise OPEC.

After writing these letters to President Clinton and President Bush, I found that there had, in fact, been litigation instituted on this precise subject in the U.S. District Court for the Northern District of Alabama, Southern Division, in a case captioned ''Prewitt Enterprises, Inc. v. Organization of the Petroleum Exporting Countries.'' In that case, neither OPEC nor any of the other countries involved contested the case, and a default judgment was entered by the Federal court, which made some findings of fact right in line with the issues which had been raised in my letters to both Presidents Clinton and Bush.

The court found that OPEC had conspired to implement extensive production cuts, that they had established quotas in order to achieve a specific price range of $22 to $28 a barrel, and that the cost to U.S. consumers on a daily basis was in the range of $80 to $120 million for petroleum products. That is worth repeating. The cost to U.S. consumers was $80 to $120 million daily.

The court further found that OPEC was not a foreign state. The court also found that the member states of OPEC, although not parties to the action, were coconspirators with OPEC, and that the agreement entered into by the member states of OPEC was a commercial activity, and the states, therefore, did not have sovereign immunity for their actions.

The court further found that the act of state doctrine did not apply to the member states and that OPEC's actions were illegal ''per se'' under the Sherman and Clayton Acts.

The court then issued an injunction, which is legalese for saying OPEC could no longer act in concert to control the volume of the production and export of crude oil.

The court found that the class of plaintiffs was not entitled to monetary damages because they were what is called ''indirect purchasers.'' That is a legal concept which is rather involved which I need not discuss at this time. But the outline was established, and the findings of fact and conclusions of law were established by the Federal court that indeed there was a cartel, there was a conspiracy in restraint of trade, U.S. laws were violated, U.S. consumers were being prejudiced, and an injunction was issued.

Then, a unique thing occurred. After the court entered its default judgment and injunction, OPEC entered a special appearance in the case, and asked the court to dismiss the case. Three nations, who were not parties to the case—Saudi Arabia, Kuwait, and Mexico—then sought leave of the court to file ''amicus'' briefs in support of OPEC's motion to dismiss, which means, in effect, that they wanted to assist OPEC in defending the matter. I think it is highly significant that those nations, which are characteristically and customarily oblivious and indifferent and seek to simply ignore U.S. judicial action, had a change of heart and decided to come in.

They must have concluded that an injunction by Federal court was something to be concerned about. I think, in fact, it is something to be concerned about.

In an era where we are struggling with an extraordinarily difficult time of high energy costs, with real concerns laid on the floor of the Senate about where additional drilling ought to be undertaken, about the problems with fossil fuels, about our activities to try to find clean coal technology to comply with the Clean Air Act, at a time when we are looking for renewable energy sources such as air and wind and hydroelectric power, there is a long finger to point at the OPEC nations which are conspiring to drive up prices in violation not only of U.S. law but in violation of international law.

This is a subject which ought to be known to people generally. It ought to be the subject of debate, and it ought to be, in my opinion, beyond a class action brought into the Federal court by private plaintiffs, which is something that the Government of the United States of America ought to consider doing as has been set forth in the letters which I sent to President Clinton last year and to President Bush this year.

It is especially telling when we have Kuwait gouging American consumers, after the United States went to war in the Persian Gulf to save Kuwait. It is equally if not more telling that Saudi Arabia engages in these conspiratorial tactics at a time when we have over 5,000 American men and women in the desert outside of Riyadh. I have visited there. It is not even a nice place to visit, let alone a nice place to live, in a country where Christians can't have Christmas trees in the windows and Jewish soldiers don't wear the Star of David for fear of being the victims of religious persecution; and Mexico, a party to these practices, notwithstanding our efforts to be helpful to the Government of Mexico.

But fair is fair. Conspiracies ought not to be engaged in. Price fixing ought not to be engaged in. If there is a way within our laws to remedy this, and I believe there is, that is something which ought to be considered.

I am not unmindful of the tender diplomatic concerns where every time an issue is raised, we worry about what one of the foreign governments is going to do, what Saudi Arabia is going to do—that we should handle them with ''silk gloves'' only. But when American consumers are being gouged up to $100 million a day on petroleum products, this is something we ought to consider and, in my judgment, we ought to act on.

We have seen beyond the issue of antitrust enforcement a new era of international law, with the War Crimes Tribunal at The Hague prosecuting war criminals from Yugoslavia, and now former President Milosevic is in custody. We also have the War Crimes Tribunal at Rwanda. A new era has dawned where we are finding that the international rule of law is coming into common parlance. That long arm of

the law, I do believe, extends to OPEC, and there could be some very unique remedies for U.S. consumers.

I ask unanimous consent to print my letter to President Bush, dated April 25, 2001, in the RECORD.

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

U.S. SENATE,
Washington, DC, April 25, 2001.

President GEORGE WALKER BUSH.
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In light of the energy crisis and the high prices of OPEC oil, we know you will share our view that we must explore every possible alternative to stop OPEC and other oil-producing states from entering into agreements to restrict oil production in order to drive up the price of oil.

This conduct is nothing more than an old-fashioned conspiracy in restraint of trade which has long been condemned under U.S. law, and which should be condemned under international law.

After some research, we suggest that serious consideration be given to two potential lawsuits against OPEC and the nations conspiring with it:

(1) A suit in Federal district court under U.S. antitrust law.

(2) A suit in the International Court of Justice at the Hague based upon ''the general principles of law recognized by civilized nations.''

(1) A suit in Federal district court under U.S. antitrust law.

A strong case can be made that your Administration can sue OPEC in Federal district court under U.S. antitrust law. OPEC is clearly engaging in a ''conspiracy in restraint of trade'' in violation of the Sherman Act (15 U.S.C. Sec. 1). The Administration has the power to sue under 15 U.S.C. Sec. 4 for injunctive relief to prevent such collusion.

In addition, the Administration has the power to sue OPEC for treble damages under the Clayton Act (15 U.S.C. Sec. 15a), since OPEC's behavior has caused an ''injury'' to U.S. ''property.'' After all, the U.S. government is a consumer of petroleum products and must now pay higher prices for these products. In Reiter v. Sonotone Corp, 442 U.S. 330 (1979), the Supreme Court held that the consumers of certain hearing aides who alleged that collusion among manufacturers had led to an increase in prices had standing to sue those manufacturers under the Clayton Act since ''a consumer deprived of money by reason of allegedly anticompetitive conduct is injured in 'property' within the meaning of [the Clayton Act].''

One issue that would be raised by such a suit is whether the Foreign Sovereign Immunities Act (''FSIA'') provides OPEC, a group of sovereign foreign nations, with immunity from suit in U.S. courts. To date, only one Federal court, the District Court for the Central District of California, has reviewed this issue. In International Association of Machinists v. OPEC, 477 F. Supp. 553 (1979), the Court held that the nations which comprise OPEC were immune from suit in the United States under the FSIA. We believe that this opinion was wrongly decided and that other district courts, including the D.C. District, can and should revisit the issue.

This decision in Int. Assoc. of Machinists turned on the technical issue of whether or not the nations which comprise OPEC are engaging in ''commercial activity'' or ''governmental activity'' when they cooperate to sell their oil. If they are engaging in ''governmental activity,'' then the FSIA shields them from suit in U.S. courts. If, however, these nations are engaging in ''commercial activity,'' then they are subject to suit in the U.S. The California District Court held that OPEC activity is ''governmental activity.'' We disagree. It is certainly a governmental activity for a nation to regulate the extraction of petroleum from its territory by ensuring compliance with zoning, environmental and other regulatory regimes. It is clearly a commercial activity, however, for these nations to sit together and collude to limit their oil production for the sole purpose of increasing prices.

The 9th Circuit affirmed the District Court's ruling in Int. Assoc. of Machinists in 1981 (649 F.2d 1354), but on the basis of an entirely different legal principle. The 9th Circuit held that the Court could not hear this case because of the ''act of state'' doctrine, which holds that a U.S. court will not adjudicate a politically sensitive dispute which would require the court to judge the legality of the sovereign act of a foreign state.

The 9th Circuit itself acknowledged in its Int. Assoc. of Machinists opinion that ''The [act of state] doctrine does not suggest a rigid rule of application,'' but rather application of the rule will depend on the circumstances of each case. The Court also noted that, ''A further consideration is the availability of internationally-accepted legal principles which would render the issues appropriate for judicial disposition.'' The Court then quotes from the Supreme Court's opinion in Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398 (1964): ''It should be apparent that the greater the degree of codification or consensus concerning a particular area of international law, the more appropriate it is for the judiciary to render decisions regarding it, since the courts can then focus on the application of an agreed principle to circumstances of fact rather than on the sensitive task of establishing a principle not inconsistent with the national interest or with international justice.''

Since the 9th circuit issued its opinion in 1981, there have been major developments in international law that impact directly on the subject matter at issue. As we discuss in greater detail below, the 1990'a have witnessed a significant increase in efforts to seek compliance with basic international norms of behavior through international courts and tribunals. In addition, there is strong evidence of an emerging consensus in international law that price fixing by cartels violates such international norms. Accordingly, a court choosing to apply the act of state doctrine to a dispute with OPEC today may very well reach a different conclusion than the 9th Circuit reached almost twenty years ago.

(2) A suit in the International Court of Justice at the Hague based upon ''the general principles of law recognized by civilized nations.''

In addition to such domestic antitrust actions, we believe you should give serious consideration to bringing a case against OPEC before the International Court of Justice (the ''ICJ'') at the Hague. You should consider both a direct suit against the conspiring nations as well as a request for an advisory opinion from the Court through the auspices of the U.N. Security Council. The actions of OPEC in restraint of trade violate ''the general principles of law recognized by civilized nations.'' Under Article 38 of the Statute of the ICJ, the Court is required to apply these ''general principles'' when deciding cases before it.

This would clearly be a cutting-edge lawsuit, making new law at the international level. But there have been exciting developments in recent years which suggest that the ICJ would be willing to move in this direction. In a number of contexts, we have seen a greater respect for and adherence to fundamental international principles and norms by the world community. For example, we have seen the establishment of the International Criminal Court in 1998, the International Criminal Tribunal for Rwanda in 1994, and the International Criminal Tribunal for the former Yugoslavia in 1993. Each of these bodies has been active, handing down numerous indictments and convictions against individuals who have violated fundamental principles of human rights.

Today, adherence to international principles has spread from the tribunals in the Hague to individual nations around the world. The exiled former dictator of Chad, Hissene Habre, was indicted in Senegal on changes of torture and barbarity stemming from his reign, where he allegedly killed and tortured thousands. This case is similar to the case brought against former Chilean dictator Augusto Pinochet by Spain on the basis of his alleged atrocities in Chile. At the request of the Spanish government, Pinochet was detained in London for months until an English court determined that he was too ill to stand trial.

While these emerging norms of international behavior have tended to focus on human rights than on economic principles, there is one economic issue on which an international consensus has emerged in recent years—the illegitimacy of price fixing by cartels. For example, on April 27, 1988, the Organization for Economic Cooperation and Development issued an official ''Recommendation'' that all twenty-nine member nations ''ensure that their competition laws effectively halt and deter hard core cartels.'' The recommendation defines ''hard core cartels'' as those which, among other things, fix prices or establish output restriction quotas. The Recommendation further instructs member countries ''to cooperate with each other in enforcing their laws against such cartels.''

On October 9, 1998, eleven Western Hemisphere countries held the first ''antitrust Summit of the Americas'' in Panama City, Panama. At the close of the summit, all eleven participants issued a joint communique in which they express their intention ''to affirm their commitment to effective enforcement of sound competition laws, particularly in combating illegal price-fixing, bid-rigging, and market allocation.'' The communique further expresses the intention of these countries to ''cooperate with one another . . . to maximize the efficacy and efficiency of the enforcement of each country's competition laws.''

The behavior of OPEC and other oil-producing nations in restraint of trade violates U.S. antitrust law and basic international norms, and it is injuring the United States and its citizens in a very real way. We hope you will seriously consider judicial action to put an end to such behavior.

We hope that you will seriously consider judicial action to put an end to such behavior.

ARLEN SPECTER.
CHARLES SCHUMER.
HERB KOHL.
STROM THURMOND.
MIKE DEWINE.

Mr. SPECTER. I will not include my letter to President Clinton, dated April 11, 2000, because the two letters are largely the same.

I further ask unanimous consent that the first caption page of the case entitled ''Prewitt Enterprises v. Organization of Petroleum Exporting Countries'' be printed in the RECORD so that

those who study the CONGRESSIONAL RECORD may have a point of reference to get the entire case and do any research which anybody might care to do.

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

[In the United States District Court for the Northern District of Alabama, Southern Division, Civil Action Number CV–00–W–0865–S]

PREWITT ENTERPRISES, INC., ON ITS OWN BEHALF AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, PLAINTIFFS, *vs.* ORGANIZATION OF THE PETROLEUM EXPORTING COUNTRIES, DEFENDANT

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This antitrust class action is now before the Court on the Application and Memorandum of Law in Support of Application for Default Judgment and Appropriate Declaratory and Injunctive Relief by plaintiff Prewitt Enterprises, Inc., on its own behalf and on behalf of the Class.

On January 9, 2001, the Court entered a Show Cause Order directing defendant Organization of the Petroleum Exporting Countries, to appear before the Court on March 8, 2001, and show cause, if any it has, why plaintiff's Application should not be granted and why judgment by default against it should not be entered. Defendant OPEC was served with the said Show Cause Order and the Application by means of Federal Express international delivery at its offices in Vienna, Austria, to the attention of the Office of the Secretary General. The proof . . .

* * * * *

RULES GOVERNING PROCEDURES FOR THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HOLLINGS. Mr. President, the Senate Committee on Commerce, Science, and Transportation has adopted modified rules governing its procedures for the 107th Congress. Pursuant to Rule XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator MCCAIN, I ask unanimous consent that a copy of the Committee rules be printed in the RECORD.

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

RULES OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

I. MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the Committee shall be the first and third Tuesdays of each month. Additional meetings may be called by the Chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the Committee, or any Subcommittee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee, or any Subcommittee, on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the Committee, or any Subcommittee, when it is determined that the matter to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of an informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets of, or financial or commercial information pertaining specifically to, a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

3. Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee, at least 24 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

4. Field hearings of the full Committee, and any Subcommittee thereof, shall be scheduled only when authorized by the Chairman and ranking minority member of the full Committee.

II. QUORUMS

1. Thirteen members shall constitute a quorum for official action of the Committee when reporting a bill, resolution, or nomination. Proxies shall not be counted in making a quorum.

2. Eight members shall constitute a quorum for the transaction of all business as may be considered by the Committee, except for the reporting of a bill, resolution, or nomination. Proxies shall not be counted in making a quorum.

3. For the purpose of taking sworn testimony a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

III. PROXIES

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a majority of the members being present, a member who is unable to attend the meeting may submit his or her vote by proxy, in writing or by telephone, or through personal instructions.

IV. BROADCASTING OF HEARINGS

Public hearings of the full Committee, or any Subcommittee thereof, shall be televised or broadcast only when authorized by the Chairman and the ranking minority member of the full Committee.

V. SUBCOMMITTEES

1. Any member of the Committee may sit with any Subcommittee during its hearings or any other meeting but shall not have the authority to vote on any matter before the Subcommittee unless he or she is a Member of such Subcommittee.

2. Subcommittees shall be considered de novo whenever there is a change in the chairmanship, and seniority on the particular Subcommittee shall not necessarily apply.

VI. CONSIDERATION OF BILLS AND RESOLUTIONS

It shall not be in order during a meeting of the Committee to move to proceed to the consideration of any bill or resolution unless the bill or resolution has been filed with the Clerk of the Committee not less than 48 hours in advance of the Committee meeting, in as many copies as the Chairman of the Committee prescribes. This rule may be waived with the concurrence of the Chairman and the ranking minority member of the full Committee.

REPORT ON ACTIVITIES OF U.S. DELEGATION TO THE PARLIAMENTARY ASSEMBLY OF THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

Mr. CAMPBELL. Mr. President, I am pleased to report to my colleagues in the United States Senate on the work of the bicameral congressional delegation which I chaired that participated in the Tenth Annual Session of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe, OSCE PA, hosted by the French Parliament, the National Assembly and the Senate, in Paris, July 6–10, 2001. Other participants from the United States Senate were Senator HUTCHISON of Texas and Senator VOINOVICH of Ohio. We were joined by 12 Members of the House of Representatives: cochairman SMITH of New Jersey, Mr. HOYER, Mr. CARDIN, Ms. SLAUGHTER, Mr. MCNULTY, Mr. HASTINGS of Florida, Mr. KING, Mr. BRYANT, Mr. WAMP, Mr. PITTS, Mr. HOEFFEL and Mr. TANCREDO.

En route to Paris, the delegation stopped in Caen, France and traveled to Normandy for a briefing by General Joseph W. Ralston, Commander in Chief of the U.S. European Command and Supreme Allied Commander Europe, on security developments in Europe, including developments in Macedonia, Kosovo, and Bosnia-Herzegovina as well as cooperation with the International Criminal Tribunal for the former Yugoslavia.

At the Normandy American Cemetery, members of the delegation participated in ceremonies honoring those Americans killed in D–Day operations. Maintained by the American Battle Monuments Commission, the cemetery is the final resting place for 9,386 American servicemen and women and honors the memory of the 1,557 missing. The delegation also visited the Pointe du Hoc Monument honoring elements of the 2d Ranger Battalion.

In Paris, the combined U.S. delegation of 15, the largest representation by any country in the Assembly was welcomed by others as a demonstration of the continued commitment of the United States, and the U.S. Congress,

to Europe. The central theme of OSCE PA's Tenth Annual Session was ''European Security and Conflict Prevention: Challenges to the OSCE in the 21st Century.''

This year's Assembly brought together nearly 300 parliamentarians from 52 OSCE participating States, including the first delegation from the Federal Republic of Yugoslavia following Belgrade's suspension from the OSCE process in 1992. Seven countries, including the Russian Federation and the Federal Republic of Yugoslavia, were represented at the level of Speaker of Parliament or President of the Senate. Following a decision taken earlier in the year, the Assembly withheld recognition of the pro-Lukashenka National Assembly given serious irregularities in Belarus' 2000 parliamentary elections. In light of the expiration of the mandate of the democratically elected 13th Supreme Soviet, no delegation from the Republic of Belarus was seated.

The inaugural ceremony included a welcoming addresses by the OSCE PA President Adrian Severin, Speaker of the National Assembly, Raymond Forni and the Speaker of the Senate, Christian Poncelet. The French Minister of Foreign Affairs, Hubert Védrine also addressed delegates during the opening plenary. The OSCE Chairman-in-Office, Romanian Foreign Minister Mircea Geoana, presented remarks and responded to questions from the floor.

Presentations were also made by several other senior OSCE officials, including the OSCE Secretary General, the High Commissioner on National Minorities, the Representative on Freedom of the Media, and the Director of the OSCE Office for Democratic Institutions and Human Rights.

The 2001 OSCE PA Prize for Journalism and Democracy was presented to the widows of the murdered journalists José Luis López de Lacalle of Spain and Georgiy Gongadze of Ukraine. The Spanish and Ukrainian journalists were posthumously awarded the prize for their outstanding work in furthering OSCE values.

Members of the U.S. delegation played a leading role in debate in each of the Assembly's three General Committees—Political Affairs and Security; Economic Affairs, Science, Technology and Environment; and Democracy, Human Rights and Humanitarian Questions. U.S. sponsored resolutions served as the focal point for discussion on such timely topics as ''Combating Corruption and International Crime in the OSCE Region,'' a resolution I sponsored; ''Southeastern Europe,'' by Senator VOINOVICH; ''Prevention of Torture, Abuse, Extortion or Other Unlawful Acts'' and ''Combating Trafficking in Human Beings,'' by Mr. Smith; ''Freedom of the Media,'' by Mr. HOYER; and, ''Developments in the North Caucasus,'' by Mr. CARDIN.

Senator HUTCHISON played a particularly active role in debate over the Anti-Ballistic Missile Treaty in the General Committee on Political Affairs and Security, chaired by Mr. HASTINGS, which focused on the European Security and Defense Initiative.

An amendment I introduced in the General Committee on Economic Affairs, Science, Technology and Environment on promoting social, educational and economic opportunity for indigenous peoples won overwhelming approval, making it the first ever such reference to be included in an OSCE PA declaration. Other U.S. amendments focused on property restitution laws, sponsored by Mr. CARDIN, and adoption of comprehensive non-discrimination laws, sponsored by Mr. HOYER.

Amendments by members of the U.S. delegation on the General Committee on Democracy, Human Rights and Humanitarian Questions focused on the plight of Roma, by Mr. SMITH; citizenship, by Mr. HOYER; and Nazi-era compensation and restitution, and religious liberty, by Ms. SLAUGHTER. Delegation members also took part in debate on the abolition of the death penalty, an issue raised repeatedly during the Assembly and in discussions on the margins of the meeting.

While in Paris, members of the delegation held an ambitious series of meetings, including bilateral sessions with representatives from the Russian Federation, the Federal Republic of Yugoslavia, the United Kingdom, and Kazakhstan. Members met with the President of the French National Assembly to discuss diverse issues in U.S.-French relations including military security, agricultural trade, human rights and the death penalty. A meeting with the Romanian Foreign Minister included a discussion of the missile defense initiative, policing in the former Yugoslavia, and international adoption policy.

Staff of the U.S. Embassy provided members with an overview of U.S.-French relations. Members also attended a briefing by legal experts on developments affecting the right of individuals to profess and practice their religion or belief. A session with representatives of U.S. businesses operating in France and elsewhere in Europe provided members with insight into the challenges of today's global economy.

Elections for officers of the Assembly were held during the final plenary. Mr. Adrian Severin of Romania was re-elected President. Senator Jerahmiel Graftstein of Canada was elected Treasurer. Three of the Assembly's nine Vice-Presidents were elected to three-year terms: Alcee Hastings, U.S.A., Kimmo Kiljunen, Finland, and Ahmet Tan, Turkey. The Assembly's Standing Committee agreed that the Eleventh Annual Session of the OSCE Parliamentary Assembly will be held next July in Berlin, Germany.

WOMEN AND GUN VIOLENCE

Mr. LEVIN. Mr. President, just last year the Congress passed and President Clinton signed into law the Violence Against Women Act of 2000. The law instituted welcome changes in Federal criminal law relating to stalking, domestic abuse and sex offense cases. In addition, VAWA 2000 created programs to prevent sexual assaults on college campuses, establish transitional housing for victims of domestic abuse and enhance protections for elderly and disabled victims of domestic violence.

The importance of the Violence Against Women Act should not be underestimated. However, if we are to comprehensively address this issue, we cannot ignore the impact of gun violence on women. According to studies cited by the Violence Policy Center, in 1998, in homicides where the weapon was known, 50 percent of female homicide victims were killed with a firearm. Of those murdered women, more than three quarters were killed with a handgun. And that same year, for every one time that a woman used a handgun to kill in self-defense, 101 women were murdered by a handgun.

While the firearms industry markets gun to women—asserting that owning a gun will make women safer—the statistics support the point made by Karen Brock, an analyst with the Violence Policy Center, ''Handguns don't offer women protection; they guarantee peril.''

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred February 21, 1997 in Atlanta, GA. A bomb exploded at a gay nightclub and another bomb was found outside the club during the investigation. Packed with nails, the bomb exploded in the rear patio section of the lounge shortly before 10 p.m. Two people were treated for injuries resulting from the flying shrapnel. An extremist group called ''Army of God'' claimed responsibility for the bomb.

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 of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

IN RECOGNITION OF THE HMONG SPECIAL GUERRILLA UNITS

Mr. LEVIN. Mr. President, this weekend members of the Lao-Hmong American Coalition, Michigan Chapter, their friends and supporters will gather in my home State of Michigan to pay

tribute to thousands of courageous Hmongs who selflessly fought alongside of and in support of the United States military during the Vietman War. The efforts of the Hmong Special Guerrilla Units were unknown to the American public during the conflict in Vietnam, and the 6th Annual Commemoration of the U.S. Lao-Hmong Special Guerrilla Units Veterans Recognition Day is part of the important effort to acknowledge the role played by the Hmong people in this war.

Ms. STABENOW. My colleague from Michigan is correct in stating that Hmong Special Guerrilla Units played an important role in assisting US efforts in the Vietnam conflict, often times at great sacrifice to themselves. From 1961 to 1975 it is estimated that about 25,000 young Hmong men and boys were fighting the Communist Lao and North Vietnamese. The Hmong Special Guerrilla Units were known as the United States' Secret Army, and their valiant efforts ensured the safety and survival of countless U.S. soldiers.

Mr. LEVIN. The Senator is correct. Hmong Special Guerrilla Units actively supported the United States, and risked great loss of life to save downed United States pilots and protect our troops. While the Special Guerrilla Units may have operated in secret, their efforts, courage and sacrifices have been kept secret for far too long. The word Hmong means ''free people,'' and celebrations such as this commemoration will raise awareness of the loyalty, bravery and independence exhibited by the Hmong people.

Ms. STABENOW. It is important that the sacrifices made by the Hmong people are honored by all Americans. These rugged people, from the hills of Laos, paid a great cost because of their love of freedom and their support of the United States. It is estimated that over 40,000 Hmong died during the Vietnam War. Thousands more were forced to flee to refugee camps, and approximately 60,000 Hmongs immigrated to United States.

Mr. LEVIN. As the Senator from Michigan knows, thousands of Hmongs immigrated to the United States after the Vietnam War. The transition to life in the United States has not always been easy, but the Hmong community has grown and is prospering. There are nearly 200,000 Hmong in the United States, and many of them live in our home State of Michigan. It is important that those who fought in the Special Guerrilla Units are honored for their actions. These units, like all those who served the cause of freedom, must know that we appreciate the great sacrifices made by the Special Guerrilla Units.

Ms. STABENOW. I would concur with my good friend that events such as the 6th Annual Commemoration of U.S. Lao-Hmong Special Guerrilla Units Veterans Recognition Day play an important role in honoring these courageous veterans. This celebration will also educate future generations of Americans about the sacrifices made by this independent and freedom loving people. I know that my Senate colleagues will join me, and my colleague from the State of Michigan, in commending the Hmong Special Guerrilla Units for their bravery, sacrifice, and commitment to freedom.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 18, 2001, the Federal debt stood at $5,712,502,926,348.50, five trillion, seven hundred twelve billion, five hundred two million, nine hundred twenty-six thousand, three hundred forty-eight dollars and fifty cents.

One year ago, July 18, 2000, the Federal debt stood at $5,680,376,000,000, five trillion, six hundred eighty billion, three hundred seventy-six million.

Five years ago, July 18, 1996, the Federal debt stood at $5,168,794,000,000, five trillion, one hundred sixty-eight billion, seven hundred ninety-four million.

Ten years ago, July 18, 1991, the Federal debt stood at $3,546,904,000,000, three trillion, five hundred forty-six billion, nine hundred four million.

Fifteen years ago, July 18, 1986, the Federal debt stood at $2,070,143,000,000, two trillion, seventy billion, one hundred forty-three million, which reflects a debt increase of more than $3.5 trillion, $3,642,359,926,348.50, three trillion, six hundred forty-two billion, three hundred fifty-nine million, nine hundred twenty-six thousand, three hundred forty-eight dollars and fifty cents during the past 15 years.

ADDITIONAL STATEMENTS

TRIBUTE TO DONNA CENTRELLA

● Mrs. CLINTON. Mr. President, I rise today to pay tribute to Donna Centrella, a very special woman whom I met 2 years ago during my campaign in New York. Donna died on Monday after a long, brave battle with ovarian cancer.

I first met Donna in September 1999, when I visited Massena Memorial Hospital in Massena, NY. Donna had been diagnosed with ovarian cancer in August, but did not have health insurance to cover her treatment. Miraculously, she found a doctor who would treat her without insurance and she was able to afford care through a variety of State programs.

Perhaps even more astounding was her doctor's statement that she was actually better off without managed care coverage because he could better treat her that way. Without HMO constraints, they were free to make the decisions about the best procedures to follow for her treatment and care—her doctor could keep her in the hospital as long as needed and he would not have to get preapproval for surgery.

I have retold Donna's unbelievable story many times since meeting this extraordinary woman. Hers is a story that underscores the profound need in this country for immediate reform of the way we provide health coverage to our citizens. We owe it to patients like Donna to sign patients protections into law as soon as possible to ensure that we can provide the best medical treatment possible to everyone who needs it.

We have lost an ally, but I have faith that we will not lose the fight for greater patient protections. It saddens me greatly that Donna will not be here to see it happen. She was an amazing soul whose determination and strength will never forget.●

TRIBUTE TO LANCE CPL. SEAN M. HUGHES

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Lance Cpl. Sean Hughes of Milton, NH, who gave his life for our country on July 10, 2001, when a Marine Corps helicopter participating in a training exercise went down in Sneads Ferry, NC.

Sean was a graduate of Nute High School in Milton, NH. He joined the Marine Corps on July 14, 1999, following the military tradition of his father and grandfather who both served as members of the United States Air Force. An extremely talented and highly intelligent Crew Chief with Marine Helicopter Squadron 365, Sean will always be remembered as the little boy who enjoyed watching planes take off and land at the flight line with his father.

An artist, athlete, and committed Marine, friends each remember him as an exceptional person with a gentle heart. Those who knew him best described him as ''irreplaceable,'' ''a dear friend,'' and one that has ''enriched their lives simply by having known him.'' His constant smile will be missed, as will his unwavering devotion to this country.

As a fellow veteran, I commend Sean for his service in the U.S. Marine Corps. Hundreds of Marines, friends, and family lost a devoted scholar, friend, brother, and son. The people of New Hampshire and the country lost an honorable soldier with a deeply held sense of patriotism. The determination and devotion he possessed as a Marine, and an individual, will not soon be forgotten.

I send my sincere sympathy and prayers to Sean's family and wish them Godspeed during this difficult time in their lives. It is truly an honor to have represented Lance Cpl. Hughes in the U.S. Senate.●

STRAND FAMILY FARM 100TH ANNIVERSARY TRIBUTE

● Mr. DORGAN. Mr. President, I pay tribute today to a North Dakota family that exemplifies the spirit of rural life and all that it contributes to our Nation. The Strand family, of Regan, ND, will this week celebrate 100 years on the family farm.

Andrew and Anna Strand arrived in North Dakota in 1901, brought by emigrant train to Wilton, ND. Then, with only a team of horses, a wagon, a walking breaking plow, a disc, and a drill, Andrew and Anna set about making a home in the small community of Regan.

From those meager beginnings, Anna and Andrew raised a family of six children and, just like thousands of other North Dakotans at that time, they built a successful family farm and did the hard work that eventually carved hardy communities from the prairie.

Today, the Strand family farm is still being farmed by Andrew and Anna's grandchildren and great-grandchildren. Four generations of Strands have lived and worked on the land over the past century. As anyone who knows will tell you, farming is hard work. And the Strand family has kept that farm going through everything from the Great Depression to droughts and floods. The family survived even the leanest years, times in the early part of the last century when there was only one good paying crop out of every 7 years.

While some have stayed to continue to work the land, others in the Strand family have built lives and careers that contribute to our State, regional, and national life in a variety of other ways. Andrew and Anna's descendants have worked in healthcare, education, music, public affairs, and agribusiness, to name only a few.

Anna and Andrew's children left their mark on our society in a profound way. Einar Strand helped build the United Nations building in New York. Norton was involved in the agriculture industry throughout North Dakota, South Dakota, Minnesota, and Montana. Alice became the head administrator at Ballard Hospital in Seattle, WA. Both Arthur and Barney, worked the land as their father before them. Today, Barney, Jr., and his son Richard continue the tradition of farming on the original Strand homestead.

The Strand family also contributed to community life in many ways. In the early days, when help was needed in the fledgling community, the Strand family was there; helping the local doctor on his daily rounds during the influenza outbreak of 1918, helping to build the first local schoolhouse, building township roads and more.

Families like the Strand demonstrate the importance of preserving the family farm and our rural communities. They also remind us that family farms produce more than the food that feeds our Nation and the world. Family farms also produce hardy, enduring families that make our communities and our Nation strong.

I congratulate them as they celebrates this 100-year anniversary of life on the family farm, and extend the hope that the Strand family will continue the tradition that Andrew and Anna started a century ago.●

IN RECOGNITION OF CORNERSTONES COMMUNITY PARTNERSHIPS IN THE 2001 SMITHSONIAN FOLKLIFE FESTIVAL

● Mr. DOMENICI. Mr. President, I rise today to recognize the skill and artistry of those involved in the 2001 Smithsonian Folklife Festival. Specifically, the festival focused on the Masters of Building Arts program featuring craftspeople skilled in the various styles of the building trades.

I am pleased to announce that Cornerstones Community Partnerships of Santa Fe, NM, participated in this annual celebration of folk art. Cornerstones Community Partnerships is a nonprofit organization serving to continue the unique culture and traditions of the southwest through preservation of traditional building techniques.

As part of the festival, Cornerstones presented two restoration projects, the San Esteban del Rey Church in Acoma Pueblo, NM, and the San Jose Mission in Upper Rociada, NM. Both presentations highlighted the rich cultural techniques used in New Mexican architecture.

I commend the skills of these artists and artisans that participated in the folklife festival. They truly preserve our link to the past.●

CLEVELAND INDIANS 100 YEAR ANNIVERSARY

● Mr. DEWINE. Mr. President, today I am here on the Floor to recognize the Cleveland Indians because this year, the team is celebrating an incredible achievement, both for baseball and America. On April 24th, the Indians celebrated their 100th Anniversary. Over the last century, Indians fans have seen their team win two World Series and five American League Pennants. One of my most vivid baseball memories is the 1954 World Series, which I attended with my dad when I was seven years old.

I think the inaugural Indians manager, James McAleer, would have been proud to lead the Tribe teams of the past five years in their string of five Central Division Titles and two World Series appearances. The Indians claim 22 players in the Hall of Fame, including the following:

Nap Lajoie, Tris Speaker, Cy Young (1937); Jesse Burkett (1946); Bob Feller (1962); Elmer Flick, Sam Rice (1963); Stan Coveleski (1969); Lou Boudreau (1970); Satchel Paige (1971); Early Wynn (1972); Ralph Kiner (1975); Bob Lemon (1976); Joe Sewell, Al Lopez (1977); Addie Joss (1978); Frank Robinson (1982); Hoyt Wilhelm (1985); Gaylord Perry, Bill Veeck (1991); Phil Niekro (1997); Larry Doby (1998).

Additionally, the Indians have retired the numbers of six players, including:

Bob Lemon (21); Earl Averill (3); Lou Boudreau (5); Larry Doby (14); Mel Harder (18); Bob Feller (19).

Adding to these accomplishments, by the end of the 2000 season, the team had racked up 7,896 total wins. Also, the Indians are just one of four American League teams to spend their entire history in one city. The Indians have been loyal to their fans, and the fans have, in turn, been loyal to their team. After Jacob's Field was built in 1994, fans responded by selling out 455 consecutive games. And, the Indians led Major League Baseball in attendance last year for the first time since 1948.

The Indians are a treasure for the City of Cleveland and the State of Ohio, but I also believe the Indians hold a larger significance for America. Walt Whitman once wrote that baseball was ''America's game . . . it belongs as much to our institutions, fits into them as significantly as our Constitution's laws . . . and it is just as important in the sum total of our historic life.'' I think Whitman had it absolutely right. Baseball is a vital part of our American culture, and for 100 years, the Cleveland Indians have served as an outstanding ambassador for the sport of baseball.

I congratulate the Cleveland Indians on a century of rich history, loyal fans, and great success. I hope that my colleagues will join me in wishing the Indians the best of luck in the next 100 years.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in execution session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:17 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 bill, in which it requests the concurrence of the Senate:

H.R. 2500. An act making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

At 5:52 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 bill, in which it requests the concurrence of the senate:

H.R. 1. An act to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government program delivery to individuals and families in need, and to

hance the ability of low-income Americans to gain financial security by building assets.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 7. An act to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government program delivery to individuals and families in need, and to enhance the ability of low-income Americans to gain financial security by building assets; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the second time, and placed on the calendar:

H.J. Res. 36. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2902. A communication from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting, pursuant to law, the report of the designation of acting officer for the position of Director of the Office of Science and Technology Policy, received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2903. A communication from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting, pursuant to law, the report of a vacancy in the position of Director of the Office of Science Technology Policy, received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2904. A communication from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting, pursuant to law, the report of a vacancy in the position of Associate Director for Technology, Office of Science and Technology Policy, received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2905. A communication from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting, pursuant to law, the report of a vacancy in the position of Associate Director for Environment, Office of Science and Technology Policy, received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2906. A communication from the Assistant Director for Budget and Administration, Executive Office of the President, transmitting, pursuant to law, the report of a vacancy in the position of Associate Director for Science, Office of Science and Technology Policy, received on July 9, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2907. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B2, A300 B4, A300 B4–600, and A300 B4–600, B4–600R and F4–600R'' ((RIN2120–AA64)(2001–0299)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2908. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B–4–601, B4–603, B4–620, BR–605R, and F4–605R'' ((RIN2120–AA64)(2001–0296)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2909. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes'' ((RIN2120–AA64)(2001–0297)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2910. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company Beech Models 45 (YT–34), A45 (T–34A, B–45), and D45 (T–34B) Airplanes'' ((RIN2120–AA64)(2001–0298)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2911. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL 600 2B19 Series Airplanes'' ((RIN2120–AA64)(2001–0292)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2912. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A310 and Model A300 B4–600, A300 BR–600R, and A300 F4–600R Series Airplanes'' ((RIN2120–AA64)(2001–0293)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2913. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 757 Series Airplanes Equipped with Rolls Royce Engines'' ((RIN2120–AA64)(2001–0294)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2914. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Gulfstream Model G–1159, G–1159A, G–1159B, G–IV, and G–V Series Airplanes'' ((RIN2120–AA64)(2001–0295)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2915. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747–400 Series Airplanes'' ((RIN2120–AA64)(2001–0288)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2916. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Construcciones Aeronauticas, SA Model CN 235 Series Airplanes'' ((RIN2120–AA64)(2001–0289)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2917. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Model Hawker 800XP Series Airplanes'' ((RIN2120–AA64)(2001–0290)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2918. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes'' ((RIN2120–AA64)(2001–0291)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2919. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Mystere-Falcon 900 and 900EX Series Airplanes'' ((RIN2120–AA64)(2001–0284)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2920. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC 7 Series Airplanes'' ((RIN2120–AA64)(2001–0285)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2921. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bell Helicopter Textron Canada Model 407 Helicopters; Rescission'' ((RIN2120–AA64)(2001–0286)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2922. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model D–90–30 Series Airplanes'' ((RIN2120–AA64)(2001–0287)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2923. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Cody, WV'' ((RIN2120–AA66)(2001–0111)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2924. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of a Class E Enroute Domestic Airspace Area, Kingman, AZ'' ((RIN2120–AA66)(2001–0112)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2925. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Heber City, UT'' ((RIN2120–AA66)(2001–0113)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2926. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Jet Route J 713'' ((RIN2120–AA66)(2001–0114)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2927. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establish Class E Airspace; Greensburg, PA'' ((RIN2120–AA66)(2001–0107)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2928. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D Airspace and Establishment of Class E4 Airspace; Homestead, FL'' ((RIN2120–AA66)(2001–0108)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2929. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; LaFayette, GA'' ((RIN2120–AA66)(2001–0109)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2930. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establish Class E Airspace; Lloydsville, PA'' ((RIN2120–AA66)(2001–0110)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2931. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establish Class E Airspace; Hagerstown, MD'' ((RIN2120–AA66)(2001–0103)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2932. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Roosevelt, UT'' ((RIN2120–AA66)(2001–0104)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2933. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of a Class E Enroute Domestic Airspace Area, Las Vegas, NV'' ((RIN2120–AA66)(2001–0105)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2934. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Mosby, MO'' ((RIN2120–AA66)(2001–0106)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2935. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (25), AMDT. No 2057'' ((RIN2120–AA65)(2001–0040)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2936. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (44) Amdt. No. 2055'' ((RIN2120–AA65)(2001–0041)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2937. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (33); Amdt. No. 2056'' ((RIN2120–AA65)(2001–0039)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2938. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (565); Amdt. No. 2058'' ((RIN2120–AA65)(2001–0038)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2939. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (21); Amdt. No. 2054'' ((RIN2120–AA65)(2001–0037)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2940. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: GE CT58 Series and Former Military T58 Series Turboshaft Engines'' ((RIN2120–AA64)(2001–0306)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2941. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: GE CF 34–1A, –3A, –3A1, –3AS, –3B and –3B1 Turbofan Engines'' ((RIN2120–AA64)(2001–0307)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2942. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777–200 Series Airplanes'' ((RIN2120–AA64)(2001–0311)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2943. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: CORRECTION, CFM International, SA CFM56–3, –3B, and –3C Series Turbofan Engines'' ((RIN2120–AA64)(2001–0312)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2944. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolls-Royce Limited, Aero Division-Bristol, SNECMA Olympus 593 Mk. 610–14–28 Turbo Engines'' ((RIN2120–AA64)(2001–0300)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2945. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Construcciones Aeronauticas, SA Model CN–234 Series Airplanes'' ((RIN2120–AA64)(2001–0301)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2946. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B2–1C, B2–203, B2K–3C, B4–2C, B4–103, and B4–203 Series Airplanes'' ((RIN2120–AA64)(2001–0303)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2947. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767 Airplanes'' ((RIN2120–AA64)(2001–0305)) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2948. A communication from the Chief of the Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Federal-State Joint Board on Universal Service'' (Doc. No. 95–45) received on July 13, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2949. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Emergency Interim Rule to Revise Certain Provisions of the American Fisheries Act; Extension of Expiration Date'' (RIN0648–AO72) received on July 11, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2950. A communication from the President of the United States, transmitting, pursuant to law, a report relative to US military personnel and US citizens involved as contractors in antinarcotics campaign in Columbia; to the Committee on Appropriations.

EC–2951. A communication from the Personnel Management Specialist, Office of the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the designation of acting officer for the position of Assistant Secretary for Employment and Training, EX–IV, received on July 17, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2952. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, a draft of proposed legislation entitled ''Atomic Energy Act Amendments of 2001''; to the Committee on Energy and Natural Resources.

EC–2953. A communication from the Assistant General Counsel for Regulatory Law, Office of Security and Emergency Operations, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Connectivity to Atmospheric Release Capability'' (DOE N 153.1) received on July 16, 2001; to the Committee on Energy and Natural Resources.

EC–2954. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled ''National Defense Authorization Act for Fiscal Year 2002''; to the Committee on Armed Services.

EC–2955. A communication from the Administrator of the National Nuclear Security Administration, Department of Energy, transmitting, pursuant to law, a report concerning sales to a country designated as a

Tier III country of a computer capable of operating at a speed in excess of 2,000 million theoretical operations per second by companies that participate in the Accelerated Strategic Computing Initiative program of the Department of Energy for calendar year 2000; to the Committee on Armed Services.

EC–2956. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation entitled ''Fort Irwin Military Lands Withdrawal Act of 2001''; to the Committee on Armed Services.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–124. A concurrent resolution adopted by the House of the Legislature of the State of Texas relative to muscular dystrophy; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTION NO. 8

Whereas, Current federal funding for research on muscular dystrophy is insufficient given the disease's prevalence and severity, and this level of support does little to promote advances in research and treatment of the disease; and

Whereas, The term muscular dystrophy encompasses a large group of hereditary muscle-destroying disorders that appear in men, women, and children of every race and ethnicity, with the most common disorder, Duchenne muscular dystrophy, first appearing in early childhood or adolescence; and

Whereas, Furthermore, since genetic mutations may be a factor in any incidence of muscular dystrophy, anyone could be a carrier, and no family is immune from the possibility of the disease afflicting one of its members; and

Whereas, While the prognosis for individuals afflicted with a muscular dystrophy disorder varies according to patterns of inheritance, the age of onset, the initial muscles attached, and the progression of the disease, Duchenne muscular dystrophy is the most common fatal childhood genetic disease; and

Whereas, Because muscular dystrophy varies widely from one disorder to another, continuing research is important to understanding the disease, treating it, and working toward its prevention and cure; and

Whereas, Congressional funding for research by the National Institutes of Health on Duchenne and Becker muscular dystrophy does not reflect the severity of this disease, the importance of finding a cure, or the potential benefits that research in this area could have on other similar disorders; and

Whereas, To save lives and improve the quality of life for those already afflicted by this disease, it is imperative that the federal government take the initiative to increase funding for the research of Duchenne and Becker muscular dystrophy and, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to increase funding for research by the National Institutes of Health for the treatment and cure of Duchenne and Becker muscular dystrophy; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United states congress, and to all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–125. A concurrent resolution adopted by the Senate of the Legislature of the State of Texas relative to NAFTA; to the Committee on Appropriations.

SENATE CONCURRENT RESOLUTION NO. 10

Whereas, While the North American Free Trade Agreement (NAFTA) has boosted the economy in Texas and the nation, the increase in heavy truck traffic has caused excessive wear on county and city roads that lie within the border commercial zone; and

Whereas, According to the Texas Border Infrastructure Coalition more than 77 percent of United States-Mexico trade passes through the Texas border region annually; in 1999 this amounted to 4.4 million trucks crossing the Texas-Mexico border carrying $127.6 billion worth of commerce; and

Whereas, Many of these trucks exceed the weight limits imposed by both federal and state law, causing extensive damage to public roads and bridges, especially the ''off-system'' roads that are maintained by counties and municipalities, most of which are not designed to handle these heavy commercial trucks; and

Whereas, The Texas Department of Transportation estimates that there are more than 17,000 miles of load-posted roadways in Texas; many of these roadways are Farm-to-Market roads that were built in the 1940s and 1950s using design standards for a legal weight limit of 48,000 pounds, or approximately 60 percent of the weight of some of the heavier trucks today; and

Whereas, There are approximately 7,250 deficient bridges on off-system roads in Texas, and while the Texas Department of Transportation is in the process of upgrading these bridges, the scope of the bridge rehabilitation required means that, at current funding levels and practices, it could take decades to complete the undertaking, assuming no more bridges become deficient; it is important, therefore, that trucks be weighed before they are permitted to operate in the commercial border zone, so as not to cause further infrastructure damage; and

Whereas, In addition to contributing to the destruction of transportation infrastructure, overweight trucks pose safety hazards for other vehicles sharing the roads; the University of Michigan Transportation Research Institute estimates that as the weight of a truck goes from 65,000 to 80,000 pounds, the risk of an accident involving a fatality increases by 50 percent; and

Whereas, County and city governments within the commercial border zone would benefit greatly from having additional weigh stations situated in their jurisdictions and additional law enforcement officers to conduct weight inspections of commercial vehicles traveling on roads that they maintain; and

Whereas, While the entire nation benefits from NAFTA, the local governments along the Texas-Mexico border must bear the high cost of overweight truck inspections and repairing damage to the roads resulting from the increase in heavy commercial vehicle traffic on the off-system roads; now, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby urge the United States Congress to create a federal category under the NAFTA agreement, for NAFTA traffic-related infrastructure damage, to provide counties and municipalities with funding for commercial vehicle weigh stations within the 20-mile commercial border zone; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–126. A concurrent resolution adopted by the Senate of the Legislature of the State of Texas relative to border ports of entry and high-priority transportation corridors; to the Committee on Appropriations.

SENATE CONCURRENT RESOLUTION NO. 25

Whereas, The current presidential administration has indicated that it will allow Mexican trucks at least partial access to U.S. highways beyond the commercial border zone that was established in 1993 to limit the movement of Mexican trucks until certain basic infrastructure and safety concerns had been addressed; and

Whereas, The opening of the Texas border to Mexican trucks will unfairly impact the three border transportation districts in Pharr, Laredo, and El Paso without a commensurate increase in the commitment of money by the federal government; and

Whereas, The Texas Senate Special Committee on Border Affairs was given several study charges during the 1999–2000 interim, including assessing the long-term intermodal transportation needs of the Texas-Mexico border region, evaluating the planning and capacity resources of the three Texas Department of Transportation (TxDOT) border districts, and overseeing the implementation of federal and state one-stop inspection stations to expedite trade and traffic; and

Whereas, The senate committee reported that Texas border crossings account for approximately 80 percent of United States-Mexico truck traffic, but the state is awarded only 15 percent of the federal funds allocated for trade corridors; information from TxDOT indicates that Texas receives considerably less than its fair share of discretionary funds allocated by the federal government; recent estimates by TxDOT indicate that, even though Texas is the second largest state in the nation, the state currently receives only 49 cents on the dollar in federal highway discretionary program funds; and

Whereas, The border ports of entry are the primary gateway for commerce for Texas and the nation but have become an economic choke point as a result of the staggering volume of traffic they must handle; in 1997, more than 2.8 million trucks crossed into and from Mexico; and

Whereas, In July 1999, the General Accounting Office (GAO) reported that NAFTA-related traffic along the border region has taxed the local and regional transportation infrastructure and that the resulting lines of traffic, which can run up to several miles during peak periods, are associated with air pollution caused by idling vehicles; and

Whereas, The GAO also cited federal and local officials' concerns about congestion affecting safety around the ports of entry and noted that congestion can have a negative impact on businesses that operate on a just-in-time schedule and rely on regular cross-border shipments of parts, supplies, and finished products; and

Whereas, The senate committee reported that in the last decade total northbound truck crossings, from Mexico into Texas, increased by 215.8 percent, while vehicle crossings increased by 59 percent and pedestrian crossings by 18.5 percent; in that same period, southbound truck crossings from Texas to Mexico increased by 278.1 percent to 2.1 billion crossings, vehicle crossings by 53.9 percent to 37.9 million crossings, and pedestrian crossings by 30.8 percent to 18.5 million crossings; and

Whereas, According to some estimates, heavy truck traffic is expected to increase by 85 percent during the next three decades and severely degrade existing roads and bridges; according to TxDOT officials, one fully loaded 18-wheel truck causes as much damage as 9,600 cars; with such a significant increase of trade and cross-border activity in the border ports of entry and the border transportation districts, state and federal leaders have cause for concern about whether the current infrastructure can continue to support Texas' economic growth and, in particular, trade with Mexico; and

Whereas, The Texas Department of Economic Development (TDED) reported last year that Mexico is Texas' largest export destination and has been a chief contributor to the state's export growth; in 1999, exports to Mexico accounted for 45.5 percent of the state total and were valued at $41.4 billion; and

Whereas, The TDED has concluded that Texas accounts for 20.8 percent of the total U.S. exports to the North American market, largely because of very high export levels to Mexico; in recent years, Mexico has become the nation's second largest market, and Texas' ties to Mexico are the primary contributors to the state's high share of overall U.S. exports; and

Whereas, The comptroller of public accounts of the State of Texas has reported that exports account for 14 percent of our gross state product, up from six percent in 1985; in 1999, $100 billion in two-way truck trade passed through the Texas-Mexico border; NAFTA economic activity has tripled on the border, and trade with Mexico accounts for one in every five jobs in Texas; now, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby respectfully urge the Congress of the United states and the president of the United States, in light of the proposed change in federal policy that will further open the border areas to Mexican truck travel, to recognize the unique planning, capacity, and infrastructure needs of Texas' border ports of entry and the high-priority transportation corridors; and, be it further

Resolved, That the Texas Legislature request the congress and the president to recognize the impact of this policy by earmarking $3 billion to fund the construction of one-stop federal and state inspection facilities that are open 24 hours per day along the Texas border region, as well as to fund infrastructure improvements and construction projects at border ports of entry; and, be it further

Resolved, That the Texas Legislature urge the congress to rectify the funding imbalance that Texas has historically experienced from the federal government, as evident in the fact that, although Texas handles 80 percent of all NAFTA-related traffic and is the second largest state in the nation, it has been awarded only 15 percent of the federal funds allocated for high-priority trade corridors; and, be it further

Resolved, That the Texas Legislature request that the congress and the president also increase the percentage in federal discretionary money that Texas has historically received by earmarking $4 billion for critical NAFTA-related planning, capacity, and right-of-way acquisition needs and $3 billion for immediate construction, maintenance, and planning needs for rural roadways that are impacted by NAFTA-related traffic, as well as those of emerging NAFTA-related corridors; and, be it further

Resolved, That the Texas Legislature urge the congress and the president to reaffirm their commitment to public safety in Texas as well as in the United States by earmarking $1 billion for law enforcement needed to prepare for the influx of Mexican trucks with access to travel throughout the border and beyond; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house or representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–127. A concurrent resolution adopted by the Senate of the legislature of the State of Texas relative to the removal of trade, financial, and travel restrictions relating to Cuba; to the Committee on Foreign Relations.

SENATE CONCURRENT RESOLUTION NO. 54

Whereas, The relationship between the United States and Cuba has long been marked by tension and confrontation; further heightening this hostility is the 40-year-old United States trade embargo against the island nation that remains the longest-standing embargo in modern history; and

Whereas, Cuba imports nearly a billion dollars' worth of food every year, including approximately 1,100,000 tons of wheat, 420,000 tons of rice, 37,000 tons of poultry, and 60,000 tons of dairy products; these amounts are expected to grow significantly in coming years as Cuba slowly recovers from the severe economic recession it has endured following the withdrawal of subsidies from the former Soviet Union in the last decade; and

Whereas, Agriculture is the second-largest industry in Texas, and this state ranks among the top five states in overall value of agricultural exports at more than $3 billion annually; thus, Texas is ideally positioned to benefit from the market opportunities that free trade with Cuba would provide; rather than depriving Cuba of agricultural products, the United States embargo succeeds only in driving sales to competitors in other countries that have no such restrictions; and

Whereas, In recent years, Cuba has developed important pharmaceutical products, namely, a new meningitis B vaccine that has virtually eliminated the disease in Cuba; such products have the potential to protect Americans against diseases that continue to threaten large populations around the world; and

Whereas, Cuba's potential oil reserves have attracted the interest of numerous other countries who have been helping Cuba develop its existing wells and search for new reserves; Cuba's oil output has increased more than 400 percent over the last decade; and

Whereas, The United States' trade, financial, and travel restrictions against Cuba hinder Texas' exports of agricultural and food products, its ability to import critical energy products, the treatment of illnesses experienced by Texans, and the right of Texans to travel freely; now, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to consider the removal of trade, financial, and travel restrictions relating to Cuba; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM—128. A concurrent resolution adopted by the Senate of the Legislature of the State of Texas relative to the addition of 18 federal judges and commensurate staff to handle the current and anticipated caseloads along the United States-Mexico border, to the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION NO. 12

Whereas, The strategy of the United States Department of Justice to reduce crime along the United States border by focusing on illegal immigration, alien smuggling, and drug trafficking generated an explosion in arrests by agents from the United States Customs Service, the Drug Enforcement Administration, and the Immigration and Naturalization Service at border checkpoints; and

Whereas, In 1999, the five federal southwestern judicial districts along the border, including two in Texas, received 27 percent of all criminal case filings in the United States while the other 73 percent were spread among the country's remaining 84 federal district courts; and

Whereas, From 1996 to 1997, the total number of federal criminal cases filed in the Western and Southern districts of Texas doubled, and from 1997 to 1999, the number of drug cases filed in the Western District of Texas increased 64 percent and 100 percent in the Southern District of Texas; and

Whereas, Judicial resources in the five southwestern border districts have increased by only four percent, and since 1990, congress has not approved any new judges for the Western District of Texas, which leads the nation in the filing of drug cases; and

Whereas, As a result of the federal courts being inundated by this unprecedented number of new drug and illegal immigration indictments, the federal authorities no longer prosecute offenders caught with less than a substantial amount of contraband; these cases are instead referred to the local district attorneys in the border counties of Texas to prosecute; and

Whereas, As a result, local governments in the border counties, who are among the poorest in the United States, are being overwhelmed with the costs involved in prosecuting and incarcerating federal criminals; and

Whereas, The annual cost to prosecute these federal criminal cases ranges from $2.7 million to approximately $8.2 million per district attorney jurisdiction, and it is anticipated that the total cost will reach $25 million per year; and

Whereas, The federal government has infinitely more resources than state and local governments and in turn must shoulder a larger portion of the financial burden; now, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to authorize an additional 18 federal judges and commensurate staff to handle the current and anticipated caseloads along the United States-Mexico border and to fully reimburse local governments for the costs incurred in prosecuting and incarcerating federal defendants; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the Senate of the United States Congress, and to all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–129. A concurrent resolution adopted by the Senate of the Legislature of the State

of Texas relative to federal and state controlled emission sources; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 35

Whereas, Air pollution has a potentially serious impact on the health of many Americans, including a majority of the nearly 21 million residents of the State of Texas, and is a matter of concern to both federal and state governments, which share a responsibility to clean up the environment and protect the public health; and

Whereas, In metropolitan areas where the problem is most severe, achieving federally mandated reductions in the emission of certain pollutants within the time lines established by the United States Environmental Protection Agency (EPA) will be possible only through an appropriate combination of federal, state, and local actions, including not only stringent local and state emission controls but also the timely implementation of federal controls; and

Whereas, Emissions may be regulated by either the state's environmental regulation agency or the federal government, depending on their origin; and

Whereas, For example, emissions from an industrial facility, such as a utility company or petroleum refinery, are subject to state regulations, while gasoline and diesel fuel standards and emissions from aircraft, airport ground support equipment, automobiles, trucks, marine engines, and locomotives are all federally controlled; and

Whereas, Under recent federal action, the EPA will require buses and commercial trucks to produce 95 percent less pollution than today's buses and trucks and will require the amount of sulfur in diesel fuel to be reduced by 97 percent; these measures alone are expected to cut air pollution by as much as 95 percent; and

Whereas, At issue is the fact that the low-sulfur diesel fuel provisions will not go into effect before 2006, and diesel fuel engine manufacturers will have flexibility in meeting the new emission standards due to phase in between 2007 and 2010; the slow rate of turnover among commercial fleets means that these federal emission control measures will likely have little effect until several years after that, when a sufficient number of these trucks and buses are in operation; and

Whereas, Currently, the State of Texas has nine metropolitan areas that either have been designated as nonattainment areas by the EPA or are close to exceeding the National Ambient Air Quality Standards (NAAQS) for one or more of the regulated pollutants; these nonattainment or near-nonattainment areas have been given strict time lines for their emission reduction efforts based on the severity of pollution in the area; and

Whereas, Because of the lengthy time line for the reduction of emissions from federally controlled sources, the federally mandated attainment date for some NAAQS nonattainment regions in Texas, such as the Houston-Galveston-Brazoria area, will arrive long before the effects of federal air quality improvement efforts can be realized; and

Whereas, Texas is forced to require state-controlled emission sources to make significant reductions in pollution in a relatively short period of time while federally controlled sources continue to contaminate the state's environment; and

Whereas, The incongruence in the federal and state time lines for emission reductions places an undue burden on the state to lower air pollution significantly enough to be in attainment with the NAAQS without a corresponding decrease in emissions from any of the myriad federally controlled emission sources; now, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to require federally controlled emission sources to reduce their emissions by the same percentages and on the same schedule as state-controlled sources; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all members of the Texas delegation to the Congress with the request that this resolution be officially entered in the CONGRESSIONAL RECORD as a memorial to the Congress of the United States of America.

POM–130. A concurrent resolution adopted by the Senate of the Legislature of the State of Texas relative to the federal regulation relating to the three-shell limit and the magazine plug requirement found in 50 C.F.R. Section 20.21; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 28

Whereas, During the late 19th and early 20th centuries, the harvesting of migratory game birds for subsequent resale, or ''market hunting,'' was widespread, and this wasteful method led to federal regulations to eliminate the practice in all 50 states; and

Whereas, One regulation adopted to curtail this practice limits the number of shells a shotgun can hold to no more than three and requires shotgun magazines to have a plug to effect the three-shell limit; and

Whereas, In the ensuing years, additional regulations have been enacted to protect migratory game birds, such as the current federal and state daily or seasonal bag limits that regulate the number of game birds that can be killed or possessed by a hunter, making the three-shell limit and the magazine plug requirement unnecessary and archaic; and

Whereas, Enforcing outdated regulations wastes limited law enforcement resources that could be better utilized enforcing other hunting laws, such as bag limits; and

Whereas, A game bird wounded by a third shot that cannot subsequently be killed by a fourth shot suffers an inhumane death and is a waste of game resources; and

Whereas, The greater frequency of loading a shotgun necessitated by the three-shell limit creates a safety hazard for the hunter; and

Whereas, Because migratory game birds can be protected by other federal and state regulations, the enforcement of the three-shell limit and magazine plug requirement is no longer necessary and should be discontinued; now, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to repeal the federal regulation relating to the three-shell limit and the magazine plug requirement found in 50 C.F.R. Section 20.21; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–131. A concurrent resolution adopted by the Senate of the Legislature of the State of Texas relative to designating threatened species and critical habitat for the Arkansas River shiner; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 51

Whereas, Under rules adopted on November 23, 1998, the Fish and Wildlife Service of the United States Department of the Interior listed the Arkansas River shiner (*Notropis girardi*), a minnow whose present range includes portions of the Canadian River in Texas, as a threatened species pursuant to the federal Endangered Species Act; and

Whereas, Subsequent rules adopted on April 4, 2001, which follow from policy reconsideration stipulated in an agreed settlement order, designate 1,148 miles of river segments in the Arkansas River basin—including over 100 miles of the Canadian River in Oldham, Potter, and Hemphill counties in Texas—as critical habitat for the species; and

Whereas, This state's Parks and Wildlife Department recommended against listing the Arkansas River shiner as an endangered or even threatened species because such a listing was scientifically unsound and unnecessary; and

Whereas, The Fish and Wildlife Service refused to enter a Memorandum of Understanding concerning recovery of the Arkansas River shiner with the states of Texas and Oklahoma, yet in its recent rule adoption notice concedes that ideally a recovery plan should precede critical habitat designation; and

Whereas, Its designation, which becomes effective on May 4, 2001, includes a portion of the Canadian River that makes up the headwaters of Lake Meredith, and as such could potentially interfere with the reservoir's water supply and flood control functions; and

Whereas, Critical habitat designation enhances the likelihood that the Endangered Species Act of 1973, as amended, might be used as a vehicle for direct regulation of Texas groundwater and surface water use by the federal government or the federal courts; and

Whereas, Notwithstanding its recent final rule adoption, the Fish and Wildlife Service states that it continues to solicit additional public comments on the issue toward possible new approaches to recovery planning; now, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby urge the United States Department of the Interior to reconsider the necessity of designating the Arkansas River shiner as a threatened species and the necessity of designating critical habitat in Texas for the Arkansas River shiner; and, be it further

Resolved, That the 77th Legislature of the State of Texas urge the Parks and Wildlife Department and the Office of the Attorney General to take all reasonable steps to ensure that portions of the Canadian River in Texas be designated as critical habitat only to the extent that such designation is absolutely necessary, scientifically justifiable, and economically prudent; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the secretary of the interior, to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America; and, be it further

Resolved, That the Texas secretary of state forward an official copy of this resolution to the executive director of the Parks and Wildlife Department and to the attorney general of Texas.

POM–132. A concurrent resolution adopted by the Senate of the Legislature of the State of Texas relative to the reduction of pollution and the protection of the environment through the implementation of federal regulations; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 22

Whereas, The reduction of pollution and the protection of the environment is of great concern to both the federal government and the Texas Legislature; and

Whereas, To protect its natural resources and environment as effectively as possible, Texas needs greater flexibility in its implementation of federal regulations; and

Whereas, The current command-and-control approach instituted by the United States Environmental Protection Agency to limit pollution at the state level through the use of a federally mandated permitting process has proven to be moderately successful at reducing pollution, but it is also an overly prescriptive process that is unduly burdensome and costly to both the states and the regulated facilities relative to the results achieved; and

Whereas, Alternative paradigms are available, including outcome-based assessment methods that allow the state to measure the actual reduction of pollution rather than simply monitoring each facility's compliance with its permit; and

Whereas, States should be given greater latitude to implement innovative regulatory programs and other pollution reduction methods that vary from the current model, which requires states to adhere strictly to the federally mandated permitting process; and

Whereas, Providing this flexibility would allow states such as Texas to tailor appropriate and effective approaches to state-specific environmental problems rather than expending resources to ensure compliance with one-size-fits-all regulations that place an inordinate emphasis on procedural detail; now, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby respectfully urge the United States Environmental Protection Agency to provide maximum flexibility to the states in the implementation of federal environmental programs and regulations; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the administrator of the United States Environmental Protection Agency, to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–133. A concurrent resolution adopted by the House of the Legislature of the State of Texas relative to amending provisions of the Internal Revenue Code of 1986, as added by PL 106–230; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 77

Whereas, In an attempt to enact meaningful campaign finance reform legislation, the 106th Congress of the United States passed the Full and Fair Political Activities Disclosure Act (Public Law 106–230), which imposed notification and reporting requirements on political organizations claiming tax-exempt status under Section 527 of the Internal Revenue Code; and

Whereas, Public Law 106–230 took effect July 1, 2000, four days after its introduction; the rapidity of its passage through congress reflected the lawmakers' sense of urgency to act, but it also suggests that adequate time was not provided for deliberation of the full ramifications of certain provisions; and

Whereas, The goal of this legislation was to respond to certain political organizations, known as ''stealth PACs,'' that were able to raise and spend unlimited amounts of money for political advocacy without having to disclose the sources and amounts of donations, all while enjoying tax-exempt status; and

Whereas, While the Texas Legislature supports the laudable goal of holding all participants in the political process accountable to the public, the members of this body believe that this well-intentioned Act has had unintended consequences and has adversely affected individuals and organizations beyond its original intent; and

Whereas, Public Law 106–230 imposes duplicative and burdensome federal reporting and disclosure requirements on local and state candidates, their campaign committees, and local and state political parties that already are required to file detailed reports with their respective state election officials; and

Whereas, These requirements have created a paperwork nightmare for entities that are clearly outside the intended scope of PL 106–230 without significantly adding to the body of information available to the public; and

Whereas, A remedy in the form of an exemption for those entities or an exception for information reported and filed elsewhere with state officials would not violate the intention of enforcing public accountability, since the individuals and organizations affected already are required to report and disclose to the state the same information that PL 106–230 now requires them to report to the Internal Revenue Service; nor would it be unprecedented, since a similar exemption already exists for candidates, campaign committees, and party organizations engaged in federal elections, who are required by FECA to report that information to the Federal Election Commission; now, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to amend provisions of the Internal Revenue Code of 1986, as added by PL 106–230, to exempt state and local political committees that are required to report to their respective states from notification and reporting requirements imposed by PL 106–230; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–134. A concurrent resolution adopted by the Senate of the Legislature relative to providing tax credits to individuals buying private health insurance; to the Committee on Finance.

SENATE CONCURRENT RESOLUTION NO. 37

Whereas, Almost 90 percent of all health insurance is paid for by and through employer programs, providing the majority of American workers with affordable access to health care; and

Whereas, Generous federal tax code provisions that make employee contributions to employer-provided health insurance fully deductible from federal individual income taxes allow employees participating in such plans to purchase the coverage they need in a cost-effective manner; and

Whereas, Some employers benefit from the health insurance they provide since the tax code also allows them to deduct the cost of the health insurance they offer employees from their corporate income taxes as a business expense; and

Whereas, Not everyone is fortunate enough to be able to participate in an employer-provided health plan, and those who purchase private health insurance do not receive tax breaks of any kind; for these individuals, a dollar in pretax wages may buy only 50 cents' worth of health insurance after federal, state, and local taxes are taken out; and

Whereas, Congress has responded to this issue with the 1999 Omnibus Appropriations Act, which gives a 60 percent tax deduction for insurance expenses to those who are self-employed; this deduction is scheduled to rise to 100 percent by 2003; and

Whereas, For individuals who purchase private health insurance and bear the full cost of a policy without the benefit of an employer's contributions, this deduction does little to make that private insurance affordable, since tax deductions provide a less substantial tax break than tax credits; while a tax deduction is subtracted from a person's income when calculating taxes, a tax credit is subtracted from the person's bottom line of taxes owed; and

Whereas, Tax credits will give consumers more choice in health plans because employees would no longer be limited to insurance offered by employers; furthermore, consumers who bought their own private health insurance could maintain their coverage even if they changed jobs without any lapse in coverage; now, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to provide tax credits to individuals buying private health insurance; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the President of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–135. A concurrent resolution adopted by the House of the Legislature of the State of Texas relative to amending the Internal Revenue Code of 1986 to allow for the issuance of tax-exempt bonds for the purpose of financing air pollution control facilities nonattainment areas; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 226

Whereas, The Houston-Galveston-Brazoria (HGB) area is classified as a serious nonattainment area and the Beaumont-Port Arthur (BPA) area is classified as a moderate nonattainment area for the one-hour ozone standard and both are likely to be classified as nonattainment areas for the proposed eight-hour ozone standards and for the particulate matter 2.5 standards, should those standards be reinstated; and

Whereas, The State of Texas recently submitted revisions of its State Implementation Plan (SIP) for the HGB and BPA areas the United States Environmental Protection Agency (EPA) outlining measures that will be taken in order to achieve compliance with the National Ambient Air Quality Standards for ozone; and

Whereas, For the HGB and BPA areas to be classified as in attainment for ozone, the regions must make significant reductions in air containment emissions from several types of sources, including industrial point

sources such as petroleum refineries and chemical plants; and

Whereas, Strategies aimed at controlling industrial emissions target specific industries and facilities, requiring them to bear up front the high costs of installing emission control technologies; and

Whereas, While pollution control technologies can be effective in reducing emissions, the technology that many companies are required to purchase by the ozone SIP can cause a tremendous financial strain on an individual entity and affect entire industries; and

Whereas, Some industries, including agricultural, chemical production, gasoline terminals, and oil and natural gas production and petroleum refineries, must purchase costly maximum achievable control technology in order to be in compliance with the ozone SIP; and

Whereas, The Texas Gulf Coast has a crude operatable capacity of 3.462 barrels of refined petroleum products per calendar day, i.e. 84.6 percent of the Texas total and 21.9 percent of the U.S. total; and

Whereas, The HGB area is home to more than 400 chemical plants employing more than 38,200 people and the BPA area is home to numerous chemical plants and industrial operations employing more than 20,000 people; and

Whereas, The Houston Gulf Coast has nearly 49 percent of the nation's base petrochemicals manufacturing capacity; this is more than quadruple the manufacturing capacity of its nearest U.S. competitor; and

Whereas, Many of the commodities produced in this area are distributed throughout the nation, yet, while the entire country benefits from the petroleum refining and petrochemical industries, these industries must bear the up-front costs of environmental compliance while faced with global competition without significant federal assistance; and

Whereas, Currently, the federal government authorizes the issuance of tax-exempt facility bonds to finance the building of installations that are used for the public good, such as airports, water plants, sewage and solid waste systems, and some hazardous waste facilities; however, since 1986, such bond issues have no longer been authorized for air pollution control facilities; and

Whereas, The reduction of air pollution clearly benefits all residents of the state, and air contaminant emission reductions are mandated by the federal government in nonattainment areas; given the severity of the up-front financial costs that are to be incurred in order to reduce the air contaminant emissions in Texas nonattainment areas, restoring the previous provision that allowed the issuance of tax-exempt facility bonds to finance air pollution control facilities would significantly enhance the ability of regions such as the Houston-Galveston-Brazoria and Beaumont-Port Arthur areas to meet applicable National Ambient Air Quality Standards and avoid future sanctions; now, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to amend the Internal Revenue Code of 1986 to allow for the issuance of tax-exempt facility bonds for the purpose of financing air pollution control facilities in nonattainment areas and to provide that such tax-exempt facility bonds issued during the years of 2003, 2004, 2005, 2006, or 2007 for the construction of such air pollution control facilities not be subject to the volume cap requirements; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–136. A concurrent resolution adopted by the House of the Legislature of the State of Texas relative to establishing a separate Federal Medical Assistance Percentage for the Texas-Mexico border region; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 214

Whereas, The Texas-Mexico border region suffers from an inadequate medical infrastructure that has led to disparities in access to health care between the border region and the rest of the state; and

Whereas, Statewide in 1998, there was an average of 270 Medicaid-eligible patients for every physician participating in the Medicaid program, but in the border counties where there were participating physicians, the number of eligible patients per physician ranged from a low of 416 in El Paso County to a high of 1,361 in Starr County; in two counties, Presidio and Zapata, there were no participating physicians at all to serve the Medicaid-eligible population; and

Whereas, The border region historically has had high patient-to-physician ratios, resulting in limited access to health care services and reduced utilization rates for these services; in addition, the availability of medical care in Mexico may also reduce utilization rates for the region; and

Whereas, Low utilization rates along the border create a distorted assessment of the actual demand for services and inappropriately drive down the capitated reimbursement rates for both Medicaid and the Children's Health Insurance Program (CHIP); and

Whereas, The average per-recipient reimbursement for the border region is 16 percent less than the statewide average, which creates a disincentive for health care providers to locate and provide services to Medicaid clients in the region; furthermore, low reimbursement rates complicate already limited access to health care as existing providers either leave the program or limit their participation; and

Whereas, Current Medicaid and CHIP reimbursement rates simply trap the Texas-Mexico border counties in a cycle of limited access to care, low utilization rates, and low reimbursement rates, all of which further damage the medical infrastructure of the region and create greater barriers to health care access for Medicaid and CHIP clients; and

Whereas, The unique issues facing the border may not be apparent when evaluations of the state as a whole mask discrepancies between the border and the rest of the state; calculating the federal share of the state's Medicaid costs, or the Federal Medical Assistance Percentage (FMAP), using the state's per capita income may not provide an accurate assessment of the border region's needs; and

Whereas, Establishing a separate FMAP for the border region would recognize these unique circumstances and allow current state Medicaid funding in the region to draw down additional federal funds that would help eliminate the reimbursement disparity; and

Whereas, Unless this disparity is resolved, the region will continue to suffer from an inadequate health care infrastructure that is unable to address the medical needs of the border residents; now, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to establish a separate Federal Medical Assistance Percentage for the Texas-Mexico border region; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–137. A concurrent resolution adopted by the House of the Legislature of the State of Texas relative to the SS Leopoldville; to the Committee on Armed Services.

HOUSE CONCURRENT RESOLUTION NO. 201

Whereas, On Christmas Eve 1944, while carrying American soldiers of the 66th Infantry Division to reinforce Allied troops fighting the Battle of the Bulge, the SS Leopoldville was sunk in the English Channel by a U-boat torpedo, resulting in the loss of 763 members of the 262nd and 264th regiments, including 35 Texans; and

Whereas, The underwater grave, located five and a half miles off the coast of Cherbourg, France, cradles to this day the remains of 493 unrecovered and entombed American servicemen who have been honored by monuments erected across the United States in their memory; and

Whereas, World War II combat and wreckage locations, including many at sea, have fallen prey to plunderers and looters who, in seeking souvenirs and commercial reward, have desecrated the memory of our valorous combatants and their final resting places; and

Whereas, The wreckage of the SS Leopoldville is threatened by the practice of divers who descend to remove such artifacts as brass, portholes, and other parts of the ship and who, if unchecked, may begin to extract the personal effects and military equipment of the deceased and in so doing disturb the sanctity of their burial site; and

Whereas, The State of New York has issued a proclamation in memory of the victims of the SS Leopoldville, and at least a dozen like measures have been passed by other states to commemorate the men who lost their lives in this tragedy and to ensure that they continue their silent rest in dignity; now, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby honor the American servicemen who were lost when the troopship SS Leopoldville was sunk by an enemy torpedo on December 24, 1944; and, be it further

Resolved, That the Texas Legislature respectfully memorialize the Congress of the United States to take appropriate action to prevent further desecration of the SS Leopoldville or any of its contents; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–138. A concurrent resolution adopted by the Senate of the Legislature of the State of Texas relative to the Minerals Management Service plan to proceed with the Outer

Continental Shelf Lease Sale 181; to the Committee on Energy and Natural Resources.

SENATE CONCURRENT RESOLUTION NO. 34

Whereas, A strong domestic oil and gas industry is vitally important to the United States economy and national defense; and

Whereas, This nation's domestic oil and gas production has decreased by 2.7 million barrels per day during the last 13 years, a 17 percent decline, at the same time that domestic consumption of oil has increased by more than 14 percent; and

Whereas, Currently, the United States imports approximately 55 percent of the oil needed for the American economy, while the demand for refined petroleum products is projected to increase by more than 35 percent and the demand for natural gas is projected to increase by more than 45 percent over the next two decades; and

Whereas, Much of the nation's greatest potential for future domestic production lies in areas that are currently off limits to oil and natural gas exploration and development, including areas under congressional or presidential moratoria in the federal Outer Continental Shelf (OCS), where vast amounts of oil and natural gas may be available for extraction; and

Whereas, For the first time since 1988, the Minerals Management Service, a bureau of the United States Department of the Interior that manages the nation's oil, gas, and other mineral resources in the OCS, has proposed an OCS lease sale for the eastern Gulf of Mexico, in the portion of the Gulf 100 miles southwest of the Florida Panhandle and 15 miles south of the Alabama coastline; the bureau's tentative schedule calls for bid opening and reading in December 2001; and

Whereas, The oil and gas industry has demonstrated that it can be a good steward of the environment while operating in the Gulf of Mexico; and

Whereas, Oil and gas production from this area of the Gulf of Mexico would help offset current domestic energy production declines and assist the nation in meeting future energy demand; and

Whereas, Numerous positive economic benefits for the State of Texas have been created by oil and gas industry activities in the Gulf, and many of the exploration and production companies that would participate in the OCS Lease Sale 181 are headquartered in Texas as are many of the oil field supply and service companies that would benefit by increased activities; and

Whereas, The economic benefits that would result from oil and natural gas exploration, development, and production of leases acquired in OCS Lease Sale 181 would continue to benefit the State of Texas and all the states bordering the Gulf of Mexico; now, therefore, be it

Resolved, That the 77th Legislature of the State of Texas hereby declare support for the Minerals Management Service plan to proceed with the Outer Continental Shelf Lease Sale 181 for the eastern Gulf of Mexico scheduled for December 5, 2001; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the Director of the Minerals Management Service, to the Secretary of the Interior, to the President of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to the Congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 16: A resolution designating August 16, 2001, as ''National Airborne Day''.

S. Con. Res. 16: A concurrent resolution expressing the sense of Congress that the George Washington letter to Touro Synagogue in Newport, Rhode Island, which is on display at the B'nai B'rith Klutznick National Jewish Museum in Washington, D.C., is one of the most significant early statements buttressing the nascent American constitutional guarantee of religious freedom.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

Mr. LEAHY. Mr. President, for the Committee on the Judiciary.

Ralph F. Boyd, Jr., of Massachusetts, to be an Assistant Attorney General.

Robert D. McCallum, Jr., of Georgia, to be an Assistant Attorney General.

Roger L. Gregory, of Virginia, to be United States Circuit Judge for the Fourth Circuit.

Sam E. Haddon, of Montana, to be United States District Judge for the District of Montana.

Richard F. Cebull, of Montana, to be United States District Judge for the District of Montana.

Eileen J. O'Connor, of Maryland, to be an Assistant Attorney General.

Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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 Mr. DODD (for himself, Mr. LIEBERMAN, and Mr. SESSIONS):

S. 1197. A bill to authorize a program of assistance to improve international building practices in eligible Latin America countries; to the Committee on Foreign Relations.

By Mr. LIEBERMAN (for himself and Mr. THOMPSON):

S. 1198. A bill to reauthorize Franchise Fund Pilot Programs; to the Committee on Governmental Affairs.

By Mrs. HUTCHISON (for herself, Mr. BREAUX, Ms. COLLINS, Mr. BAUCUS, Mr. CHAFEE, Ms. LANDRIEU, Mr. LOTT, Mr. CONRAD, Mr. MURKOWSKI, Mr. ALLARD, Mr. BROWNBACK, Mr. COCHRAN, Mr. DOMENICI, Mr. GRAMM, Mr. ENZI, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. NICKLES, Mr. STEVENS, and Mr. THOMAS):

S. 1199. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for marginal domestic oil and natural gas well production and an election to expense geological and geophysical expenditures and delay rental payments; to the Committee on Finance.

By Mr. CLELAND (for himself and Mr. LIEBERMAN):

S. 1200. A bill to direct the Secretaries of the military departments to conduct a review of military service records to determine whether certain Jewish American war veterans, including those previously awarded the Distinguished Service Cross, Navy Cross, or Air Force Cross, should be awarded the Medal of Honor; to the Committee on Armed Services.

By Mr. HATCH (for himself, Mr. BREAUX, Mrs. LINCOLN, Mr. ALLARD, Mr. THOMPSON, and Mr. GRAMM):

S. 1201. A bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes; to the Committee on Finance.

By Mr. LIEBERMAN (for himself and Mr. THOMPSON):

S. 1202. A bill to amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to extend the authorization of appropriations for the Office of Government Ethics through fiscal year 2006; to the Committee on Governmental Affairs.

By Mr. SCHUMER:

S. 1203. A bill to amend title 38, United States Code, to provide housing loan benefits for the purchase of residential cooperative apartment units; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DURBIN (for himself, Mr. ROCKEFELLER, Mr. EDWARDS, Mr. BIDEN, Mr. DORGAN, Mr. JOHNSON, and Mr. LEVIN):

S. 1204. A bill to amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the medicare program that have received an organ transplant; to the Committee on Finance.

By Mr. BENNETT:

S. 1205. A bill to adjust the boundaries of the Mount Nebo Wilderness Area, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VOINOVICH (for himself, Mr. INHOFE, Mr. FRIST, and Mr. MCCONNELL):

S. 1206. A bill to reauthorize the Appalachian Regional Development Act of 1965, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOMENICI:

S. 1207. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Albuquerque, New Mexico, metropolitan area; to the Committee on Veterans' Affairs.

By Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. LIEBERMAN, Mr. DURBIN, Ms. LANDRIEU, Mrs. CLINTON, and Mr. SCHUMER):

S. 1208. A bill to combat the trafficking, distribution, and abuse of Ecstasy (and other club drugs) in the United States; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself, Mr. BAUCUS, Mr. DASCHLE, Mr. CONRAD, Mr. ROCKEFELLER, Mr. BREAUX, Mr. KERRY, Mr. TORRICELLI, Mrs. LINCOLN, Mr. JEFFORDS, Mr. BAYH, Mr. DAYTON, and Mr. LIEBERMAN):

S. 1209. A bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

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

S. Res. 137. A resolution to authorize representation by the Senate Legal Counsel in John Hoffman, et al. v. James Jeffords; considered and agreed to.

ADDITIONAL COSPONSORS

S. 242

At the request of Mr. BINGAMAN, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 242, a bill to authorize funding for University Nuclear Science and Engineering Programs at the Department of Energy for fiscal years 2002 through 2006.

S. 367

At the request of Mrs. BOXER, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 367, a bill to prohibit the application of certain restrictive eligibility requirements to foreign nongovernmental organizations with respect to the provision of assistance under part I of the Foreign Assistance Act of 1961.

S. 392

At the request of Mr. SARBANES, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 392, a bill to grant a Federal Charter to Korean War Veterans Association, Incorporated, and for other purposes.

S. 501

At the request of Mr. GRAHAM, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 501, a bill to amend titles IV and XX of the Social Security Act to restore funding for the Social Services Block Grant, to restore the ability of States to transfer up to 10 percent of TANF funds to carry out activities under such block grant, and to require an annual report on such activities by the Secretary of Health and Human Services.

S. 565

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 565, a bill to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes.

S. 567

At the request of Mr. SESSIONS, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 567, a bill to amend the Internal Revenue Code of 1986 to provide capital gain treatment under section 631(b) of such Code for outright sales of timber by landowners.

S. 620

At the request of Mr. HARKIN, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 620, a bill to amend the Elementary and Secondary Education Act of 1965 regarding elementary school and secondary school counseling.

S. 661

At the request of Mr. THOMPSON, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 661, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel exercise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 826

At the request of Mrs. LINCOLN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 826, a bill to amend title XVIII of the Social Security Act to eliminate cost-sharing under the medicare program for bone mass measurements.

S. 829

At the request of Mr. BROWNBACK, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 829, a bill to establish the National Museum of African American History and Culture within the Smithsonian Institution.

S. 836

At the request of Mr. CRAIG, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 836, a bill to amend part C of title XI of the Social Security Act to provide for coordination of implementation of administrative simplification standards for health care information.

S. 852

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 852, a bill to support the aspirations of the Tibetan people to safeguard their distinct identity.

S. 880

At the request of Mrs. LINCOLN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 880, a bill to amend title XVIII of the Social Security Act to provide adequate coverage for immunosuppressive drugs furnished to beneficiaries under the medicare program that have received an organ transplant, and for other purposes.

S. 905

At the request of Mr. HARKIN, the names of the Senator from Minnesota (Mr. WELLSTONE) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 905, a bill to provide incentives for school construction, and for other purposes.

S. 942

At the request of Mr. GRAHAM, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 942, a bill to authorize the supplemental grant for population increases in certain states under the temporary assistance to needy families program for fiscal year 2002.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1017

At the request of Mr. DODD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1017, a bill to provide the people of Cuba with access to food and medicines from the United States, to ease restrictions on travel to Cuba, to provide scholarships for certain Cuban nationals, and for other purposes.

S. 1018

At the request of Mr. LEVIN, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1018, a bill to provide market loss assistance for apple producers.

S. 1075

At the request of Mr. BIDEN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1075, a bill to extend and modify the Drug-Free Communities Support Program, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

S. 1169

At the request of Mr. FEINGOLD, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1169, a bill to streamline the regulatory processes applicable to home health agencies under the medicare program under title XVIII of the Social Security Act and the medicaid program under title XIX of such Act, and for other purposes.

S. 1195

At the request of Mr. SARBANES, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1195, a bill to amend the National Housing Act to clarify the authority of the Secretary of Housing and Urban Development to terminate mortgagee origination approval for poorly performing mortgagees.

At the request of Mr. SARBANES, the name of the Senator from Nevada (Mr. REID) was withdrawn as a cosponsor of S. 1195, supra.

S. RES. 109

At the request of Mr. REID, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. Res. 109, a resolution designating the second Sunday in the month of December as ''National Children's Memorial Day'' and the last Friday in the month of April as ''Children's Memorial Flag Day.''

S. CON. RES. 52

At the request of Mr. CORZINE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. Con. Res. 52, a concurrent resolution expressing the sense of Congress that reducing crime in public housing should be a priority, and that the successful Public Housing Drug Elimination Program should be fully funded.

S. CON. RES. 59

At the request of Mr. HUTCHINSON, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Missouri (Mrs. CARNAHAN) were added as cosponsors of S. Con. Res. 59, a concurrent resolution expressing the sense of Congress that there should be established a National Community Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Mr. LIEBERMAN, and Mr. SESSIONS):

S. 1197. A bill to authorize a program of assistance to improve international building practices in eligible Latin American countries; to the Committee on Foreign Relations.

Mr. DODD. Mr. President, I rise today to introduce legislation that will improve building safety in Latin America, increase the cost-effectiveness of our disaster relief assistance, and, most importantly, save lives. As many of us know, throughout the last decade, the people of Latin America have been the victims of numerous natural disasters that have resulted in death, property damage, and destruction. Indeed, in the last three years the continent has been ravaged by Hurricane Mitch, earthquakes in El Salvador and Peru, and horrendous rains and mudslides. These disasters have exacted a tremendous toll on the region, causing over 12,000 deaths, $40 billion in damage, and numerous injuries.

The cost to rebuild following these disasters is prohibitive and places a tremendous burden on the already struggling emerging economies of Latin America. To mitigate this cost, the United States has frequently released disaster relief funds to help affected countries recover the injured, maintain order, and rebuild their infrastructure. For example, the combined assistance released by the United States following Hurricane Mitch and the recent earthquakes totals over $1.2 billion. I fully support these appropriations, and believe that we have a duty to assist our neighbors and allies when they are confronted with natural disasters. I do, however, believe that we can make this assistance more cost-effective in the long run, while saving lives.

As I stated, I fully support offering U.S. monetary assistance to rebuild following natural disasters. However, because much of Latin America does not utilize modern, up-to-date building codes, much of this assistance goes to waste. For example, following the earthquakes in El Salvador in 1986, the United States provided $98 million dollars to rebuild that country. Most of the reconstruction was done by local Salvadoran contractors, and these structures were not built to code. Now, 15 years later, following the most recent earthquakes in El Salvador, the United States offered over $100 million dollars in aid. Had reconstruction in 1986 been done to code, undoubtedly the cost of the most recent earthquake would have been lower in both monetary value and lives.

To remedy this problem, and encourage safe, modern building practices in countries that need them the most, I introduce today, with my colleagues Senator LIEBERMAN and Senator SESSIONS, the Code and Safety for the Americas, CASA Act. The CASA Act would authorize the expenditure of $3 million over two years from general foreign aid funds to translate the International Code Council family of building codes, which are the standard for the United States, into Spanish. Furthermore, it would provide funding for the International Code Council's proposal to train architects and contractors in El Salvador and Ecuador in the proper use of the code. By educating builders and providing them the necessary code for their work in their own language, it is only a matter of time before we will begin to see safer buildings in the region, and a return on our investment. The United States spent over $10 million in body bags, temporary tent housing, and first aid alone following the recent earthquake in El Salvador. For a comparatively modest sum, $3 million, we can reduce the need for this type of aid by attacking the problem of shoddy building before it begins.

In addition, after this program has been implemented in El Salvador and Ecuador, it could easily be replicated in other Latin American countries at low cost, requiring only funding for the training program. While we want to start this program on a small scale, I am confident that other countries will request similar training programs in the future. In fact, other countries have already asked to be considered for a future expansion of the program. The Inter-American Development Bank and UN have expressed interest in this idea, and are potential candidates to provide partial funding of any future expansion. Given this interest, it is highly likely that, in the future, a public-private partnership can be constructed to expand this program to Peru, Guatemala, and the rest of Spanish-speaking Latin America. Also, we cannot forget the valuable contributions that American volunteer organizations such as the International Executive Service Corps can make to this program in the long-run.

This legislation is supported by architects, contractors, and public officials both in the United States and in Latin America. Students of architecture in Latin America want to be taught proper standards and code application, and local governments have requested the code in Spanish. So, this is not a case of the ''ugly'' America imposing its will on Latin America. We have been asked to share this life-saving code with our Southern neighbors and, indeed, the number of requests from different countries has been staggering.

In short, this legislation will save lives, lessen the damage caused by future disasters, and illustrate our good will toward our Latin American allies while proving to be cost-effective for the United States through decreased aid following future disasters. For a detailed analysis of the problem, and this solution, I wish to draw my colleagues attention to an article by Steven Forneris, an American architect living in Ecuador, that appeared in ''Building Standards'' magazine. In it, Mr. Forneris argues the value of this proposal from his position at the front lines in Ecuador. He clearly and eloquently outlines why Latin America needs building code reform, and why it is in the best interests of the United States to involve itself in this endeavor.

The CASA Act is common-sense legislation that will dramatically improve the lives of citizens of our hemisphere, and represents a real chance for American leadership in the Hemisphere at very little cost. I hope that my colleagues will join me in this humanitarian effort.

I ask unanimous consent that Mr. Forneris' article be printed in the RECORD.

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

[From Building Standards, March–April 2001]

IS IT WRONG TO ASK FOR HELP ON BUILDING CODES?

(By Stephen Forneris)

I work in the field of architecture, part of the time in the City of Guayaquil, Ecuador, and the other part of the time in New York State. Like everyone involved in this profession, one of my chief responsibilities is to guard the health, safety and welfare of my clients. The architects I work with in New York do this by following the International Codes promulgated by the International Code Council (ICC). When working as an architect myself in the small Latin American nation of Ecuador, which simply does not have the resources to develop a complete building code of its own, I am left with a set of very limited and woefully inadequate codes.

Ecuador developed its current code 20 years ago by translating portions of 1970s versions of the American Concrete Institute ''Building Code Requirements for Reinforced Concrete and the Uniform Building Code'' (UBC). While a noble effort at the time, it is antiquated by today's standards. The adopted provisions only address structural design requirements and the code does not provide for any general life-safety design concerns such as fire and egress. In 1996, the president of Ecuador signed a bill to develop a new code, but it will take years before it is fully complete and will still only consider structural design requirements. So what does this

have to do with the United Nations or the U.S. Government?

As part of its International Decade for Natural Disaster Reduction program, the United Nation's Risk Assessment Tools for Diagnosis of Urban Areas Against Seismic Disasters (RADIUS) project conducted a study of Guayaquil. The RADIUS team determined there to be a 53-percent chance that a magnitude 8.0 or greater earthquake will strike within 200 miles of the city in the next 50 years. An estimated 26,000 fatalities would result, along with approximately 90,000 injuries severe enough to require hospitalization. Projections indicate that up to 75 percent of the local hospitals would be non-operational and 90,000 people left homeless. Power would be out for up to three weeks, telephones inoperable and roads impassable for two months, running water cut off for three months, and sewage systems unusable for a year. All told, damage from the tragedy is expected to exceed one billion U.S. dollars . . . and Guayaquil, which is situated in a zone of high seismic activity that stretches from Chile to Alaska, is not even the most vulnerable of Ecuador's cities.

I watched news of the recent earthquakes in El Salvador and India with apprehension, knowing that it is only a matter of time before Guayaquil joins the ranks of these horrific human disasters. My colleagues in New York and I are shocked at what those poor people must be going through and are proud that our government is doing its part to help. We are a kind people at our core, and the U.S. Agency for International Development (USAID) has given El Salvador $8,365,777 and India $12,595,631 in assistance. I have to wonder, though, if the U.S. government has been able to allocate nearly $21 million over the past few months for international disaster relief, should it not be possible to get funding to mitigate the effects of future disasters like these?

In 1999, James Lee Witt, then director of the U.S. Federal Emergency Management Agency (FEMA) stated: ''At FEMA, we're working to change the way Americans think about disasters. We've made prevention the focus of emergency management in the United States, and we believe strong, rigorously enforced building codes are central to that effort.'' In 1999, FEMA signed an agreement with ICC to encourage states to adopt and enforce the International Building Code (IBC). As the U.S. government has turned to an aggressive program of domestic prevention, it only seems logical to apply this philosophy in its projects abroad.

Guayaquil, and all of Latin America for that matter, needs our help right now. The FEMA-endorsed International Codes arguably provide the best mitigation for natural disasters available in the world, and ICC representatives have informed me that they have a team ready to translate them into Spanish. If USAID is capable of providing such quick and significant funding for plastic sheets, water jugs, hygiene kits, food assistance, etc., why not consider funding translation of the International Codes for a fraction of that cost?

In February of this year, The Associated Press reported that USAID had agreed to provide an additional $3 million to El Salvador for emergency housing. Less than a month later, President Bush pledged $100 million more in aid, which El Salvador's President Francisco Flores has stated will be used to reconstruct basic infrastructure and housing in the country. It is worth recalling that only 15 years ago the U.S. government provided El Salvador reconstruction funds totaling $98 million after a smaller earthquake. This brings the total to more than $200 million in less than 20 years, yet the people of El Salvador are no safer because their homes still do not meet any of the generally accepted U.S. building code standards.

I have to wonder what kind of message we are sending to developing countries? Have we created a ''disaster lottery'' in which needed aid comes only after images of devastation flash across the evening news? If so, South America alone stands to receive hundreds of millions of dollars in disaster relief over the next few years. In contrast, code translation, certification and training would greatly reduce the risk in the region for much less. What we need to do is think about saving lives now. It is sad to think that it may be easier to get coffins in which to bury the dead than the building codes that would save many of those same people's lives. It is my hope that the U.S. and United Nations, motivated by compassion, foresight and simple economics, can help provide all of Latin America with the truly vital and life-protecting building codes the region urgently needs.

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Julie Watson, ''El Salvador Seeks Aid after Quake'', 2/15/01. Reprinted with permission of The Associated Press.

Sandra Sobieraj, ''Bush Promises Help For El Salvador,'' 3/2/01. Reprinted with permission of The Associated Press.

By Mrs. HUTCHISON (for herself, Mr. BREAUX, Ms. COLLINS, Mr. BAUCUS, Mr. CHAFEE, Ms. LANDRIEU, Mr. LOTT, Mr. CONRAD, Mr. MURKOWSKI, Mr. ALLARD, Mr. BROWNBACK, Mr. COCHRAN, Mr. DOMENICI, Mr. GRAMM, Mr. ENZI, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. NICKLES, Mr. STEVENS, and Mr. THOMAS):

S. 1199. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for marginal domestic oil and natural gas well production and an election to expense geological and geophysical expenditures and delay rental payments; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I rise today to speak about an energy bill I am re-introducing this year, marginal well tax credits. I am proud to introduce the Hutchison-Breaux-Collins Marginal Well Preservation Act of 2001.

As we look to long-term solutions to the high cost of gasoline, electricity and home heating oil, marginal well tax incentives are critical to increasing supply and retaining our energy independence. Our crisis of volatile fuel prices in the U.S. has led this year to historically high gasoline prices, airline ticket surcharges for rising jet fuel costs, and expected problems with high home heating oil costs this coming winter. This problem is real, it is growing, and it demands a response from Congress to join with the Administration to find a comprehensive, long-term solution.

Senators representing all regions of the country, including the Northeast and Midwest have a common interest: to make the United States less susceptive to the volatility of world oil markets by reducing America's dependence on foreign oil. I understand that when the price of home heating oil spikes in the Northeast, it hurts those Senators' constituents. They understand when the price of oil falls below $10 a barrel, as it did just over two years ago, and we lose 18,000 jobs as we did in Texas, that hurts my constituents. We understand that these are merely two sides of the same coin: growing dependence on foreign oil.

In fact, at the heart of my legislation is the goal of reducing our imports of foreign oil to less than 50 percent by the year 2010. While it is incredible to me that we have let America slide into greater than 55 percent dependence today, from the 46 percent dependence we saw in 1992, nevertheless a goal of producing at least half of our oil needs right here in the United States is a laudable and, I believe, an achievable one.

The core problem with our growing dependence on foreign oil is an underutilized domestic reserve base of both crude oil and natural gas. In 1992, we imported 46 percent of our oil needs from overseas. It is equally important to realize that in 1974, when America was brought to her knees by the OPEC oil embargo, we imported only 36 percent of our oil. Today, as I mentioned, we stand at over 55 percent imports. While it is true that OPEC controls less, in percentage terms, of the world oil market than it did in 1974, if the major oil producing countries of the world were ever to get their collective act together, they cold not only wreak havoc with the American economy, they could literally shut it down. As the sole remaining superpower in the world, and as the country with an economy that is the envy of the industrialized world, this threat to our economic as well as our national security is simply and totally unacceptable.

We simply must take steps today to increase the amount of oil and natural gas we produce right here at home. It is estimated that, in total, the United States possesses as much as 160 billion barrels of oil and as many as 1,700 trillion cubic feet of natural gas. This is enough to fuel the U.S. economy for at least 60 years without importing a single drop of foreign oil. While shutting-off foreign oil completely may not be realistic, it is realistic to utilize our reserves much more than we do today.

Believe it or not, much of this oil and gas could be produced in areas where it is being produced today and has for decades that is not environmentally sensitive. That is why I have advocated for tax incentives that would make it economically feasible for production to continue and actually increase in areas largely where production takes place today. Much of this production is from so-called ''marginal'' wells, those wells that produce less than 15 barrels of oil and less than 90 thousand cubic feet of natural gas per day.

Many of these wells are so small that, once they close, they never reopen. There were close to 500,000 such wells across the U.S. Together, they have the capacity to produce 20 percent of America's oil. This is roughly the same amount of oil the U.S. imports from Saudi Arabia. During the oil price plummet over two years ago, more than a quarter of these wells closed, many of them for good.

The overwhelming majority of producing wells in Texas are marginal wells. A survey by the Independent Producers Association of America, IPAA, found that marginal wells account for 75 percent of all crude production for small independent operators; up to 50 percent for mid-sized independents; and up to 20 percent for large companies.

A more sensible energy independence policy would be to offer tax relief to producers of these smaller wells that would help them stay in business when prices fall below a break-even point. When U.S. producers can stay in business during periods of low prices, supply will be higher and help keep prices from shooting up too high.

My legislation provides a maximum $3 per barrel tax credit for the first 3 barrels of daily production from a marginal oil well, and a similar credit for marginal gas wells. The marginal oil well credit would be phased in-and-out in equal increments as prices for oil and natural gas fall and rise. For oil, it would phase in between $18 and $15 per barrel.

A counter-cyclical system such as this would help keep producers alive during the record low prices, so they can be producing during the record highs. This would gradually ease our dependence on overseas oil.

There's another benefit to encouraging marginal well production: it has a multiplier effect. In 1997, these low-volume wells generated $314 million in taxes paid annually to State governments. These revenues are sued for State and local schools, highways and other state-funded projects and services.

Another idea in my plan is to offer incentives to restart inactive wells by offering producers a tax exemption for the costs of doing so. This would ensure greater oil availability and also increase Federal and State tax revenues paid by oil producers and energy sector employees. Everyone wins. More jobs, more State and Federal revenue, and, most importantly, more domestic oil.

Studies and actual results have borne this out. In Texas, a program similar to this has met with considerable success. Over 6,000 wells have been returned to production, injecting approximately $1.65 billion into the Texas economy each year. We should try this nationwide.

We do not have to be at the whim of market forces beyond our control. The only way out, though, is to be part of the price setting process, rather than be price takers. To do that, we've got to increase our domestic supply. We have an excellent opportunity to unite around this bill, Democrats and Republicans, energy production and energy consumption States.

Marginal well tax incentive legislation is a positive, proactive approach that I believe can garner a majority of support in Congress and that will begin to reverse the slide toward greater and greater dependence on foreign oil.

By Mr. HATCH. (for himself, Mr. BREAUX, Mrs. LINCOLN, Mr. ALLARD, Mr. THOMPSON, and Mr. GRAHAM):

S. 1201. A bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce the Subchapter S Modernization Act of 2001. I am very pleased to be joined in this effort by Senators BREAUX, LINCOLN, THOMPSON, ALLARD, and GRAMM.

The bill we are introducing today is a continuation of a bipartisan effort that began in the Senate nearly a decade ago when former Senators Pryor and Danforth, along with myself and six other senators, introduced the S Corporation Reform Act of 1993. We recognized then, as the sponsors of today's bill do now, that S corporations are a vital and growing part of our economy and that our tax law should reflect the importance of these entities and provide tax rules that allow them to grow and compete with a minimum of complexity and a maximum of flexibility.

According to the Joint Committee on Taxation, there were nearly 2.6 million S corporations in the United States in 1998, up from about 500,000 in 1980. In fact, S corporations now outnumber both C corporations and partnerships. These are predominantly small businesses in the retail and service sectors. Over 92 percent of all S corporations in 1998 reported less than $1 million in assets. Many of these businesses, however, are growing rapidly. These are the kinds of businesses that make up ''Main Street USA.'' In my home state of Utah, over half the corporations have elected Subchapter S treatment.

Subchapter S of the Internal Revenue Code was enacted in 1958 to help remove tax considerations from small business owners' decisions to incorporate. This elective tax treatment has been helpful to millions of small businesses over the years, particularly to those just starting out. Subchapter S provides entrepreneurs the advantage of corporate protection from liability along with the single level of tax enjoyed by partnerships and limited liability companies.

However, Subchapter S as enacted and modified over the years contains a variety of limitations, restrictions, and pitfalls for the unwary. And, even though some very important improvements have been made over the years, including many first introduced in the 1993 S Corporation Reform Act I mentioned earlier, more needs to be done to bring the tax treatment of these important businesses into the 21st Century. This is what our bill today is all about.

A May 2001 study by the Federal Reserve Bank of Kansas City highlights the importance of small businesses to our economy and points out why Congress should do everything possible to make it easier for these entities to get started and grow. The study points out that more than 75 percent of the net new jobs created from 1990 to 1995 occurred in small firms, defined as those with fewer than 500 employees. Moreover, seven of the ten fastest growing industries have been dominated by small businesses in recent years, including the high technology sector, where small firms employ 38 percent of that industry's workers.

In the rural parts of America, the role of small enterprises is even more important. Small businesses account for 90 percent of all rural establishments. In 1998, small companies employed 60 percent of rural workers and provided half of rural payrolls.

What do these small businesses, especially those in small-town America, most need to grow, to thrive, and even to survive? According to the White House Conference on Small Business, two of the most important issue areas for these enterprises is easier access to capital and an easing of the tax burden. The bill we are introducing today addresses both of these vital issues.

Perhaps the biggest challenge facing all kinds of businesses, but especially smaller ones, is attracting adequate capital. Unfortunately, Subchapter S is currently a hindrance, rather than a help, for many corporations facing this challenge. For example, current law allows for only one class of stock for S corporations. Further, S corporations are not allowed currently to issue convertible debt. Nor are they allowed to have a non-resident alien as a shareholder. These restrictions all limit the ability of S corporations in attracting capital, which is very often the lifeblood of growing a business.

Several of the provisions of the Subchapter S Modernization Act are designed to alleviate these restrictions on the ways S corporations can attract capital. This will help make them more competitive with other small enterprises doing business in other forms, such as partnerships or limited liability companies, that do not face such barriers.

Even though electing Subchapter S currently offers much to a small corporation in the way of tax relief, principally because such an election eliminates the corporate level of taxation, S corporations still face some significant tax burdens in the way of potential pitfalls and tax traps for the unwary. Some of these impediments exist in the requirements of elective S corporation status, and others are in the rules governing the day-to-day operations of the

entities. In either case, these provisions stifle growth and impede job creation.

Most of the sections of the bill we introduce today are dedicated to eliminating many of these barriers and making it easier for companies to elect Subchapter S and to operate in this status once the election is made.

The Small Business Job Protection Act of 1996 made many important changes to Subchapter S. One of the most significant was the ability for small banks to elect to be S corporations for the first time. This opened the door for many small community banks to become more competitive with other financial institutions operating in their towns and neighborhoods. So far, more than 1,400 banks in the U.S. have made the election, which represents about 18 percent of the more than 8,000 community banks in the United States.

According to a survey taken earlier this year by the accounting firm Grant Thornton, 3 percent of the remaining community banks plan to elect Subchapter S status in 2001, and another 14 percent are considering the election after this year.

The availability of Subchapter S has been a positive development in increasing profitability and competitiveness of many community banks. However, two problems currently exist. The first is that current law includes several significant hurdles to many small banks in converting to S corporation status. These include restrictions on the types and number of shareholders allowed. The second problem is that some of the operating rules under Subchapter S are unduly inflexible, complex, and harsh.

The bill we introduce today attempts to address many of these challenges by easing the restrictions on the kinds of shareholders who can own S corporation stock and the number of shareholders allowed, as well as relaxing some of the operational rules. These changes are designed to make it significantly easier for community banks to take advantage of the benefits of Subchapter S.

Small businesses are key to the continued growth of our economy and to future job creation. The way I see it, it is the job of government to see that unnecessary restrictions and barriers to the success of these businesses are removed so that these small enterprises can attract capital and function with the maximum of efficiency.

Some would argue that S corporations are a relic of the past and that newer, more flexible forms of doing business, such as limited liability companies, are the business entities of the future. Such a view is a great distortion of reality. S corporations are a large and growing part of our economy. They have served a vital function in our communities for the past 43 years and will continue to do so. Our tax laws should be overhauled to streamline these rules and make them as flexible and easy to work in as possible.

The S Corporation Modernization Act enjoys the support of a broad range of associations and trade groups, many of which have worked with us in crafting the bill. I want to especially acknowledge the assistance of the American Institute of Certified Public Accountants, the Taxation Section of the American Bar Association, the Independent Bankers Association of America, and the Utah Bankers Association. These organizations contributed time and talent in making recommendations for many of the improvements in this bill.

I urge my colleagues to take a close look at this bill, and to support it. Thousands of small and growing businesses in every State will benefit from the improvements included therein. Its enactment will lead to an increased ability of these enterprises to attract capital, expand, and create new jobs.

I ask unanimous consent that a section-by-section description of the bill and a letter of support from a group of organizations that endorse it be printed in the RECORD.

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

SUPPORTERS OF S CORPORATION MODERNIZATION

DEAR SENATORS HATCH, BREAUX, LINCOLN, AND ALLARD: The undersigned organizations, speaking on behalf of many of America's small businesses, want to commend and thank you for sponsoring the S Corporation Modernization Act of 2001. This important legislation will improve capital formation opportunities for small businesses, preserve family-owned businesses, and eliminate unnecessary and unwarranted traps for taxpayers. We want to express our unqualified and enthusiastic support for the entire bill.

In 1958, Congress created S corporations to create an effective alternative business structure for private entrepreneurs. Under Subchapter S, if certain requirements and restrictions are met, a business can choose to operate in corporate form without being penalized with a second level of tax. Today, about 2.6 million S corporations operate in virtually every sector and in every State across America. These S corporations employ many Americans and hold over $1.45 trillion in business assets.

Though many of these businesses have been successful ventures, the qualifications and restrictions contained in the original Subchapter S rules were very limiting and complex. Over time, Congress has removed some of these restrictions and has made incremental changes to update and improve the Subchapter S rules. Congress last acted in 1996 to pass reforms to make S Corporation rules more compatible with modern-day business demands.

Unfortunately today, many of these companies are still burdened by obsolete rules, which stunt expansion, inhibit venture capital attraction, and otherwise impede these businesses from meeting the demands of the challenging global economy. As the domestic economy faces increasing challenges, such restrictions are particularly troubling. For S corporations, which have been a key element in America's economic growth, we can no longer afford to keep such antiquated restrictions in place.

Indeed, the need for any of these restrictions is highly doubtful. Over the last decade, all States (with supporting rulings from the IRS) have now enacted statutes creating limited liability companies (LLCs). LLCs operate like S corporations (with limited liability and subject to a single level of tax), but face none of the burdensome and unnecessary restrictions. As a result, new business enterprises are being formed at an accelerating rate under the LLC regime. The Subchapter S Modernization Act of 2001 will go a long way toward lifting these needless burdens on S corporations.

For these reasons, we agree with you that it is again time to revisit Subchapter S reform, and we look forward to working with you to enact the S Corporation Modernization Act of 2001. Thank you again for your championship of this important initiative.

Sincerely,

U.S. Chamber of Commerce; Employee-Owned S Corporations of America; S Corporation Association; National Cattleman's Beef Association; Associated General Contractors of America; National Association of Realtors; National Multi Housing Council; National Apartment Association; Small Business Survival Committee; Independent Insurance Agents of America; National Association of Manufacturers; Independent Community Bankers of America; American Bankers Association; Utah Bankers Association; Independent Bankers Association of Texas; Independent Bankers of Colorado; Maine Association of Community Banks; Independent Community Bankers of Minnesota; Community Bankers of Wisconsin; Community Bankers Association of Indiana; Community Bankers Association of Kansas; Bluegrass Bankers Association; The Community Bankers Association of Alabama; Independent Community Bankers of New Mexico; Iowa Independent Bankers; California Independent Bankers; Community Bankers Association of Illinois; Montana Independent Bankers; Missouri Independent Bankers Association; Nebraska Independent Community Bankers; Arkansas Community Bankers; Community Bankers Association of Georgia; Michigan Association of Community Bankers; Community Bankers of Louisiana; Independent Bankers Association of New York; Pennsylvania Association of Community Bankers; Independent Community Bankers of South Dakota; Independent Community Bankers of North Dakota; West Virginia Association of Community Bankers; Virginia Association of Community Banks; Community Bankers Association of Oklahoma; Community Bankers Association of New Hampshire.

SUBCHAPTER S MODERNIZATION ACT OF 2001—SECTION-BY-SECTION DESCRIPTION

The Subchapter S Modernization Act of 2001 includes the following provisions to help improve capital formation opportunities for small business, preserve family-owned businesses, and eliminate unnecessary and unwarranted traps for taxpayers.

TITLE I—ELIGIBLE SHAREHOLDERS OF AN S CORPORATION

Section 101. Members of family treated as 1 shareholders

The Act provides for an election to count family members that are not more than six generations removed from a common ancestor as one shareholder for purposes of the number of shareholder limitation (currently 75 shareholders). The election requires the consent of a majority of all shareholders. The provision helps family-owned S corporations plan for the future without fear of termination of their S corporation elections.

Section 102. Nonresident aliens allowed to be shareholders

The Act would permit nonresident aliens to be S corporation shareholders. To assure collection of the appropriate amount of tax, the Act requires the S corporation to withhold and pay a tax on effectively connected income allocable to its nonresident alien shareholders. The provision enhances an S corporation's ability to expand into international markets and expands an S corporation's access to capital.

Section 103. Expansion of bank S corporation eligible shareholders to include IRAs

The Act permits Individual Retirement Accounts (IRAs) to hold stock in a bank that is a S corporation. Additionally, the Act would exempt the sale of bank S corporation stock in an IRA from the prohibited transaction rules. Currently, IRAs own community bank stock, which results in a significant obstacle to banks that want to make an S election. The provision allows an IRA to own bank S stock, and thus, avoids transactions to buy back stock, which drains the bank's resources.

Section 104. Increase in number of eligible shareholders to 150

Currently a corporation is not eligible to be an S corporation if it has more than 75 shareholders. The Act increases the number of permitted shareholders to 150. The provision will enable S corporation to raise more capital and plan for the future without endangering their S corporation status.

TITLE II—QUALIFICATION AND ELIGIBILITY REQUIREMENTS OF S CORPORATIONS

Section 201. Issuance of preferred stock permitted

The Act would permit S corporations to issue qualified preferred stock (''QPS''). QPS generally would be stock that (i) is not entitled to vote, (ii) is limited and preferred as to dividends and does not participate in corporate growth to any significant extent, and (iii) has redemption and liquidation rights which do not exceed the issue price of such stock (except for a reasonable redemption or liquidation premium). Stock would not fail to be treated as QPS merely because it is convertible into other stock. This provision increases access to capital from investors who insist on having a preferential return and facilitates family succession by permitting the older generation of shareholders to relinquish control of the corporation but maintain an equity interest.

Section 202. Safe harbor expanded to include convertible debt

The Act permits S corporations to issue debt that may be converted into stock of the corporation provided that the terms of the debt are substantially the same as the terms that could have been obtained from an unrelated party. The Act also expands the current law safe-harbor debt provision to permit nonresident alien individuals as creditors. The provision facilitates the raising of investment capital.

Section 203. Repeal of excessive passive investment income as a termination event

The Act would repeal the rule that an S corporation would lose its S corporation status if it has excess passive income for three consecutive years. A corporate-level ''sting'' (or double) tax would still apply, as modified in Section 204 below, to excess passive income.

Section 204. Modifications to passive income rules

The Act would increase the threshold for taxing excess passive income from 25 percent to 60 percent (consistent with a Joint Tax Committee recommendation on simplification measures). In addition, the Act removes gains from the sales or exchanges of stock or securities from the definition of passive investment income for purposes of the sting tax.

Section 205. Stock basis adjustment for certain charitable contributions

Current rules discourage charitable gifts of appreciated property by S corporations. The Act would remedy this problem by providing for an increase in the basis of shareholders' stock in an amount equal to excess of the value of the contributed property over the basis of the property contributed. This provision conforms the S corporation rules to those applicable to charitable contributions by partnerships.

TITLE III—TREATMENT OF S CORPORATION SHAREHOLDERS

Section 301. Treatment of losses to shareholders

In the case of a liquidation of an S corporation, current law can result in double taxation because of a mismatch of ordinary income (realized at the corporate level and passed through to the shareholder) and a capital loss (recognized at the shareholder level on the liquidating distribution). Although careful tax planning can avoid this result, many S corporations do not have the benefit of sophisticated tax advice. The Act eliminates this potential trap by providing that any portion of any loss recognized by an S corporation shareholder on amounts received by the shareholder in a distribution in complete liquidation of the S corporation would be treated as an ordinary loss to the extent of the shareholder's ''ordinary income basis'' in the S corporation stock.

Section 302. Transfer of suspended losses incident to divorce

The Act allows for the transfer of a pro rata portion of the suspended losses when S corporation stock is transferred, in whole or in part, incident to divorce. Under current IRS regulations, any suspended losses or deductions are personal to the shareholder and cannot, in any manner, be transferred to another person. Accordingly, if a shareholder transfers all of his or her stock in an S corporation to his or her former spouse as a result of divorce, any suspended losses or deductions with respect to such stock are permanently disallowed. This result is inequitable and unduly harsh, and needlessly complicates property settlement negotiations.

Section 303. Use of passive activity loss and at-risk amount by qualified subchapter S trust income beneficiaries

The Act clarifies that, if a QSST transfers its entire interest in S corporation stock to an unrelated party in a fully taxable transaction, the income beneficiary's suspended losses from S corporation activity under the passive activity loss rules would be freed up for use by the income beneficiary. The Act further provides that the income beneficiary's at-risk amount with respect to S activity would be increased by the amount of gain recognized by the QSST on a disposition of S stock. These provisions clarify a troublesome area under current law, and so, eliminate traps for the unwary taxpayer.

Section 304. Deductibility of interest expense incurred by an electing small business trust to acquire S corporation stock

The Act provides that interest expense incurred by an ESBT to acquire S corporation stock is deductible by the S portion of the trust. Recently issued proposed regulations would provide that interest expense incurred by an ESBT to acquire stock in an S corporation is allocable to the S portion of the trust, but is not deductible. This result is contrary to the treatment of other taxpayers, who are entitled to deduct interest incurred to acquire an interest in a pass through entity. Further, Congress never intended to place ESBTs at a disadvantage relative to other taxpayers.

Section 305. Disregard of unexercised powers of appointments in determining potential current beneficiaries of ESBT

The Act revises the definition of a ''potential current beneficiary'' in the context of the ESBT eligibility rules by providing that powers of appointment should only be evaluated when the power is actually exercised. Current law provides that postponed or non-exercisable powers will not interfere with the making of an ESBT election. However, proposed regulations provide that, once such powers become exercisable, the S election will automatically terminate if the power could potentially be exercised in favor of an ineligible individual—whether it was actually exercised in favor of the ineligible individual or not. The application of this rule would prevent many family trusts from qualifying as ESBTs.

The Act expands the existing method to cure a potential current beneficiary problem. Under the Act, an ESBT will have a period of up to one year (currently 60 days) to either dispose of all of its S stock or otherwise cause the ineligible potential current beneficiary's position in the trust to be eliminated without causing the ESBT election or the corporation's S election to fail.

Section 306. Clarification of electing small business trust distribution rules

The Act clarifies that, with regard to ESBT distributions, separate share treatment applies to the S and non-S portions under section 641(c).

Section 307. Allowance of charitable contributions deduction for electing small business trusts

The Act permits a deduction for charitable contributions made by an ESBT, while taxing the charity on its share of the S corporation's income as unrelated business taxable income. Current law discourages charitable contributions by S corporation shareholders by preventing an ESBT from claiming a charitable contribution deduction. The Act encourages philanthropy by permitting a charitable deduction while at the same time effectively taxing the S corporation's income in the hands of the recipient charity to the extent of the deduction.

Section 308. Shareholder basis not increased by income derived from cancellation of S corporation's debt

The Act provides that cancellation of indebtedness (COD) income excluded from the gross income of an S corporation, i.e., due to the S corporation's insolvency, does not increase shareholder's basis in S corporation stock. The Act changes the result reached in the recent U.S. Supreme Court decision in Gitlitz v. Comm'r (2000).

Section 309. Back-to-back loans as indebtedness.

The Act clarifies that a back-to-back loan (a loan made to an S corporation shareholder who in turn loans those funds to his S corporation) constitutes ''indebtedness of the S corporation to the shareholder'' so as to increase such shareholder's basis in the S corporation. The provision would help many shareholders avoid inequitable pitfalls encountered where a loan to an S corporation is not properly structured, even though the shareholder has clearly made an economic outlay with respect to his investment in the S corporation for which a basis increase is appropriate.

TITLE IV—EXPANSION OF S CORPORATION ELIGIBILITY FOR BANKS

Section 401. Exclusion of investment securities income from passive income test for bank S corporations

The Act clarifies that interest and dividends on investments maintained by a bank for liquidity and safety and soundness purposes shall not be ''passive'' income. By treating all bank income as earned from the active and regular conduct of a banking business, banks will no longer face the conundrum of evaluating investment decisions based on tax considerations rather than on more important safety and economic soundness issues.

Section 402. Treatment of qualifying director shares

The Act clarifies that qualifying director shares of bank are not to be treated as a second class of stock. Instead, the qualifying director shares are treated as a liability of the bank and no increase or loss from the S corporation will be allocated to these qualifying director shares. The provision clarifies the law and removes a significant obstacle unique among banks contemplating a S corporation election.

Section 403. Bad debt charge offs in years after election year treated as items of built-in loss

The Act permits bank S corporations to recapture up to 100 percent of their bad debt reserves on their first S corporation tax return and/or their last C corporation income tax return prior to the effective date of the S election. Banks that convert to S corporation status must change from the reserve method of accounting to the specific charge off method. The resulting recapture income is treated as built-in gain subject to tax at both the shareholder and the corporate level. The Act allows banks to accelerate the recapture of bad debt reserve to their last C corporation tax year. The corporate level tax would still be paid on the recapture income, but the recapture would no longer trigger a tax for the bank's shareholders.

TITLE V—QUALIFIED SUBCHAPTER S SUBSIDIARIES

Section 501. Relief from inadvertently invalid qualified subchapter S subsidiary elections and terminations

The Act provides statutory authority for the Secretary to grant relief for invalid QSub elections, and terminations of QSub status, if the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent. This would allow the IRS to provide relief in appropriate cases, just as it currently does in the case of invalid or terminated S corporation elections.

Section 502. Information returns for qualified subchapter S subsidiaries

The Act would help clarify that a Qualified Subchapter S Subsidiary (QSSS) can provide information returns under their own tax ID number to help avoid confusion by employers, depositors, and other parties.

Section 503. Treatment of the sale of interest in a qualified subchapter S subsidiary

The Act treats the disposition of QSub stock as a sale of the undivided interest in the QSub's assets based on the underlying percentage of stock transferred followed by a deemed contribution by the S corporation and the acquiring party in a nontaxable transaction. Under current law, an S corporation may be required to recognize 100 percent of the gain inherent in a QSub's assets if it sells as little as 21 percent of the QSub's stock. IRS regulations suggest this result can be avoided by merging the QSub into a single member LLC prior to the sale, then selling an interest in the LLC (as opposed to stock in the QSub). The Act achieves this result without any unnecessary merger and thus removes a trap for the unwary.

Section 504. Exception to application of step transaction doctrine for restructuring in connection with making qualified subchapter S subsidiary elections

The Act provides that the step transaction doctrine does not apply to the deemed liquidation resulting from QSub elections. Application of the step transaction doctrine, in the context of making a QSub election, introduces complexity and uncertainty in what should be a simple matter. The doctrine requires knowledge of decades of jurisprudence and administrative interpretations, and poses an unnecessary trap for the unwary.

TITLE VI—ADDITIONAL PROVISIONS

Section 601. Elimination of all earnings and profits attributable to pre-1983 years

The Small Business Job Protection Act of 1996 eliminated certain pre-1983 earnings and profits of S corporations that had S corporation status for their first tax year beginning after December 31, 1996. The provision should apply to all corporations © and S) with pre-1983 S earnings and profits without regard to when they elect S status. There seems to be no policy reason why the elimination was restricted to corporations with an S election in effect for their first taxable year beginning after December 31, 1996.

Section 602. No gain or loss on deferred intercompany transactions because of conversion to S corporation or qualified S corporation subsidiary

The Act makes clear that any gain or income from an intercompany transaction is not taxed at the time of the S corporation or QSub elections.

Section 603. Treatment of charitable contribution and foreign tax credit carryforwards

The Act provides that charitable contribution carryforwards and other carryforwards arising from a taxable year for which the corporation was a C corporation shall be allowed as a deduction against the net recognized built-in gain of the corporation for the taxable year. This provision is consistent with the legislative history of the 1986 Act.

Section 604. Distribution by an S corporation to an employee stock ownership plan

An ESOP will usually borrow from the sponsoring corporation to fund its acquisition of employer securities. In the case of a C corporation, the tax code provides that an ESOP will not be treated as engaging in a ''prohibited transaction'' if it uses any ''dividend'' on employer securities purchased with loan proceeds to make payments on the loan regardless of whether such employer securities have been pledged as collateral to secure the loan. The policy facilitates the payment of ESOP loans and thereby promotes employee ownership. Because S corporation distributions are technically not ''dividends'', the Act provides that S corporation distributions are treated as dividends. This clarification is necessary to ensure that the policy of facilitating the payment of ESOP loans applies equally to S corporation and C corporation ESOPs.

Mr. BREAUX. Mr. President, I am pleased to introduce with my colleagues, Senators HATCH, LINCOLN, and THOMPSON, the Subchapter S Modernization Act of 2001. This bill is very important to the 2.6 million S Corporations in this country and to the thousands of S Corporations in my own State of Louisiana.

The Small Business Administration estimates that small businesses account for seventy-five percent of the employment growth in the United Sates and are the major creators of new jobs. Small businesses employ 52 percent of all private workers and provide 51 percent of the output in the private sector. They have been, in large part, the engine that fuels our economy.

S Corporations make up a large number of the Nation's small businesses. In fact, the Joint Committee on Taxation estimates that over ninety-two percent of all S Corporations report less than $1 million in assets. They operate in every sector of the economy, employ millions of Americans and hold over $1.45 trillion in business assets. As such, anything we can do the help S Corporations will help the economy. The Subchapter S Modernization Act does this by encouraging S Corporations to expand, allowing S Corporations to attract more capital, and removing tax traps for the unwary.

The legislation expands the list of eligible shareholders to non-resident aliens and some Individual Retirement Accounts held by banks. The bill also permits families to be treated as one shareholder, which not only expands the size of S corporations, but also helps keep family businesses together. In additional, the bill increases the number of permitted shareholders to 150 from the current law limit of 75.

All of these important provisions also give S Corporations greater flexibility in attracting new sources of investment and capital. By permitting S Corporations to issue preferred stock, the Subchapter S Modernization Act increases access to capital from investors, such as venture capitalists, who insist on a preferential return. This provision also facilitates family ownership by allowing older generations to relinquish control of the corporation to later generations while maintaining an equity interest in the company.

Lastly, the bill removes many complex tax traps and clarifies the law regarding many provisions enacted in 1996. Per the Joint Committee on Taxation's recommendation in its simplification report, our bill repeals the excessive passive investment income rule as a termination event for S corporations and increases the threshold for taxing excess passive investment income from 25 percent to 60 percent. Capital gains are excluded from the definition of passive income. The rules for taxing Electing Small Business Trusts and managing Qualified Subchapter S Subsidiaries are simplified in many ways, thus reducing the possibility that companies will inadvertently terminate their S corporation election.

I urge my colleagues to support this bill.

Mrs. LINCOLN. Mr. President, today my colleagues and I are introducing legislation which is critically important to millions of small and family-owned businesses across this Nation. The Subchapter S Modernization Act of

2001 is the culmination of months of hard work by Senators HATCH, BREAUX and me. We have worked to bring new ideas together with known and necessary S corporation reforms into a comprehensive piece of legislation which will help improve capital formation opportunities for small businesses, will help preserve family-owned businesses, and will eliminate unnecessary and unwarranted traps for well-intentioned taxpayers.

Small businesses are the backbone of commerce in my home State of Arkansas. There are between sixteen and seventeen thousand small businesses formed as S corporations in Arkansas and over 2.58 million nationwide. According to the Joint Committee on Taxation, over ninety-two percent of these companies have assets totaling less than one million dollars and a majority are in the retail trade and service sectors. These are truly your mom and pop stores and businesses, and I am proud to be working on their behalf.

This bill represents not just the hard work of the principal sponsors but also of several of my colleagues past and present. I would like, in the short time that I have, to acknowledge the past efforts of former Senators Pryor and Danforth, who represented small business S corporations so well and who helped develop many of the provisions we have included in the Subchapter S Modernization Act of 2001. I would also like to recognize Senator ALLARD, who has joined in sponsoring this legislation, and who has been a lead proponent of S corporation reforms which would allow small financial institutions to benefit from Subchapter S. And, of course, I would like to thank Senators THOMPSON, GRAMM, and THOMAS who have joined Senator HATCH, BREAUX, and me as original sponsors of what I believe is very good legislation for hard working men and women across this Nation.

By Mr. BENNETT:

S. 1205. A bill to adjust the boundaries of the Mount Nebo Wilderness Area, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BENNETT. Mr. President, I rise today to introduce the Mount Nebo Wilderness Boundary Adjustment Act. This legislation is intended to correct several small boundary issues that have frustrated Juab County and its residents' attempts to maintain their sources of water.

Mount Nebo, located in Juab County, UT, is an 11,929 foot peak in the Wasatch Mountains. The surrounding area is home to bighorn sheep, spectacular views of the Great Basin, primitive recreation, and the source of water for many who live and farm around the towns of Nephi and Mona, UT. Due to the wilderness characteristics of the lands including and surrounding Mount Nebo, Congress designated the 28,000 acre Mount Nebo Wilderness as part of the Utah Wilderness Act of 1984. While the United States Forest Service was drawing the maps of the newly designated Mount Nebo Wilderness, nine areas were improperly included in the wilderness boundaries that contained springs, pipelines, and other water structures which provide water to the residents of Juab County.

Water in the west is truly the lifeblood of the region. Without water, our towns and cities, both large and small, would dry up and blow away. Equally important is the ability to maintain springs, pipelines, and other structures that allow water to be put to beneficial use. The water that flows from the Mount Nebo Wilderness provides irrigation for Juab County farmers, is part of the Nephi City culinary water system, and provides water directly to a number of residents who live in close proximity to the wilderness. It should be noted that the water rights for some of these springs were granted as early as 1855 and have been providing water ever since. These pipelines and water structures are old and need constant maintenance. Wilderness prohibitions do not provide the flexibility needed by the county to maintain its water sources.

This legislation would redraw the boundaries of the wilderness area to allow motorized access for the county and other affected users in order to maintain existing water structures. Because this boundary adjustment will result in the removal of lands from the Mount Nebo Wilderness, the county has identified existing USFS land adjacent to the wilderness to serve as replacement acreage which will result in a net gain of 14 acres of wilderness. I believe this is legislation that benefits all parties. The Forest Service will have a wilderness area with fewer access issues and the counties will be able to maintain their critical water sources.

I am offering a simple piece of legislation that will solve a longstanding problem for one of Utah's counties. I would greatly appreciate Senator BINGAMAN's help in moving this bill through his committee as soon as possible.

By Mr. VOINOVICH (for himself, Mr. INHOFE, Mr. FRIST, and Mr. MCCONNELL):

S. 1206. A bill to reauthorize the Appalachian Regional Development Act of 1965, and for other purposes; to the Committee on Environment and Public Works.

Mr. VOINOVICH. Mr. President, I rise today, joined by my colleagues, Senator BILL FRIST, Senator JAMES INHOFE, and Senator MITCH MCCONNELL, to introduce the Appalachian Regional Development Act Amendments of 2001. Once enacted, our bill will reauthorize the Appalachian Regional Commission, ARC and create a specific initiative to help bridge the ''digital divide'' between Appalachia and the rest of our nation.

One of the honors that I have as a United States Senator is to serve as a member of the Subcommittee on Transportation and Infrastructure of the Environment and Public Works Committee. One of the reasons I am pleased to be on this subcommittee is the fact that it has oversight jurisdiction over the ARC. As a Senator who represents one of the thirteen States within the ARC, my membership on this subcommittee gives me a great opportunity to focus on issues of direct importance to this region of our Nation.

In 1965, Congress established the ARC to help bring the Appalachian region of our Nation into the mainstream of the American economy. This region includes 406 counties in 13 States, including Ohio, and has a population of about 22 million people.

The ARC is composed of the governors of the 13 Appalachian states and a Federal representative who is appointed by the President. The Federal representative serves as the Federal Co-Chairman with the governors electing one of their number to serve as the States' Co-Chairman. As a unique partnership between the Federal Government and these 13 States, the ARC runs programs in a wide range of activities, including highway construction, education and training, health care, housing, enterprise development, export promotion, telecommunications and technology, and water and sewer infrastructure. All of these activities help achieve a goal of a viable and self-sustaining regional economy.

ARC's programs fall into two broad categories. The first is a 3,025-mile corridor highway system to break the regional isolation created by mountainous terrain, thereby linking the Appalachian communities to national and international markets. Roughly 80 percent of the Appalachian Development Highway System is either completed or under construction.

The second is an area development program to create a basis for sustained local economic growth. Ranging from water and sewer infrastructure to worker training to business financing and community leadership development, these projects provide Appalachian communities with the critical building blocks for future growth and development. The sweeping range of options allows governors and local officials to tailor the federal assistance to their individual needs.

The ARC currently ranks all of the 406 counties in the Appalachian region, including the 29 counties in Ohio that are covered by the ARC, according to four categories: distressed, transitional, competitive, and attainment. These categories determine the extent for potential ARC support for specific projects. They also help ensure that support goes to the areas with the greatest need. Distressed countries are the most ''at-risk,'' with unemployment at least 150 percent of the national average, a poverty rate of at least 150 percent of the national average, and a per capita market income of

no more than two-thirds of the national average. Generally, this means that a distressed county has an unemployment rate of greater than 7.4 percent, a poverty rate of at least 19.7 percent, and a per capita income of less than $14,164. In fiscal year 2001, 114 counties, or roughly one-fourth of the counties in the ARC, have been classified as distressed. Ten of these counties are in Ohio.

In order to undertake a wide variety of projects to help improve the region's economy, the ARC uses the Federal dollars it receives to leverage additional State and local funding. This successful partnership enables communities in Ohio and throughout Appalachia to have programs which help them to respond to a variety of grassroots needs. In Ohio, ARC funds support projects in five goal areas: skills and knowledge, physical infrastructure, community capacity, dynamic local economies, and health care. In rough figures, every ARC dollar Ohio received in fiscal year 2000 leveraged approximately $2.60 in additional federal, state and local funds. In fiscal year 2000, ARC provided approximately $4.7 million to fund non-highway projects in Ohio.

As my colleagues are aware, the current authorization of the ARC will soon expire. In anticipation of the need for reauthorization legislation, I have been working since last year on putting together a bill that focuses on the issues that the ARC needs to address in the early part of the 21st century. One of the more productive activities I did in preparation for reauthorization was to conduct a Transportation and Infrastructure Subcommittee field hearing on the ARC at the Opera House in Nelsonville, OH, in August 2000. Following the hearing, I had the opportunity to tour the region to witness first-hand the beneficial impact of ARC-funded projects in the community.

My objectives for both the field hearing and the tour were to obtain an overview of the importance of ARC programs to Appalachia, to closely examine the progress that has been made with respect to the implementation of these programs, and to identify the challenges that still must be overcome for the region to fully participate in our Nation's economy. Along with the poignant visual impact of my tour, the testimony I received from the impressive array of witnesses at this hearing provided valuable input that has been very helpful in drafting this legislation.

Our legislation, the Appalachian Regional Development Act Amendments of 2001, would allow the ARC to continue its important work for the people of Appalachia. One of the most innovative aspects of our bill would establish a Telecommunications and Technology Initiative that would focus on providing training in new technologies; assisting local governments, businesses, schools, and hospitals in developing e-commerce networks; and creating more jobs and business opportunities though access to telecommunications infrastructure.

E-commerce is one of the largest factors driving our economy and any business that wants to successfully compete in today's technological revolution must have access to the Internet. By establishing a specific initiative under the ARC to help the people of Appalachia connect with today's technology, we are also helping Appalachian communities achieve the same quality of life that is available to the rest of the Nation.

The bill also would increase the percentage of ARC funds required to be spent on activities or projects that benefit distressed counties or area. Right now, the requirement is set at 30 percent, and under our bill, it would increase to 50 percent. An analysis of fiscal year 1999 and 2000 shows that the ARC already spends about half of its project funding on grants to Appalachia's poorest counties, therefore this provision simply codifies current practice.

In addition, the bill would establish the ARC as the lead Federal agency in coordinating the economic development programs carried out by Federal agencies in the region through the establishment of an Interagency Coordinating Council on Appalachia. The Council would be established by the President and its membership composed of representatives of the Federal agencies that carry out economic development programs in the region.

The bill also would change the non-federal match requirement for administrative grants to the region's Local Development Districts from 50 percent to 25 percent for those Local Development Districts which include all or part of at least one distressed county. Local Development Districts are multi-county economic development planning agencies that work with local governments, non-profit organizations, and the private sector to determine local economic development needs and provide professional guidance for local economic development strategies. There are 71 Local Development Districts working with ARC in Appalachia.

Additionally, the bill would authorize annual appropriations for the ARC for five years, beginning with $83 million in fiscal year 2002 and increasing by $3 million in each of fiscal years 2003 through 2006. Of the authorized amount, $10 million would be earmarked each fiscal year for the Telecommunications and Technology Initiative.

For more than 35 years, the ARC has had a dramatic impact on the lives of the men and women who live in the Appalachian region of our Nation, helping to cut the region's poverty rate in half, lowering the infant mortality rate by two-thirds, doubling the percentage of high school graduates to where it is now slightly above the national average, slowing the region's out-migration, reducing unemployment rates, and narrowing the per capita income gap between Appalachia and the rest of the United States.

Despite its successes to date, the ARC has not completed its mission in Appalachia. I know that there is a vast reserve of potential in Appalachia that is just waiting to be tapped, and I wholeheartedly agree with one of ARC's guiding principles that the most valuable investment that can be made in a region is in its people.

The ARC is the type of Federal initiative that we should be encouraging. I urge my colleagues to join me in cosponsoring this legislation, and I urge its speedy consideration by the Senate.

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. 1206

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 ''Appalachian Regional Development Act Amendments of 2001''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to reauthorize the Appalachian Regional Development Act of 1965 (40 U.S.C. App.); and

(2) to ensure that the people and businesses of the Appalachian region have the knowledge, skills, and access to telecommunication and technology services necessary to compete in the knowledge-based economy of the United States.

SEC. 3. FUNCTIONS OF THE COMMISSION.

Section 102(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in paragraph (5), by inserting '', and support,'' after ''formation of'';

(2) in paragraph (7), by striking ''and'' at the end;

(3) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(9) seek to coordinate the economic development activities of, and the use of economic development resources by, Federal agencies in the region.''.

SEC. 4. INTERAGENCY COORDINATING COUNCIL ON APPALACHIA.

Section 104 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by striking ''The President'' and inserting ''(a) IN GENERAL.—The President''; and

(2) by adding at the end the following:

''(b) INTERAGENCY COORDINATING COUNCIL ON APPALACHIA.—

''(1) ESTABLISHMENT.—In carrying out subsection (a), the President shall establish an interagency council to be known as the 'Interagency Coordinating Council on Appalachia'.

''(2) MEMBERSHIP.—The Council shall be composed of—

''(A) the Federal Cochairman, who shall serve as Chairperson of the Council; and

''(B) representatives of Federal agencies that carry out economic development programs in the region.''.

SEC. 5. TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.

Title II of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by inserting after section 202 the following:

''SEC. 203. TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.

''(a) IN GENERAL.—The Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide funds to persons or entities in the region for projects—

''(1) to increase affordable access to advanced telecommunications, entrepreneurship, and management technologies or applications in the region;

''(2) to provide education and training in the use of telecommunications and technology;

''(3) to develop programs to increase the readiness of industry groups and businesses in the region to engage in electronic commerce; or

''(4) to support entrepreneurial opportunities for businesses in the information technology sector.

''(b) SOURCE OF FUNDING.—

''(1) IN GENERAL.—Assistance under this section may be provided—

''(A) exclusively from amounts made available to carry out this section; or

''(B) from amounts made available to carry out this section in combination with amounts made available under any other Federal program or from any other source.

''(2) FEDERAL SHARE REQUIREMENTS SPECIFIED IN OTHER LAWS.—Notwithstanding any provision of law limiting the Federal share under any other Federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Commission determines to be appropriate.

''(c) COST SHARING FOR GRANTS.—Not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226) of the costs of any activity eligible for a grant under this section may be provided from funds appropriated to carry out this section.''.

SEC. 6. PROGRAM DEVELOPMENT CRITERIA.

(a) ELIMINATION OF GROWTH CENTER CRITERIA.—Section 224(a)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking ''in an area determined by the State have a significant potential for growth or''.

(b) ASSISTANCE TO DISTRESSED COUNTIES AND AREAS.—Section 224 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by adding at the end the following:

''(d) ASSISTANCE TO DISTRESSED COUNTIES AND AREAS.—For each fiscal year, not less than 50 percent of the amount of grant expenditures approved by the Commission shall support activities or projects that benefit severely and persistently distressed counties and areas.''.

SEC. 7. GRANTS FOR ADMINISTRATIVE EXPENSES OF LOCAL DEVELOPMENT DISTRICTS.

Section 302(a)(1)(A)(i) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by inserting ''(or, at the discretion of the Commission, 75 percent of such expenses in the case of a local development district that has a charter or authority that includes the economic development of a county or part of a county for which a distressed county designation is in effect under section 226)'' after ''such expenses''.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 401 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended to read as follows:

''SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—In addition to amounts authorized by section 201 and other amounts made available for the Appalachian development highway system program, there are authorized to be appropriated to the Commission to carry out this Act—

''(1) $83,000,000 for fiscal year 2002;

''(2) $86,000,000 for fiscal year 2003;

''(3) $89,000,000 for fiscal year 2004;

''(4) $92,000,000 for fiscal year 2005; and

''(5) $95,000,000 for fiscal year 2006.

''(b) TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.—Of the amounts made available under subsection (a), $10,000,000 for each fiscal year shall be made available to carry out section 203.

''(c) AVAILABILITY.—Sums made available under subsection (a) shall remain available until expended.''.

SEC. 9. TERMINATION.

Section 405 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking ''2001'' and inserting ''2006''.

SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 101(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the third sentence by striking ''implementing investment program'' and inserting ''strategy statement''.

(b) Section 106(7) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking ''expiring no later than September 30, 2001''.

(c) Sections 202, 214, and 302(a)(1)(C) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) are amended by striking ''grant-in-aid programs'' each place it appears and inserting ''grant programs''.

(d) Section 202(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the second sentence by striking ''title VI of the Public Health Service Act (42 U.S.C. 291–291o), the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (77 Stat. 282),'' and inserting ''title VI of the Public Health Service Act (42 U.S.C. 291 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.),''.

(e) Section 207(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking ''section 221 of the National Housing Act, section 8 of the United States Housing Act of 1937, section 515 of the Housing Act of 1949,'' and inserting ''section 221 of the National Housing Act (12 U.S.C. 1715*l*), section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), section 515 of the Housing Act of 1949 (42 U.S.C. 1485),''.

(f) Section 214 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the section heading, by striking ''GRANT-IN-AID'' and inserting ''GRANT'';

(2) in subsection (a)—

(A) by striking ''grant-in-aid Act'' each place it appears and inserting ''Act'';

(B) in the first sentence, by striking ''grant-in-aid Acts'' and inserting ''Acts'';

(C) by striking ''grant-in-aid program'' each place it appears and inserting ''grant program''; and

(D) by striking the third sentence;

(3) by striking subsection (c) and inserting the following:

''(c) DEFINITION OF FEDERAL GRANT PROGRAM.—

''(1) IN GENERAL.—In this section, the term 'Federal grant program' means any Federal grant program authorized by this Act or any other Act that provides assistance for—

''(A) the acquisition or development of land;

''(B) the construction or equipment of facilities; or

''(C) any other community or economic development or economic adjustment activity.

''(2) INCLUSIONS.—In this section, the term 'Federal grant program' includes a Federal grant program such as a Federal grant program authorized by—

''(A) the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.);

''(B) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.);

''(C) the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.);

''(D) the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.);

''(E) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

''(F) title VI of the Public Health Service Act (42 U.S.C. 291 et seq.);

''(G) sections 201 and 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141, 3149);

''(H) title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); or

''(I) part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.).

''(3) EXCLUSIONS.—In this section, the term 'Federal grant program' does not include—

''(A) the program for construction of the Appalachian development highway system authorized by section 201;

''(B) any program relating to highway or road construction authorized by title 23, United States Code; or

''(C) any other program under this Act or any other Act to the extent that a form of financial assistance other than a grant is authorized.''; and

(4) by striking subsection (d).

(g) Section 224(a)(2) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking ''relative per capita income'' and inserting ''per capita market income''.

(h) Section 225 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)—

(1) in subsection (a)(3), by striking ''development program'' and inserting ''development strategies''; and

(2) in subsection (c)(2), by striking ''development programs'' and inserting ''development strategies''.

(i) Section 303 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the section heading, by striking ''INVESTMENT PROGRAMS'' and inserting ''STRATEGY STATEMENTS'';

(2) in the first sentence, by striking ''implementing investments programs'' and inserting ''strategy statements''; and

(3) by striking ''implementing investment program'' each place it appears and inserting ''strategy statement''.

(j) Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the next-to-last undesignated paragraph, by striking ''Committee on Public Works and Transportation'' and inserting ''Committee on Transportation and Infrastructure''; and

(2) by striking the last undesignated paragraph.

By Mr. DOMENICI:

S. 1207. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Albuquerque, New Mexico, metropolitan area; to the Committee on Veterans' Affairs.

Mr. DOMENICI. Mr. President, it is with great pleasure and honor that I

rise today to introduce a bill to create a National Veterans Cemetery in Albuquerque, NM.

The men and women who have served in the United States Armed Forces have made immeasurable sacrifices to this great Nation. Veterans have secured liberty for citizens of the United States since time and immemorial. Their sacrifices and those of their families must not be forgotten.

These veterans deserve to be buried in a National Cemetery with their fellow comrades. However, the Santa Fe National Cemetery, which serves the Northern two thirds of New Mexico, is rapidly approaching maximum capacity.

Some years ago, the Senate passed my legislation to extend the useful life of the Santa Fe National Cemetery by authorizing the use of flat grave markers. However, that legislation was a temporary measure, rather than a solution since the Cemetery will lack sufficient plot space by 2008. The solution that I am seeking is to designate a new National Cemetery in Albuquerque, NM.

I believe all New Mexicans are proud of the Santa Fe National Cemetery. Since its humble beginnings, it has grown from 39/100 of an acre to its current 77 acres.

The cemetery first opened in 1868 and was designated a National Cemetery in April of 1875. Service men and women from all of our Nation's wars hold an honored spot within its hallowed ground.

With that proud history in mind, we must find another suitable site to serve as the last resting place for New Mexico's veterans.

I would like to thank Congresswoman HEATHER WILSON for bringing this important issue to my attention, and for introducing companion legislation earlier this year.

The need to begin planning soon cannot be overstated. Half of New Mexico's 180,000 veterans live in the Albuquerque/Santa Fe area. Interment rates continue to rise with the passing of our older veterans and will peak in 2008.

Therefore, I am introducing legislation today to create a National Veterans Cemetery in Albuquerque, NM.

The bill simply directs the Secretary of Veterans Affairs to establish a National Cemetery in the Albuquerque metropolitan area and to submit a report to Congress setting forth a schedule for establishing the Cemetery.

In conclusion I would 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. 1207

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF NATIONAL CEMETERY.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall establish, in accordance with chapter 24 of title 38, United States Code, a national cemetery in the Albuquerque, New Mexico, metropolitan area to serve the needs of veterans and their families.

(b) REPORT.—As soon as practicable after the date of the enactment of this Act, the Secretary shall submit to Congress a report that sets forth a schedule for the establishment of the national cemetery under subsection (a) and an estimate of the costs associated with the establishment of the national cemetery.

By Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. LIEBERMAN, Mr. DURBIN, Ms. LANDRIEU, Mrs. CLINTON, and Mr. SCHUMER):

S. 1208. A bill to combat the trafficking, distribution, and abuse of Ecstasy (and other club drugs) in the United States; to the Committee on the Judiciary.

Mr. GRAHAM. Mr. President, I rise today, along with my colleagues, Senators GRASSLEY, LIEBERMAN, DURBIN, LANDRIEU, and CLINTON, to introduce the Ecstasy Prevention Act of 2001; legislation to combat the recent rise in trafficking, distribution and violence associated with MDMA, a club drug commonly known as Ecstasy. Ecstasy has become the ''feel good'' drug of choice among many of our young people, and drug pushers are marketing it as a ''friendly'' drug to mostly teenagers and young adults.

Last year I sponsored and Congress passed legislation which drew attention to the dangers of Ecstasy and strengthened the penalties attached to trafficking in Ecstasy and other ''club drugs.'' Since then, Ecstasy use and trafficking continue to grow at epidemic proportions, and there are many accounts of deaths and permanent damage to the health of those who use Ecstasy. The U.S. Customs Service continues to report large increases in Ecstasy seizures, over 9 million pills were seized by Customs last year, a dramatic rise from the 400,000 seized in 1997. According to the United States Customs Service, in Fiscal Year 2001, two individual seizures affected by Customs Inspectors in Miami, FL totaled approximately 422,000 ecstasy tablets. These two seizures alone exceeded the entire amount of ecstasy seized by the Customs Service in all of Fiscal Year 1997. The Deputy Director of Office of National Drug Control Policy, ONDCP, Dr. Donald Vereen, Jr., M.D., M.P.H., recently said that ''Ecstasy is one of the most problematic drugs that has emerged in recent years.'' The National Drug Intelligence Center, in its most recent publication ''Threat Assessment 2001,'' has noted that ''no drug in the Other Dangerous Drugs Category represents a more immediate threat than MDMA'' or Ecstasy.

The Office of National Drug Control Policy's Year 2000 Annual Report on the National Drug Control Strategy clearly states that the use of Ecstasy is on the rise in the United States, particularly among teenagers and young professionals. My State of Florida has been particularly hard hit by this plague, but so have the States of many of my colleagues here. Ecstasy is customarily sold and consumed at ''raves,'' which are semi-clandestine, all-night parties and concerts. Numerous data also reflect the increasing availability of ecstasy in metropolitan centers and suburban communities. In the most recent release of Pulse Check: Trends in Drug Abuse Mid-year 2000, which featured MDMA and club drugs, it was reported that the sale and use of club drugs have expanded from raves and nightclubs to high schools, streets, neighborhoods and other open venues.

Not only has the use of Ecstasy exploded, more than doubling among 12th graders in the last two years, but it has also spread well beyond its origin as a party drug for affluent white suburban teenagers to virtually every ethnic and class group, and from big cities like New York and Los Angeles to rural Vermont and South Dakota.

And now, this year, law enforcement officials say they are seeing another worrisome development, increasingly violent turf wars among Ecstasy dealers, and some of those dealers are our young people. Homicides linked to Ecstasy dealing have occurred in recent months in Norfolk, VA; Elgin, IL, near Chicago; and in Valley Stream, NY. Police suspect Ecstasy in other murders in the suburbs, of Washington, DC, and Los Angeles, and violence is being linked to Israeli drug dealers in Los Angeles and to organized crime in New York City. Ecstasy is also becoming widely available on the Internet. Last year, a man arrested in Orlando, FL, had been selling Ecstasy to customers in New York.

The lucrative nature of Ecstasy encourages its importation. Production costs are as low as two to twenty-five cents per dose while retail prices in the U.S. range from twenty dollars to $45 per dose. Manufactured mostly in Europe, in nations such as the Netherlands, Belgium, and Spain where pill presses are not controlled as they are in the U.S., ecstasy has erased all of the old routes law enforcement has mapped out for the smuggling of traditional drugs. And now the trade is being promoted by organized criminal elements, both from abroad and here. Although Israeli and Russian groups dominate MDMA smuggling, the involvement of domestic groups appears to be increasing. Criminal groups based in Chicago, Phoenix, Texas, and Florida have reportedly secured their own sources of supply in Europe.

Young Americans are being lulled into a belief that ecstasy, and other designer drugs are ''safe'' ways to get high, escape reality, and enhance intimacy in personal relationships. The drug traffickers make their living off of perpetuating and exploiting this myth.

I want to be perfectly clear in stating that ecstasy is an extremely dangerous drug. In my State alone, between July and December of last year, there were 25 deaths in which MDMA or a variant

were listed as a cause of death, and there were another 25 deaths where MDMA was present in the toxicology, although not actually listed as the cause of death. This drug is a definite killer.

The ''Ecstasy Prevention Act of 2001'' renews and enhances our commitment toward fighting the proliferation and trafficking of Ecstasy and other club drugs. It builds on last year's Ecstasy Anti-Proliferation Act of 2000 and provides legislation to assist the Federal and local organizations that are fighting to stop this potentially life-threatening drug. This legislation will allot funding for programs that will educate law enforcement officials and young people and will assist community-based anti-drug efforts. To that end, this bill amends Section 506B(c) of title V of the Public Health Service Act, by adding that priority of funding should be given to communities that have taken measures to combat club drug trafficking and use, to include passing ordinances and increasing law enforcement on Ecstasy.

The bill also provides money for the National Institute on Drug Abuse to conduct research and evaluate the effects that MDMA or Ecstasy has on an individual's health. And, because there is a fear that the lack of current drug tests ability to screen for Ecstasy may encourage Ecstasy use over other drugs, the bill directs ONDCP to commission a test for Ecstasy that meets the standards of and can be used in the Federal Workplace.

Through this campaign, our hope is that Ecstasy will soon go the way of crack, which saw a dramatic reduction in the quantities present on our streets after information of its unpredictable impurities and side effects were made known to a wide audience. By using this educational effort we hope to avoid future deaths and ruined lives.

The Ecstasy Prevention Act of 2000 can only help in our fight against drug abuse in the United States. Customs is working hard to stem the flow of Ecstasy into our country. As legislators we have a responsibility to stop the proliferation of this potentially life threatening drug. The Ecstasy Prevention Act of 2001 will assist the Federal and local agencies charged to fight drug abuse by raising the public profile on the substance-abuse challenge posed by the increasing availability and use of Ecstasy and by focusing on the serious danger it presents to our youth.

We urge our colleagues in the Senate to join us in this important effort by co-sponsoring this bill.

By Mr. BINGAMAN (for himself, Mr. BAUCUS, Mr. DASCHLE, Mr. CONRAD, Mr. ROCKEFELLER, Mr. BREAUX, Mr. KERRY, Mr. TORRICELLI, Mrs. LINCOLN, Mr. JEFFORDS, Mr. BAYH, Mr. DAYTON, and Mr. LIEBERMAN):

S. 1209. A bill to amend the Trade Act of 1974 to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Trade Adjustment Assistance for Workers, Farmers, Communities, and Firms Act of 2001, and would like to add Senators BAUCUS, DASCHLE, CONRAD, ROCKEFELLER, KERRY, TORRICELLI, JEFFORDS, LINCOLN, BREAUX, BAYH, DAYTON, and LIEBERMAN as original co-sponsors.

This legislation represents the culmination of almost two years of effort, including discussions with individuals who process or receive trade adjustment assistance, conversations with labor and trade policy experts, consultations with the Department of Labor, requests for studies from the General Accounting Office, and dialogue between my colleagues in the Senate. The legislation is extremely important, as it directly addresses the question of how Congress will assist those workers and communities negatively impacted by international trade. It is also long overdue, as Congress—the Senate in particular—has discussed reform of the trade adjustment assistance programs for a number of years. The last revision of the trade adjustment assistance programs occurred when NAFTA was passed, and we only added to the programs at that time, we did not make them compatible in any tangible way. I believe it is time to act, and I think we have a unique opportunity to act in that there is interest both in Congress and the Administration to improve the trade adjustment assistance programs in a fundamental and a beneficial way.

Let me give some background on trade adjustment assistance, and why I feel it is so important to address at this time.

In 1962, when the Trade Expansion Act was being considered in Congress, the Kennedy Administration established a basic rule concerning international trade as it applies to American workers. When someone loses their job as a result of trade agreements entered into by the U.S. government, we have an obligation to assist these Americans in finding new employment. It is a very straightforward proposition really. If you lose your job because of U.S. trade policy, the Federal Government should help you in your effort to get a job in a competitive industry at a wage equivalent to what you are making now. While I believe the United States should be committed to expanding the international trading system, I also believe we should help our workers get back on their feet when they are harmed by trade agreements.

I find this proposition to be reasonable, appropriate, and fair. It suggests that the U.S. government supports an open, multilateral trading system, but recognizes that it is responsible for the negative impacts this policy has on its citizens. It suggests that the U.S. government believes that an open trading system provides long-term advantages for the United States and its people, but the short-terms costs must be addressed if the policy is to continue and the United States is to remain competitive. It suggests that there is a collective interest that must be pursued by the United States in the international trading system, but that our individual and community interests must be simultaneously protected for the greater good of our country.

This commitment to American workers has continued over the years—through both Democratic and Republican administrations and Congresses—and I am convinced the Trade Adjustment Assistance program should be both solidified and expanded at this time. I say this for two reasons.

First, as I have stated above, because from where I stand American workers and communities deserve some tangible help from the competitive pressures of the international trading system. We cannot stand by and pretend that there is not a need to assist workers and communities adjust to the dramatic changes that are now occurring as a result of globalization. Trade adjustment assistance will help do this.

Second, as a practical matter, passage of stronger trade adjustment assistance legislation will allow us to intensively pursue international trade negotiations and focus on important issues like liberalization, transparency, access, inequality, and poverty in the international economy. If we support programs like Trade Adjustment Assistance—programs that empower American workers, that raise living standards, and that advance the prospects of everyone in our country—then we open the possibility for more comprehensive and beneficial international trade agreements. We must understand that globalization is inevitable, and over time will only move at an even more rapid pace. The question for us in this chamber is not whether we can stop it—we cannot—but how we can manage it to benefit the national interest of the United States. Trade adjustment assistance programs for workers and communities will help do this.

There is no denying that globalization is a double-edged sword. But while there are obvious benefits that come from a more open and interdependent trading system, we cannot ignore the problems that come as a result. In my State of New Mexico we have seen a number of plant closings and lay-offs, including some in my own home town of Silver City. These people cannot simply go across the street and look for new work. They are people who have been dedicated to their companies and have played by the rules over the years. When I talk to these people, they ask me: Where am I supposed to work now? Where do I find a job with a salary that allows me to support a family, own a house, put food on the table, and live a decent life?

Where are the benefits of free trade for me now that my company has gone overseas?

These are hard questions, especially given their current situation. But my answer is that they deserve an opportunity to get income support and retraining to rebuild their lives. They deserve a program that creates skills that are needed, that moves them into new jobs faster, that provides opportunities for the future, that keeps families and communities intact. They deserve the recognition that they are important, and that through training they can continue to contribute to the economic welfare of the United States.

Trade adjustment assistance offers the potential for this outcome. Over the years it has consistently helped workers across the United States deal with the transition that is an inevitable part of a changing international economic system. It helps people that can work and want to work to train for productive jobs that contribute to the economic strength of their communities and our country. Although TAA has not been without its flaws, it remains the only program we have that allows workers and companies to adjust and remain competitive. Without it, in my opinion, we are saying unequivocally that we don't care what happens to you, that we bear no responsibility for the position that you are in, that you are on your own. We can't do that. We have made a promise to workers in every administration, both Democrat and Republican, and we should continue to do so.

As we wrote this legislation, we kept a number of fundamental objectives in mind:

First, we wanted to combine existing trade adjustment assistance programs and harmonize their various requirements so they would provide more effective and efficient results for individuals and communities. In doing so, we wanted to provide allowances, training, job search, relocation, and support service assistance to secondary workers and workers affected by shifts in production. We also ensured that the State-based delivery system created through the Workforce Investment Act remained intact but tightened the program so response times to lay-offs and trade adjustment assistance applications would quicker.

Second, we wanted to recognize the direct correlation between job dislocation, job training, and economic development, especially in communities that have been hit hard by unemployment. In the past, trade adjustment assistance focused specifically on individual re-training, but it did not address the possibility that unemployment might be so high in a community that jobs were not available for an individual after they had completed a training program. To rectify this problem, we have created a community trade adjustment assistance program, designed to provide strategic planning assistance and economic development funding to those communities that need it the most. In doing so, we have emphasized the responsibility of regional and local agencies and organizations to create a community-based recovery plan and activate a response designed to alleviate economic problems in their region, and to establish stakeholder partnerships in the community that enhance competitiveness through workforce development, specific business needs, education reform, and economic development.

Third, we wanted to encourage greater cooperation between Federal, regional, and local agencies that deal with individuals receiving trade adjustment assistance. At present, individuals that are receiving trade adjustment assistance obtain counseling from one-stop shops in their region, but typically this is limited to information related to allowances and training. Not available is the other information concerning funds available through other Federal departments and agencies, such as health care for individuals and their families. To prevent the creation of duplicative programs and to use the funds that are currently available, we have asked that an interagency working group on trade adjustment assistance be created and that a inter-agency database on Federal, State, and local resources available to TAA recipients be established.

Fourth, we wanted to establish accountability in the trade adjustment assistance program. In the past, data concerning trade adjustment assistance has been collected, but not in a uniform fashion across all States and regions. The Department of Labor and the General Accounting Office have done their best to obtain data that allow us to evaluate programs and measure outcomes, and we have used this data in writing this bill. In the future, however, we need to ensure that Congress has the information needed that will allow us to make targeted reforms.

Finally, we wanted to help family farmers. At present, trade adjustment assistance is available for employees of agricultural firms, the reason being that firms have individuals that can become unemployed. Family farmers, however, are not in this position. For them, there is no way to become unemployed, and therefore, no way for them to become eligible for trade adjustment assistance.

This legislation improves upon the current system in a number of ways. As I mentioned above, for the first time Congress will establish a two-tier system for trade adjustment assistance, recognizing that trade can adversely affect both individuals and communities.

For individuals, the legislation: harmonizes TAA and NAFTA/TAA across the board as it relates to eligibility requirements, certification time periods, and training enrollment discrepancies, making it one coherent, comprehensive program; extends TAA benefits to all secondary workers and all workers affected by shifts in production; increases TAA benefits so allowances and training are both available for a 78 week period; provides relocation and job search allowances to TAA recipients; provides support services for individuals, including child-care and dependent-care; increases the time frame available for breaks in training to 30 days; allows individuals who return to work to receive training funds for up to 26 weeks; entitles individual certified under trade adjustment assistance program to training, and caps total training program funding at $300m per year; establishes sliding scale wage insurance program at the Department of Labor; requires detailed data on program performance by States and Department of Labor, plus regular Department of Labor report on efficacy of program to Congress; establishes interagency group to coordinate Federal assistance to individuals and communities; allows individual eligible for trade adjustment assistance program a tax credit of 50% on amount paid for continuation of health care coverage premiums; requires the General Accounting Office to conduct a study of all assistance available from Federal Government for workers facing job loss and economic distress; requires States to conduct a study of all assistance available from Federal Government for workers facing job loss and economic distress; provides States with grants not to exceed $50,000 to conduct such study; requires General Accounting Office and States to submit reports to Senate Finance Committee and House Ways and Means Committee within one year of enactment of this Act; establishes that the Senate Finance Committee and the House Ways and Means Committee can by resolution direct the Secretary to initiate a certification process covering any group of workers.

For communities, the legislation: establishes Office of Community Economic Adjustment (OCEA) at Commerce; establishes inter-agency group to coordinate Federal assistance to communities; establishes community economic adjustment advisors to provide technical assistance to communities and act as liaison between community and Federal government concerning strategic planning and funding; provides funding for strategic planning; provides funding for community economic adjustment efforts; responds to the criticism contained in several reports and creates a series of performance benchmarks and reporting requirements, all of which will allow us to gauge the effectiveness and efficiency of the program.

For companies, the legislation: re-authorizes TAA for firms program.

For Farmers, Ranchers, and Fishermen, the legislation: establishes special provisions that allow TAA to cover family farmers, ranchers, and fishermen.

Let me conclude by saying that I consider the Trade Adjustment Assistance program to be a commitment between our government and the American people. It is the only program designed to help American workers cope with the changes that occur as a result of international trade. Current legislation expires on September 30th of this year, and it is time to do something more than a simple reauthorization. I ask my colleagues to support this bill.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 137—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN JOHN HOFFMAN, ET AL. V. JAMES JEFFORDS

Mr. DASCHLE (for himself and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

S. RES. 137

Whereas, Senator James Jeffords has been named as a defendant in the case of John Hoffman, et al. v. James Jeffords, Case No. 01CV1190, now pending in the United States District Court for the District of Columbia;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288(a) and 288c(a)(1), the Senate may direct its counsel to represent Members of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator James Jeffords in the case of John Hoffman, et al. v. James Jeffords.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1019. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

SA 1020. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 1021. Mr. STEVENS (for himself and Mr. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 1022. Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 1023. Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 1024. Mr. REID (for himself and Mr. DOMENICI) proposed an amendment to the bill H.R. 2311, supra.

SA 1025. Mrs. MURRAY (for herself and Mr. SHELBY) proposed an amendment to the bill H.R. 2299, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

SA 1026. Mr. DURBIN (for himself and Mr. BENNETT) proposed an amendment to the bill S. 1172, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, and for other purposes.

SA 1027. Mr. SPECTER proposed an amendment to the bill S. 1172, supra.

TEXT OF AMENDMENTS

SA 1019. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 26, after ''expended,'', insert the following: ''of which not less than $300,000 shall be used for a study to determine, and develop a project that would make, the best use, on beaches of adjacent towns, of sand dredged from Morehead City Harbor, Carteret County, North Carolina; and''.

SA 1020. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

(a)(1) Not later than X, the Secretary shall investigate the flood control project for Fort Fairfield, Maine, authorized under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s); and

(2) determine whether the Secretary is responsible for a design deficiency in the project relating to the interference of ice with pump operation.

(b) If the Secretary determines under subsection (a) that the Secretary is responsible for the design deficiency, the Secretary shall correct the design deficiency, including the cost of design and construction, at 100 percent Federal expense.

SA 1021. Mr. STEVENS (for himself and Mr. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 33, after line 25, add the following:

SEC. . SOUTHEAST INTERTIE LICENSE TRANSFER.

(a) IN GENERAL.—On notification by the State of Alaska to the Federal Energy Regulatory Commission that the sale of hydroelectric projects owned by the Alaska Energy Authority has been completed, the transfer of the licenses for Project Nos. 2742, 2743, 2911 and 3015 to the Four Dam Pool Power Agency shall occur by operation of this section.

(b) RATIFICATION OF ORDER.—The Order Granting Limited Waiver of Regulations issued by the Federal Energy Regulatory Commission March 15, 2001 (Docket Nos. EL01–26–000 and Docket No. EL01–32–000, 94 FERC 61,293 (2001), is ratified.

(c) REQUIREMENT TO PURCHASE ELECTRIC POWER.—The members of the Four Dam Pool Power Agency in Alaska shall not be required, under section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) or any other provision of federal law, to purchase electric power (capacity or energy) from any entity except the Four Dam Pool Power Agency.

SA 1022. Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —IRAQ PETROLEUM IMPORT RESTRICTION ACT OF 2001

SECTION . SHORT TITLE AND FINDINGS.

(a) This Title can be cited as the ''Iraq Petroleum Import Restriction Act of 2001.''

(b) FINDINGS.—Congress finds that:

(1) the government of the Republic of Iraq:

(A) has failed to comply with the terms of United Nations Security Council Resolution 687 regarding unconditional Iraqi acceptance of the destruction, removal, or rendering harmless, under international supervision, of all nuclear, chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities, as well as all ballistic missiles with a range greater than 150 kilometers and related major parts, and repair and production facilities and has failed to allow United Nations inspectors access to sites used for the production or storage of weapons of mass destruction;

(B) routinely contravenes the terms and conditions of UNSC Resolution 661, authorizing the export of petroleum products from Iraq in exchange for food, medicine and other humanitarian products by conducting a routine and extensive program to sell such products outside of the channels established by UNSC Resolution 661 in exchange for military equipment and materials to be used in pursuit of its program to develop weapons of mass destruction in order to threaten the United States and its allies in the Persian Gulf and surrounding regions;

(C) has failed to adequately draw down upon the amounts received in the Escrow Account established by UNSC Resolution 986 to purchase food, medicine and other humanitarian products required by its citizens, resulting in massive humanitarian suffering by the Iraqi people;

(D) conducts a periodic and systematic campaign to harass and obstruct the enforcement of the United States and United Kingdom-enforced ''No-Fly Zones'' in effect in the Republic of Iraq; and

(E) routinely manipulates the petroleum export production volumes permitted under UNSC Resolution 661 in order to create uncertainty in global energy markets, and therefore threatens the economic security of the United States.

(2) Further imports of petroleum products from the Republic of Iraq are inconsistent with the national security and foreign policy interests of the United States and should be eliminated until such time as they are not so inconsistent.

SEC. . PROHIBITION ON IRAQI-ORIGIN PETROLEUM IMPORTS.

The direct or indirect import from Iraq of Iraqi-origin petroleum and petroleum products is prohibited, notwithstanding an authorization by the Committee established by UNSC Resolution 661 or its designee, or any other order to the contrary.

SEC. . TERMINATION/PRESIDENTIAL CERTIFICATION.

This Act will remain in effect until such time as the President, after consultation with the relevant committees in Congress, certifies to the Congress that:

(a) the United States is not engaged in active military operations in:

(1) enforcing ''No-Fly Zones'' in Iraq;

(2) support of United Nations sanctions against Iraq;

(3) preventing the smuggling of Iraqi-origin petroleum and petroleum products in violation of UNSC Resolution 986; and

(4) otherwise preventing threatening action by Iraq against the United States or its allies; and

(b) resuming the importation of Iraqi-origin petroleum and petroleum products would not be inconsistent with the national security and foreign policy interests of the United States.

SEC. . HUMANITARIAN INTERESTS.

It is the sense of the Senate that the President should make all appropriate efforts to ensure that the humanitarian needs of the Iraqi people are not negatively affected by this Act, and should encourage public, private, domestic and international means the direct or indirect sale, donation or other transfer to appropriate non-governmental health and humanitarian organizations and individuals within Iraq of food, medicine and other humanitarian products.

SEC. . DEFINITIONS.

(a) ''661 COMMITTEE.''—The term 661 Committee means the Security Council Committee established by UNSC Resolution 661, and persons acting for or on behalf of the Committee under its specific delegation of authority for the relevant matter or category of activity, including the overseers appointed by the UN Secretary-General to examine and approve agreements for purchases of petroleum and petroleum products from the Government of Iraq pursuant to UNSC Resolution 986.

(b) ''UNSC RESOLUTION 661.''—The term UNSC Resolution 661 means United Nations Security Council Resolution No. 661, adopted August 6, 1990, prohibiting certain transactions with respect to Iraq and Kuwait.

(c) ''UNSC RESOLUTION 986.''—The term UNSC Resolution 986 means United Nations Security Council Resolution 98, adopted April 14, 1995.

SEC. . EFFECTIVE DATE.

The prohibition on importation of Iraqi origin petroleum and petroleum products shall be effective 30 days after enactment of this Act.

SA 1023. Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 14, line 9, strike ''prices).'' and insert ''prices): *Provided further*, That none of the funds made available in furtherance of or for the purposes of the CALFED Program may be obligated or expended for such purpose unless separate legislation specifically authorizing such expenditures or obligation has been enacted.''

SA 1024. Mr. REID (for himself and Mr. DOMENICI) proposed an amendment to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 17, line 8, insert the following:

SEC. 204. LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.

(a) IN GENERAL.—Notwithstanding section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)), no amount from the Lower Colorado River Basin Development Fund shall be paid to the general fund of the Treasury until each provision of the Stipulation Regarding a Stay and for Ultimate Judgment Upon the Satisfaction of Conditions, filed in United States district court on May 3, 2000, in Central Arizona Water Conservation District v. United States (No. CIV 95–625–TUC–WDB (EHC), No. CIV 95–1720–OHX–EHC (Consolidated Action)) is met.

(b) PAYMENT TO GENERAL FUND.—If any of the provisions of the stipulation referred to in subsection (a) is not met by the date that is 3 years after the date of enactment of this Act, payments to the general fund of the Treasury shall resume in accordance with section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)).

(c) AUTHORIZATION.—Amounts in the Lower Colorado River Basin Development Fund that but for this section would be returned to the general fund of the Treasury shall not be expended until further Act of Congress.

At the appropriate place in the bill insert the following: ''; *Provided*, That within the funds provided, molecular nuclear medicine research shall be continued at not less than the fiscal year 2001 funding level.''

At the appropriate place in Title I, insert the following:

''SEC. . The non-Federal interest shall receive credit towards the lands, easements, relocations, rights-of-way, and disposal areas required for the Lava Hot Springs restoration project in Idaho, and acquired by the non-Federal interest before execution of the project cooperation agreement: *Provided*, That the Secretary shall provide credit for work only if the Secretary determines such work to be integral to the project.''

On page 7, line 6, before the period, insert the following: '': *Provided further*, That, with respect to the environmental infrastructure project in Lebanon, New Hampshire, for which funds are made available under this heading, the non-Federal interest shall receive credit toward the non-Federal share of the cost of the project for work performed before the date of execution of the project cooperation agreement'', if the Secretary determines the work is integral to the project.''

On page 8, line 7, before the colon, insert the following: '', and of which not less than $400,000 shall be used to carry out maintenance dredging of the Sagamore Creek Channel, New Hampshire''.

On page 11, line 16 insert the following '', ''SEC. 104. Of the funds provided under Title I, $15,500,000 shall be available for the Demonstration Erosion Control project, MS.''

On page 36, line 5, strike ''$43,652,000'' and insert ''$48,652,000''.

On page 36, line 16, strike ''$5,432,000'' and insert ''$5,280,000''.

On page 36, line 23, strike ''$68,000'' and insert ''$220,000''.

At the appropriate place in the bill under General Provisions, Department of Energy, insert the following:

SEC. 3 . (a) The Secretary of Energy shall conduct a study of alternative financing approaches, to include third-party-type methods, for infrastructure and facility construction projects across the Department of Energy. (b) The study shall be completed and delivered to the House and Senate Committees on Appropriation within 180 days of enactment.

On page 29, line 3, strike ''$181,155,000'' and insert ''$187,155,000''.

On page 29, line 5, strike ''$181,155,000'' and insert ''$187,155,000''.

On page 29, line 13, insert the following after ''not more than $0'' insert the following: '': *Provided further*, That the Commission is authorized to hire an additional ten senior executive service positions.''

On page 17, lines 21 and 22, strike ''$736,139,000 to remain available until expended'' and insert ''$736,139,000, to remain available until expended, of which not less than $3,000,000 shall be used for the advanced test reactor research and development upgrade initiative''.

In Title II, page 14, line 9, after ''1998 prices).'' strike the period and insert the following: '': *Provided further*, That of the funds provided herein, $1,000,000 may be used to complete the Hopi/Western Navajo Water Development Plan, Arizona.''

At the appropriate place, insert: ''Of the funds made available under Operations and Maintenance, a total of $3,000,000 may be made available for Perry Lake, Kansas.''

On page 28, before the period on line 10, insert the following: '': *Provided further*, That of the amount herein appropriated, not less than $200,000 shall be provided for corridor review and environmental review required for construction of a 230 kv transmission line between Belfield and Hettinger, North Dakota: *Provided further*, That these funds shall be nonreimbursable: *Provided further*, That these funds shall be available until expended.''

On page 12, line 20, after ''expended,'' insert ''of which $4,000,000 shall be available for the West River/Lyman-Jones Rural Water System to provide rural, municipal, and industrial drinking water for Philip, South Dakota, in accordance with the Mni Wiconi Project Act of 1988 (102 Stat. 2566; 108 Stat. 4539),''.

On page 28, before the period on line 23, insert the following: ''*Provided further*, within the amount herein appropriated, not less than $200,000 shall be provided for the Western Area Power Administration to conduct a technical analysis of the costs and feasibility of transmission expansion methods and technologies: *Provided further*, That WAPA shall publish a study by July 31, 2002 that contains recommendations of the most cost-effective methods and technologies to enhance electricity transmission from lignite and wind energy: *Provided further*, That these funds shall be non-reimbursable: *Provided further*, That these funds shall be available until expended.''

On page 7, line 26, after ''expended,'' insert the following: ''of which not less than $300,000 shall be used for a study to determine, and develop a project that would make, the best use, on beaches of adjacent towns, of sand dredged from Morehead City Harbor, Carteret County, North Carolina; and''.

In Title I, on page 11, Line 16, after ''Plan'', insert at the appropriate place, the following:

''SEC. . GUADALUPE RIVER, CALIFORNIA.

''The project for flood control, Guadalupe River, California, authorized by Section 401 of the Water Resources Development Act of 1986, and the Energy and Water Development Appropriation Acts of 1990 and 1992, is modified to authorize the Secretary to construct the project substantially in accordance with the General Reevaluation and Environmental Report for Proposed Project Modifications, dated February 2001, at a total cost of $226,800,000, with an estimated Federal cost $128,700,000, and estimated non-Federal cost of $98,100,000.''

On page 2, line 18, before the period, insert the following: '', of which not less than $500,000 shall be used to conduct a study of Port of Iberia, Louisiana''.

On page 8, at the end of line 24, before the period, insert:

'': *Provided further*, That $500,000 of the funds appropriated herein shall be available for the conduct of activities related to the selection, by the Secretary of the Army in

cooperation with the Environmental Protection Agency, of a permanent disposal site for environmentally sound dredged material from navigational dredging projects in the State of Rhode Island.''

At the appropriate place, insert the following:

''Of the funds provided under Operations and Maintenance for McKlellan-Kerr, Arkansas River Navigation System dredging, $22,338,000 is provided: Provided further, of that amount, $1,000,000 shall be for dredging on the Arkansas River for maintenance dredging at the authorized depth.''

On Page 2, line 18, before the period, insert the following: '', *Provided*, That using $100,000 of the funds provided herein for the States of Maryland, Virginia, Pennsylvania and the District of Columbia, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a Chesapeake Bay shoreline erosion study, including an examination of management measures that could be undertaken to address the sediments behind the dams on the lower Susquehanna River.

On page 11, between lines 16 and 17, insert the following:

SEC. 1___. DESIGNATION OF NONNAVIGABILITY FOR PORTIONS OF GLOUCESTER COUNTY, NEW JERSEY.

(a) DESIGNATION.—

(1) IN GENERAL.—The Secretary of the Army (referred to in section as the ''Secretary'') shall designate as nonnavigable the areas described in paragraph (3) unless the Secretary, after consultation with local and regional public officials (including local and regional planning organizations), makes a determination that 1 or more projects proposed to be carried out in 1 or more areas described in paragraph (2) are not in the public interest.

(2) DESCRIPTION OF AREAS.—The areas referred to in paragraph (1) are certain parcels of property situated in the West Deptford Township, Gloucester County, New Jersey, as depicted on Tax Assessment Map #26, Block #328, Lots #1, 1.03, 1.08, and 1.09, more fully described as follows:

(A) Beginning at the point in the easterly line of Church Street (49.50 feet wide), said beginning point being the following 2 courses from the intersection of the centerline of Church Street with the curved northerly right-of-way line of Pennsylvania-Reading Seashore Lines Railroad (66.00 feet wide)—

(i) along said centerline of Church Street N. 11°28′50″ E. 38.56 feet; thence

(ii) along the same N. 61°28′35″ E. 32.31 feet to the point of beginning.

(B) Said beginning point also being the end of the thirteenth course and from said beginning point runs; thence, along the aforementioned Easterly line of Church Street—

(i) N. 11°28′50″ E. 1052.14 feet; thence

(ii) crossing Church Street, N. 34°19′51″ W. 1590.16 feet; thence

(iii) N. 27°56′37″ W. 3674.36 feet; thence

(iv) N. 35°33′54″ W. 975.59 feet; thence

(v) N. 57°04′39″ W. 481.04 feet; thence

(vi) N. 36°22′55″ W. 870.00 feet to a point in the Pierhead and Bulkhead Line along the Southeasterly shore of the Delaware River; thence

(vii) along the same line N. 53°37′05″ E. 1256.19 feet; thence

(viii) still along the same, N. 86°10′29″ E. 1692.61 feet; thence, still along the same the following thirteenth courses

(ix) S. 67°44′20″ E. 1090.00 feet to a point in the Pierhead and Bulkhead Line along the Southwesterly shore of Woodbury Creek; thence

(x) S. 39°44′20″ E. 507.10 feet; thence

(xi) S. 31°01′38″ E. 1062.95 feet; thence

(xii) S. 34°34′20″ E. 475.00 feet; thence

(xiii) S. 32°20′28″ E. 254.18 feet; thence

(xiv) S. 52°55′49″ E. 964.95 feet; thence

(xv) S. 56°24′40″ E. 366.60 feet; thence

(xvi) S. 80°31′50″ E. 100.51 feet; thence

(xvii) N. 75°30′00″ E. 120.00 feet; thence

(xviii) N. 53°09′00″ E. 486.50 feet; thence

(xix) N. 81°18′00″ E. 132.00 feet; thence

(xx) S. 56°35′00″ E. 115.11 feet; thence

(xxi) S. 42°00′00″ E. 271.00 feet; thence

(xxii) S. 48°30′00″ E. 287.13 feet to a point in the Northwesterly line of Grove Avenue (59.75 feet wide); thence

(xxiii) S. 23°09′50″ W. 4120.49 feet; thence

(xxiv) N. 66°50′10″ W. 251.78 feet; thence

(xxv) S. 36°05′20″ E. 228.64 feet; thence

(xxvi) S. 58°53′00″ W. 1158.36 feet to a point in the Southwesterly line of said River Lane; thence

(xxvii) S. 41°31′35″ E. 113.50 feet; thence

(xxviii) S. 61°28′35″ W. 863.52 feet to the point of beginning.

(C)(i) Except as provided in clause (ii), beginning at a point in the centerline of Church Street (49.50 feet wide) where the same is intersected by the curved northerly line of Pennsylvania-Reading Seashore Lines Railroad right-of-way (66.00 feet wide), along that Railroad, on a curve to the left, having a radius of 1465.69 feet, an arc distance of 1132.14 feet—

(I) N. 88°45′47″ W. 1104.21 feet; thence

(II) S. 69°06′30″ W. 1758.95 feet; thence

(III) N. 23°04′43″ W. 600.19 feet; thence

(IV) N. 19°15′32″ W. 3004.57 feet; thence

(V) N. 44°52′41″ W. 897.74 feet; thence

(VI) N. 32°26′05″ W. 2765.99 feet to a point in the Pierhead and Bulkhead Line along the Southeasterly shore of the Delaware River; thence

(VII) N. 53°37′05″ E. 2770.00 feet; thence

(VIII) S. 36°22′55″ E. 870.00 feet; thence

(IX) S. 57°04′39″ E. 481.04 feet; thence

(X) S. 35°33′54″ E. 975.59 feet; thence

(XI) S. 27°56′37″ E. 3674.36 feet; thence

(XII) crossing Church Street, S. 34°19′51″ E. 1590.16 feet to a point in the easterly line of Church Street; thence

(XIII) S. 11°28′50″ W. 1052.14 feet; thence

(XIV) S. 61°28′35″ W. 32.31 feet; thence

(XV) S. 11°28′50″ W. 38.56 feet to the point of beginning.

(ii) The parcel described in clause (i) does not include the parcel beginning at the point in the centerline of Church Street (49.50 feet wide), that point being N. 11°28′50″ E. 796.36 feet, measured along the centerline, from its intersection with the curved northerly right-of-way line of Pennsylvania-Reading Seashore Lines Railroad (66.00 feet wide)—

(I) N. 78°27′40″ W. 118.47 feet; thence

(II) N. 15°48′40″ W. 120.51 feet; thence

(III) N. 77°53′00″ E 189.58 feet to a point in the centerline of Church Street; thence

(IV) S. 11°28′50″ W. 183.10 feet to the point of beginning.

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—

(1) IN GENERAL.—The designation under subsection (a)(1) shall apply to those parts of the areas described in subsection (a) that are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities.

(2) APPLICABLE LAW.—All activities described in paragraph (1) shall be subject to all applicable Federal law, including—

(A) the Act of March 3, 1899 (30 Stat. 1121, chapter 425);

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(c) TERMINATION OF DESIGNATION.—If, on the date that is 20 years after the date of enactment of this Act, any area or portion of an area described in subsection (a)(3) is not bulkheaded, filled, or otherwise occupied by permanent structures (including marina facilities) in accordance with subsection (b), or if work in connection with any activity authorized under subsection (b) is not commenced by the date that is 5 years after the date on which permits for the work are issued, the designation of nonnavigability under subsection (a)(1) for that area or portion of an area shall terminate.

Under Title II, page 14, line 9, strike the period and insert the following: *: Provided further*, That $500,000 of the funds provided herein, shall be available to begin design activities related to installation of electric irrigation water pumps at the Savage Rapids Dam on the Rogue River, Oregon.

At the appropriate place insert the following:

SEC. . NOME HARBOR TECHNICAL CORRECTIONS.

Section 101(a)(1) of Public Law 106–53 (the Water Resources Development Act of 1999) is amended by—

(A) striking ''25,651,000'' and inserting in its place ''$39,000,000''; and

(B) striking ''20,192,000'' and inserting in its place ''$33,541,000''.

In Title I, on page 11, line 16, after ''Plan.'' at the appropriate place, insert the following:

''SEC. . The Secretary of the Army shall not accept or solicit non-Federal voluntary contributions for shore protection work in excess of the minimum requirements established by law; except that, when voluntary contributions are tendered by a non-Federal sponsor for the prosecution of work outside the authorized scope of the Federal project at full non-Federal expense, the Secretary is authorized to accept said contributions.''

In Title I, on page 2, line 18, after ''until expended.'', strike the period and insert the following: '': *Provided*, that the Secretary of the Army, using $100,000 of the funds provided herein, is directed to conduct studies for flood damage reduction, environmental protection, environmental restoration, water supply, water quality and other purposes in Tuscaloosa County, Alabama, and shall provide a comprehensive plan for the development, conservation, disposal and utilization of water and related land resources, for flood damage reduction and allied purposes, including the determination of the need for a reservoir to satisfy municipal and industrial water supply needs.''

Insert on page 14, line 9, after ''1998 prices)'' *'': Provided further*, That of such funds, not more than $1,500,000 shall be available to the Secretary for completion of a feasibility study for the Santa Fe Regional Water System, New Mexico: *Provided further*, That the study shall be completed by September 30, 2002''

At the appropriate place, insert the following:

SEC. . Section 211 of the Water Resources and Development Act of 2000 (P.L. 106–541) [114 Stat. 2592–2593] is amended by adding the following language at the end thereof as paragraph (c):

''(3) ENGINEERING RESEARCH AND DEVELOPMENT CENTER.—The Engineer Research and Development Center is exempt from the requirements of this section.''

At the appropriate place insert the following:

SEC. . Section 514(g) of the Water Resources and Development Act of 1999 (113 STAT. 343) is amended by striking ''fiscal years 2000 and 2001'' and inserting in lieu thereof ''fiscal years 2000 through 2002.''

In Title II, page 17, line 7, after ''390ww(i)).'' at the appropriate place insert the following:

''SEC. . (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San

Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the ''Cleanup Program-Alternative Repayment Plan'' described in the report entitled ''Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995'', prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal Reclamation law.

In Title II, page 14, line 3, after ''of ''and 2001'': *Provided further*,'' from the colon strike line 3 through line 9 to the period.

In Title I, page 2 line 18, after ''until expended,'' strike the period and insert the following: '': *Provided further*, That within the funds provided herein, the Secretary may use $300,000 for the North Georgia Water Planning District Watershed Study, Georgia.''

Under Title I, page 11, after line 16, at the appropriate place, insert the following:

''SEC. . (a)(1) Not later than December 31, 2001, the Secretary shall investigate the flood control project for Fort Fairfield, Maine, authorized under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s); and

''(2) determine whether the Secretary is responsible for a design deficiency in the project relating to the interference of ice with pump operation.

''(b) If the Secretary determines under subsection (a) that the Secretary is responsible for the design deficiency, the Secretary shall correct the design deficiency, including the cost of design and construction, at 100 percent Federal expense.''

At the appropriate place, add the following:

The Corps of Engineers is urged to proceed with design of the Section 205 Mad Creek Flood control project in Iowa.

On page 17, line 22, before the period, insert the following: ''of which $1,000,000 may be available for the Consortium for Plant Biotechnology Research''.

Insert on page 22, line 14, strike the period and insert the following: '': *Provided further*, That, $30,000,000 shall be utilized for technology partnerships supportive of NNSA missions and $3,000,000 shall be utilized at the NNSA laboratories for support of small business interaction, including technology clusters relevant to laboratory mission.''

On page 33, after line 25, add the following:

SEC. 312. (a) IN GENERAL.—The Secretary of Energy shall provide for the management of environmental matters (including planning and budgetary activities) with respect to the Paducah Gaseous Diffusion Plant, Kentucky, through the Assistant Secretary of Energy for Environmental Management.

(b) PARTICULAR REQUIREMENTS.—(1) In meeting the requirement in subsection (a), the Secretary shall provide for direct communication between the Assistant Secretary of Energy for Environmental Management and the head of the Paducah Gaseous Diffusion Plant on the matters covered by that subsection.

(2) The Assistant Secretary shall carry out activities under this section in direct consultation with the head of the Paducah Gaseous Diffusion Plant.

At the appropriate place, insert the following:

SEC. . CERRILLOS DAM, PUERTO RICO.

The Secretary of the Army shall reassess the allocation of Federal and non-Federal costs for construction of the Cerrillos Dam, carried out as part of the project for flood control, Portugues and Bucana Rivers, Puerto Rico.

At the appropriate place insert:

SEC. . The Senate finds that—

(1) The Department of Energy's Yucca Mountain Program has been one of the most intensive scientific investigations in history.

(2) Significant milestones have been met, including the recent release of the Science and Engineering Report, and others are due in the near future including the Final Site Suitability Evaluation.

(3) Nuclear power presently provides 20% of the electricity generated in the United States.

(4) A decision on how to dispose of spent nuclear fuel and high level radioactive waste is essential to the future of nuclear power in the United States.

(5) Any decision on how to dispose of spent nuclear fuel and high level radioactive waste must be based on sound science and it is critical that the federal government provide adequate funding to ensure the availability of such science in a timely manner to allow fully informed decisions to be made in accordance with the statutorily mandated process. Therefore be in

Resolved, That it is the Sense of the Senate that the Conferees on the part of the Senate should ensure that the levels of funding included in the Senate bill for the Yucca Mountain program are increased to an amount closer to that included in the House—passed version of the bill to ensure that a determination on the disposal of spent nuclear fuel and high level radioactive waste can be concluded in accordance with the statutorily mandated process.

At the appropriate place in Title II, insert the following:

''SEC. . The Secretary of Interior, in accepting payments for the reimbursable expenses incurred for the replacement, repair, and extraordinary maintenance with regard to the Valve Rehabilitation Project at the Arrowrock Dam on the Arrowrock Division of the Boise Project in Idaho, shall recover no more than $6,900,000 of such expenses according to the application of the current formula for charging users for reimbursable operation and maintenance expenses at Bureau of Reclamation facilities on the Boise Project, and shall recover this portion of such expenses over a period of 15 years.

Insert at the appropriate place in the bill under ''Weapons Activities'' the following: ''*Provided further*, That $1,000,000 shall be made available for community reuse organizations within the office of Worker and Community Transition.''

At the appropriate place, insert the following:

SEC. . The Department of Energy shall consult with the State of South Carolina regarding any decisions or plans related to the disposition of surplus plutonium located at the DOE Savannah River Site. The Secretary of Energy shall prepare not later than September 30, 2002, a plan for those facilities required to ensure the capability to dispose of such materials.

On page 12, between lines 5 and 6, insert the following:

SEC. 1___. STUDY OF CORPS CAPABILITY TO CONSERVE FISH AND WILDLIFE.

Section 704(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2263(b)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(2) by striking ''(b) The Secretary'' and inserting the following:

''(b) PROJECTS.—

''(1) IN GENERAL.—The Secretary''; and

(3) by striking ''The non-Federal share of the cost of any project under this section shall be 25 percent.'' and inserting the following:

''(2) COST SHARING.—

''(A) IN GENERAL.—The non-Federal share of the cost of any project under this subsection shall be 25 percent.

''(B) FORM.—The non-Federal share may be provided through in-kind services, including the provision by the non-Federal interest of shell stock material that is determined by the Chief of Engineers to be suitable for use in carrying out the project.

''(C) APPLICABILITY.—The non-Federal interest shall be credited with the value of in-kind services provided on or after October 1, 2000, for a project described in paragraph (1) completed on or after that date if the Secretary determines that the work is integral to the project.''.

On page 5, line 5 after ''Vermont:'' insert ''*Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $2.5 million of the funds appropriated herein to proceed with the removal of the Embrey Dam, Fredericksburg, Virginia.''

On page 11, between lines 16 and 17, insert the following:

SEC. 1 . RARITAN RIVER BASIN, GREEN BROOK SUBBASIN, NEW JERSEY.

The Secretary of the Army shall implement, with a Federal share of 75 percent and a non-Federal share of 25 percent, a buyout plan in the western portion of Middlesex Borough, located in the Green Brook subbasin of the Raritan River basin, New Jersey, that includes—

(1) the buyout of not to exceed 10 single-family residences;

(2) floodproofing of not to exceed 4 commercial buildings located along Prospect Place or Union Avenue; and

(3) the buyout of not to exceed 3 commercial buildings located along Raritan Avenue or Lincoln Avenue.

At the appropriate place, insert the following: *Provided further*, That the project for the ACF authorized by section 2 of the Rivers and Harbor Act of March 2, 1945 (Public Law 79–14; 59 Stat. 10) and modified by the first section of the River and Harbor Act of 1946 (60 Stat. 635, chapter 595), is modified to authorize the Secretary, as part of navigation maintenance activities to develop and implement a plan to be integrated into the long term dredged material management plan being developed for the Corley Slough reach as required by conditions of the State of Florida water quality certification, for periodically removing sandy dredged material from the disposal sites that the Secretary may determine to be needed, for the purpose of reuse of the disposal areas, but transporting and depositing the sand for environmentally acceptable beneficial uses in coastal areas of northwest Florida to be determined in coordination with the State of Florida: *Provided further*, that the Secretary is authorized to acquire all lands, easements, and rights of way that may be determined by the Secretary, in consultation with the affected state, to be required for dredged material disposal areas to implement a long term dredge material management plan: *Provided further*, that the long term management plan shall be developed in coordination with the State of Florida no later than 2 years from the date of enactment of this legislation: *Provided further*, That, $1,000,000 shall

be made available for these purposes and $8,173,000 shall be made available for the Apalacheila, Chattahoochee and Flint Rivers Navigation.

On page 33, after line 25, add the following:

SEC. 3 . PROHIBITION OF OIL AND GAS DRILLING IN THE FINGER LAKES NATIONAL FOREST, NEW YORK.

No Federal permit or lease shall be issued for oil or gas drilling in the Finger Lakes National Forest, New York, during fiscal year 2002 or thereafter.

In the appropriate place, strike $150,000 for Horseshoe Lake Feasibility Study and replace with $250,000 for Horseshoe Lake Feasibility Study.

SA 1025. Mrs. MURRAY (for herself and Mr. SHELBY) proposed an amendment to the bill H.R. 2299, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes; as follows:

Stike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, $67,349,000: *Provided*, That not to exceed $60,000 shall be for allocation within the Department for official reception and representation expenses as the Secretary may determine: *Provided further*, That notwithstanding any other provision of law, there may be credited to this appropriation up to $2,500,000 in funds received in user fees.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $8,500,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, development activities, and making grants, to remain available until expended, $15,592,000.

TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

Necessary expenses for operating costs and capital outlays of the Transportation Administrative Service Center, not to exceed $125,323,000, shall be paid from appropriations made available to the Department of Transportation: *Provided*, That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further*, That the above limitation on operating expenses shall not apply to non-DOT entities: *Provided further*, That no funds appropriated in this Act to an agency of the Department shall be transferred to the Transportation Administrative Service Center without the approval of the agency modal administrator: *Provided further*, That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of guaranteed loans, $500,000, as authorized by 49 U.S.C. 332: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $18,367,000. In addition, for administrative expenses to carry out the guaranteed loan program, $400,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of Minority Business Resource Center outreach activities, $3,000,000, of which $2,635,000 shall remain available until September 30, 2003: *Provided*, That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed five passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare, $3,427,588,000, of which $695,000,000 shall be available for defense-related activities including drug interdiction; and of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided*, That none of the funds appropriated in this or any other Act shall be available for pay for administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided further*, That of the amounts made available under this heading, not less than $13,541,000 shall be used solely to increase staffing at Search and Rescue stations, surf stations and command centers, increase the training and experience level of individuals serving in said stations through targeted retention efforts, revised personnel policies and expanded training programs, and to modernize and improve the quantity and quality of personal safety equipment, including survival suits, for personnel assigned to said stations: *Provided further*, That the Department of Transportation Inspector General shall audit and certify to the House and Senate Committees on Appropriations that the funding described in the preceding proviso is being used solely to supplement and not supplant the Coast Guard's level of effort in this area in fiscal year 2001.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $669,323,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund; of which $79,640,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 2006; $12,500,000 shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 2004; $97,921,000 shall be available for other equipment, to remain available until September 30, 2004; $88,862,000 shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 2004; $65,200,000 shall be available for personnel compensation and benefits and related costs, to remain available until September 30, 2003; and $325,200,000 for the Integrated Deepwater Systems program, to remain available until September 30, 2006: *Provided*, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and made available only for the National Distress and Response System Modernization program, to remain available for obligation until September 30, 2004: *Provided further*, That none of the funds provided under this heading may be obligated or expended for the Integrated Deepwater Systems (IDS) system integration contract until the Secretary or Deputy Secretary of Transportation and the Director, Office of Management and Budget jointly certify to the House and Senate Committees on Appropriations that funding for the IDS program for fiscal years 2003 through 2007, funding for the National Distress and Response System Modernization program to allow for full deployment of said system by 2006, and funding for other essential Search and Rescue procurements, are fully funded in the Coast Guard Capital Investment Plan and within the Office of Management and Budget's budgetary projections for the Coast Guard for those years: *Provided further*, That none of the funds provided under this heading may be obligated or expended for the Integrated Deepwater Systems (IDS) integration contract until the Secretary or Deputy Secretary of Transportation, and the Director, Office of Management and Budget jointly approve a contingency procurement strategy for the recapitalization of assets and capabilities envisioned in the IDS: *Provided further*, That upon initial submission to the Congress of the fiscal year 2003 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the United States Coast Guard which includes funding for each budget line item for fiscal years 2003 through 2007, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget: *Provided further*, That the amount herein appropriated shall be reduced by $100,000 per day for each day after initial submission of the President's budget that the plan has not been submitted to the Congress: *Provided further*, That the Director, Office of Management and Budget shall submit the budget request for the IDS integration contract delineating sub-headings as follows: systems integrator, ship construction, aircraft, equipment, and communications, providing specific assets and costs under each sub-heading.

(RESCISSIONS)

Of the amounts made available under this heading in Public Laws 105–277, 106–69, and 106–346, $8,700,000 are rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $16,927,000, to remain available until expended.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $15,466,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses under the National Defense Authorization Act, and for

payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), $876,346,000.

RESERVE TRAINING

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses of the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, $83,194,000: *Provided,* That no more than $25,800,000 of funds made available under this heading may be transferred to Coast Guard ''Operating expenses'' or otherwise made available to reimburse the Coast Guard for financial support of the Coast Guard Reserve: *Provided further,* That none of the funds in this Act may be used by the Coast Guard to assess direct charges on the Coast Guard Reserves for items or activities which were not so charged during fiscal year 1997.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $21,722,000, to remain available until expended, of which $3,492,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided,* That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities, the operation (including leasing) and maintenance of aircraft, subsidizing the cost of aeronautical charts and maps sold to the public, lease or purchase of passenger motor vehicles for replacement only, in addition to amounts made available by Public Law 104–264, $6,916,000,000, of which $5,777,219,000 shall be derived from the Airport and Airway Trust Fund: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities, and for issuance, renewal or modification of certificates, including airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further,* That of the funds appropriated under this heading, not less than $6,000,000 shall be for the contract tower cost-sharing program: *Provided further,* That funds may be used to enter into a grant agreement with a nonprofit standard-setting organization to assist in the development of aviation safety standards: *Provided further,* That none of the funds in this Act shall be available for new applicants for the second career training program: *Provided further,* That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: *Provided further,* That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this heading; to be derived from the Airport and Airway Trust Fund, $2,914,000,000, of which $2,536,900,000 shall remain available until September 30, 2004, and of which $377,100,000 shall remain available until September 30, 2002: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further,* That upon initial submission to the Congress of the fiscal year 2003 President's budget, the Secretary of Transportation shall transmit to the Congress a comprehensive capital investment plan for the Federal Aviation Administration which includes funding for each budget line item for fiscal years 2003 through 2007, with total funding for each year of the plan constrained to the funding targets for those years as estimated and approved by the Office of Management and Budget: *Provided further,* That the amount herein appropriated shall be reduced by $100,000 per day for each day after initial submission of the President's budget that the plan has not been submitted to the Congress.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, $195,808,000, to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 2004: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations; for administration of such programs and of programs under section 40117 of such title; and for inspection activities and administration of airport safety programs, including those related to airport operating certificates under section 44706 of title 49, United States Code, $1,800,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds under this heading shall be available for the planning or execution of programs the obligations for which are in excess of $3,300,000,000 in fiscal year 2002, notwithstanding section 47117(h) of title 49, United States Code: *Provided further,* That notwithstanding any other provision of law, not more than $64,597,000 of funds limited under this heading shall be obligated for administration: *Provided further,* That of the funds under this heading, not more than $10,000,000 may be available to carry out the Essential Air Service program under subchapter II of chapter 417 of title 49 U.S.C., pursuant to section 41742(a) of such title.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the unobligated balances authorized under 49 U.S.C. 48103, as amended, $301,720,000 are rescinded.

SMALL COMMUNITY AIR SERVICE DEVELOPMENT

For necessary expenses to carry out the Small Community Air Service Development Pilot Program under section 41743 of title 49 U.S.C., $20,000,000, to remain available until expended.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to 49 U.S.C. 44307, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49, United States Code.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Necessary expenses for administration and operation of the Federal Highway Administration, not to exceed $316,521,000 shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided,* That of the funds available under section 104(a) of title 23, United States Code: $7,500,000 shall be available for ''Child Passenger Protection Education Grants'' under section 2003(b) of Public Law 105–178, as amended; $7,000,000 shall be available for motor carrier safety research; and $11,000,000 shall be available for the motor carrier crash data improvement program, the commercial driver's license improvement program, and the motor carrier 24-hour telephone hotline.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs, the obligations for which are in excess of $31,919,103,000 for Federal-aid highways and highway safety construction programs for fiscal year 2002: *Provided,* That within the $31,919,103,000 obligation limitation on Federal-aid highways and highway safety construction programs, not more than $447,500,000 shall be available for the implementation or execution of programs for transportation research (sections 502, 503, 504, 506, 507, and 508 of title 23, United States Code, as amended; section 5505 of title 49, United States Code, as amended; and sections 5112 and 5204–5209 of Public Law 105–178) for fiscal year 2002: *Provided further,* That within the $225,000,000 obligation limitation on Intelligent Transportation Systems, the

following sums shall be made available for Intelligent Transportation System projects in the following specified areas:

Indiana Statewide, $1,500,000;
Southeast Corridor, Colorado, $9,900,000;
Jackson Metropolitan, Mississippi, $1,000,000;
Harrison County, Mississippi, $1,000,000;
Indiana, SAFE–T, $3,000,000;
Maine Statewide (Rural), $1,000,000;
Atlanta Metropolitan GRTA, Georgia, $1,000,000;
Moscow, Idaho, $2,000,000;
Washington Metropolitan Region, $4,000,000;
Travel Network, South Dakota, $3,200,000;
Central Ohio, $3,000,000;
Delaware Statewide, $4,000,000;
Santa Teresa, New Mexico, $1,500,000;
Fargo, North Dakota, $1,500,000;
Illinois statewide, $3,750,000;
Forsyth, Guilford Counties, North Carolina, $2,000,000;
Durham, Wake Counties, North Carolina, $1,000,000;
Chattanooga, Tennessee, $2,380,000;
Nebraska Statewide, $5,000,000;
South Carolina Statewide, $7,000,000;
Texas Statewide, $4,000,000;
Hawaii Statewide, $1,750,000;
Wisconsin Statewide, $2,000,000;
Arizona Statewide EMS, $1,000,000;
Vermont Statewide (Rural), $1,500,000;
Rutland, Vermont, $1,200,000;
Detroit, Michigan (Airport), $4,500,000;
Macomb, Michigan (border crossing), $2,000,000;
Sacramento, California, $6,000,000;
Lexington, Kentucky, $1,500,000;
Maryland Statewide, $2,000,000;
Clark County, Washington, $1,000,000;
Washington Statewide, $6,000,000;
Southern Nevada (bus), $2,200,000;
Santa Anita, California, $1,000,000;
Las Vegas, Nevada, $3,000,000;
North Greenbush, New York, $2,000,000;
New York, New Jersey, Connecticut (TRANSCOM), $7,000,000;
Crash Notification, Alabama, $2,500,000;
Philadelphia, Pennsylvania (Drexel), $3,000,000;
Pennsylvania Statewide (Turnpike), $1,000,000;
Alaska Statewide, $3,000,000;
St. Louis, Missouri, $1,500,000;
Wisconsin Communications Network, $620,000:

Provided further, That, notwithstanding any other provision of law, funds authorized under section 110 of title 23, United States Code, for fiscal year 2002 shall be apportioned to the States in accordance with the distribution set forth in section 110(b)(4)(A) and (B) of title 23, United States Code, except that before such apportionments are made, $35,565,651 shall be set aside for the program authorized under section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century, as amended, and section 204 of title 23, United States Code; $31,815,091 shall be set aside for the program authorized under section 1101(a)(8)(B) of the Transportation Equity Act for the 21st Century, as amended, and section 204 of title 23, United States Code; $21,339,391 shall be set aside for the program authorized under section 1101(a)(8)(C) of the Transportation Equity Act for the 21st Century, as amended, and section 204 of title 23, United States Code; $2,586,593 shall be set aside for the program authorized under section 1101(a)(8)(D) of the Transportation Equity Act for the 21st Century, as amended, and section 204 of title 23, United States Code; $4,989,367 shall be set aside for the program authorized under section 129(c) of title 23, United States Code, and section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991, as amended; $230,681,878 shall be set aside for the programs authorized under sections 1118 and 1119 of the Transportation Equity Act for the 21st Century, as amended; $2,468,424 shall be set aside for the projects authorized by section 218 of title 23, United States Code; $13,129,913 shall be set aside for the program authorized under section 118(c) of title 23, United States Code; $13,129,913 shall be set aside for the program authorized under section 144(g) of title 23, United States Code; $55,000,000 shall be set aside for the program authorized under section 1221 of the Transportation Equity Act for the 21st Century, as amended; $100,000,000 shall be set aside to carry out a matching grant program to promote access to alternative methods of transportation; $45,000,000 shall be set aside to carry out a pilot program that promotes innovative transportation solutions for people with disabilities; and $23,896,000 shall be set aside and transferred to the Federal Motor Carrier Safety Administration as authorized by section 102 of Public Law 106–159: *Provided further*, That, of the funds to be apportioned to each State under section 110 for fiscal year 2002, the Secretary shall ensure that such funds are apportioned for the programs authorized under sections 1101(a)(1), 1101(a)(2), 1101(a)(3), 1101(a)(4), and 1101(a)(5) of the Transportation Equity Act for the 21st Century, as amended, in the same ratio that each State is apportioned funds for such programs in fiscal year 2002 but for this section.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursement for sums expended pursuant to the provisions of 23 U.S.C. 308, $30,000,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

For necessary expenses for the Appalachian Development Highway System as authorized under Section 1069(y) of Public Law 102–240, as amended, $350,000,000, to remain available until expended.

STATE INFRASTRUCTURE BANKS

(RESCISSION)

Of the funds made available for State Infrastructure Banks in Public Law 104–205, $5,750,000 are rescinded.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

MOTOR CARRIER SAFETY

LIMITATION ON ADMINISTRATIVE EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for administration of motor carrier safety programs and motor carrier safety research, pursuant to section 104(a)(1)(B) of title 23, United States Code, not to exceed $105,000,000 shall be paid in accordance with law from appropriations made available by this Act and from any available take-down balances to the Federal Motor Carrier Safety Administration, together with advances and reimbursements received by the Federal Motor Carrier Safety Administration, of which $5,000,000 is for the motor carrier safety operations program: *Provided*, That such amounts shall be available to carry out the functions and operations of the Federal Motor Carrier Safety Administration.

(RESCISSION)

Of the unobligated balances authorized under 23 U.S.C. 104(a)(1)(B), $6,665,342 are rescinded.

NATIONAL MOTOR CARRIER SAFETY PROGRAM

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out 49 U.S.C. 31102, 31106 and 31309, $204,837,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $183,059,000 for ''Motor Carrier Safety Grants'', and ''Information Systems'': *Provided further*, That notwithstanding any other provision of law, of the $22,837,000 provided under 23 U.S.C. 110, $18,000,000 shall be for border State grants and $4,837,000 shall be for State commercial driver's license program improvements.

Of the unobligated balances authorized under 49 U.S.C. 31102, 31106, and 31309, $2,332,546 are rescinded.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary, with respect to traffic and highway safety under chapter 301 of title 49, United States Code, and part C of subtitle VI of title 49, United States Code, $132,000,000 of which $96,360,000 shall remain available until September 30, 2004: *Provided*, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

OPERATIONS AND RESEARCH

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 403, to remain available until expended, $72,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2002, are in excess of $72,000,000 for programs authorized under 23 U.S.C. 403.

Of the unobligated balances authorized under 23 U.S.C. 403, $1,516,000 are rescinded.

NATIONAL DRIVER REGISTER

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to the National Driver Register under chapter 303 of title 49, United States Code, $2,000,000, to be derived from the Highway Trust Fund, and to remain available until expended.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

(INCLUDING RESCISSION OF CONTRACT AUTHORIZATION)

Notwithstanding any other provision of law, for payment of obligations incurred in

carrying out the provisions of 23 U.S.C. 402, 405, 410, and 411 to remain available until expended, $223,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 2002, are in excess of $223,000,000 for programs authorized under 23 U.S.C. 402, 405, 410, and 411 of which $160,000,000 shall be for ''Highway Safety Programs'' under 23 U.S.C. 402, $15,000,000 shall be for ''Occupant Protection Incentive Grants'' under 23 U.S.C. 405, $38,000,000 shall be for ''Alcohol-Impaired Driving Countermeasures Grants'' under 23 U.S.C. 410, and $10,000,000 shall be for the ''State Highway Safety Data Grants'' under 23 U.S.C. 411: *Provided further*, That none of these funds shall be used for construction, rehabilitation, or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That not to exceed $8,000,000 of the funds made available for section 402, not to exceed $750,000 of the funds made available for section 405, not to exceed $1,900,000 of the funds made available for section 410, and not to exceed $500,000 of the funds made available for section 411 shall be available to NHTSA for administering highway safety grants under chapter 4 of title 23, United States Code: *Provided further*, That not to exceed $500,000 of the funds made available for section 410 ''Alcohol-Impaired Driving Countermeasures Grants'' shall be available for technical assistance to the States.

Of the unobligated balances authorized under 23 U.S.C. 402, 405, 410, and 411, $468,600 are rescinded.

FEDERAL RAILROAD ADMINISTRATION

Safety and Operations

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $111,357,000, of which $6,159,000 shall remain available until expended: *Provided*, That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further*, That such additional sums as may be necessary for payment on the first deed of trust may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation.

Railroad Research and Development

For necessary expenses for railroad research and development, $30,325,000, to remain available until expended.

Railroad Rehabilitation and Improvement Program

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That pursuant to section 502 of such Act, as amended, no new direct loans or loan guarantee commitments shall be made using Federal funds for the credit risk premium during fiscal year 2002.

Next Generation High-Speed Rail

For necessary expenses for the Next Generation High-Speed Rail program as authorized under 49 U.S.C. 26101 and 26102, $40,000,000, to remain available until expended.

Alaska Railroad Rehabilitation

To enable the Secretary of Transportation to make grants to the Alaska Railroad, $20,000,000 shall be for capital rehabilitation and improvements benefiting its passenger operations, to remain available until expended.

National Rail Development and Rehabilitation

To enable the Secretary to make grants and enter into contracts for the development and rehabilitation of freight and passenger rail infrastructure, $12,000,000, to remain available until expended.

Capital Grants to the National Railroad Passenger Corporation

For necessary expenses of capital improvements of the National Railroad Passenger Corporation as authorized by 49 U.S.C. 24104(a), $521,476,000, to remain available until expended.

FEDERAL TRANSIT ADMINISTRATION

Administrative Expenses

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, $13,400,000: *Provided*, That no more than $67,000,000 of budget authority shall be available for these purposes: *Provided further*, That of the funds in this Act available for execution of contracts under section 5327(c) of title 49, United States Code, $2,000,000 shall be reimbursed to the Department of Transportation's Office of Inspector General for costs associated with audits and investigations of transit-related issues, including reviews of new fixed guideway systems: *Provided further*, That not to exceed $2,600,000 for the National Transit Database shall remain available until expended.

Formula Grants

For necessary expenses to carry out 49 U.S.C. 5307, 5308, 5310, 5311, 5327, and section 3038 of Public Law 105–178, $718,400,000, to remain available until expended: *Provided*, That no more than $3,592,000,000 of budget authority shall be available for these purposes: *Provided further*, That, notwithstanding any other provision of law, of the funds provided under this heading, $5,000,000 shall be available for grants for the costs of planning, delivery, and temporary use of transit vehicles for special transportation needs and construction of temporary transportation facilities for the VIII Paralympiad for the Disabled, to be held in Salt Lake City, Utah: *Provided further*, That in allocating the funds designated in the preceding proviso, the Secretary shall make grants only to the Utah Department of Transportation, and such grants shall not be subject to any local share requirement or limitation on operating assistance under this Act or the Federal Transit Act, as amended.

University Transportation Research

For necessary expenses to carry out 49 U.S.C. 5505, $1,200,000, to remain available until expended: *Provided*, That no more than $6,000,000 of budget authority shall be available for these purposes.

Transit Planning and Research

For necessary expenses to carry out 49 U.S.C. 5303, 5304, 5305, 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322, $23,000,000, to remain available until expended: *Provided*, That no more than $116,000,000 of budget authority shall be available for these purposes: *Provided further*, That $5,250,000 is available to provide rural transportation assistance (49 U.S.C. 5311(b)(2)), $4,000,000 is available to carry out programs under the National Transit Institute (49 U.S.C. 5315), $8,250,000 is available to carry out transit cooperative research programs (49 U.S.C. 5313(a)), $55,422,400 is available for metropolitan planning (49 U.S.C. 5303, 5304, and 5305), $11,577,600 is available for State planning (49 U.S.C. 5313(b)); and $31,500,000 is available for the national planning and research program (49 U.S.C. 5314).

Trust Fund Share of Expenses

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for payment of obligations incurred in carrying out 49 U.S.C. 5303–5308, 5310–5315, 5317(b), 5322, 5327, 5334, 5505, and sections 3037 and 3038 of Public Law 105–178, $5,397,800,000, to remain available until expended, and to be derived from the Mass Transit Account of the Highway Trust Fund: *Provided*, That $2,873,600,000 shall be paid to the Federal Transit Administration's formula grants account: *Provided further*, That $93,000,000 shall be paid to the Federal Transit Administration's transit planning and research account: *Provided further*, That $53,600,000 shall be paid to the Federal Transit Administration's administrative expenses account: *Provided further*, That $4,800,000 shall be paid to the Federal Transit Administration's university transportation research account: *Provided further*, That $100,000,000 shall be paid to the Federal Transit Administration's job access and reverse commute grants program: *Provided further*, That $2,272,800,000 shall be paid to the Federal Transit Administration's capital investment grants account.

Capital Investment Grants

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out 49 U.S.C. 5308, 5309, 5318, and 5327, $668,200,000, to remain available until expended: *Provided*, That no more than $2,941,000,000 of budget authority shall be available for these purposes: *Provided further*, That notwithstanding any other provision of law, there shall be available for fixed guideway modernization, $1,136,400,000; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, $568,200,000 together with $50,000,000 transferred from ''Federal Transit Administration, Formula grants''; and there shall be available for new fixed guideway systems $1,236,400,000, to be available for transit new starts; to be available as follows:

$192,492 for Denver, Colorado, Southwest corridor light rail transit project;

$3,000,000 for Northeast Indianapolis downtown corridor project;

$3,000,000 for Northern Indiana South Shore commuter rail project;

$15,000,000 for Salt Lake City, Utah, CBD to University light rail transit project;

$6,000,000 for Salt Lake City, Utah, University Medical Center light rail transit extension project;

$2,000,000 for Salt Lake City, Utah, Ogden-Provo commuter rail project;

$4,000,000 for Wilmington, Delaware, Transit Corridor project;

$500,000 for Yosemite Area Regional Transportation System project;

$60,000,000 for Denver, Colorado, Southeast corridor light rail transit project;

$10,000,000 for Kansas City, Missouri, Central Corridor Light Rail transit project;

$25,000,000 for Atlanta, Georgia, MARTA extension project;
$2,000,000 for Maine Marine Highway development project;
$151,069,771 for New Jersey, Hudson-Bergen light rail transit project;
$20,000,000 for Newark-Elizabeth, New Jersey, rail link project;
$3,000,000 for New Jersey Urban Core Newark Penn Station improvements project;
$7,000,000 for Cleveland, Ohio, Euclid corridor extension project;
$2,000,000 for Albuquerque, New Mexico, light rail project;
$35,000,000 for Chicago, Illinois, Douglas branch reconstruction project;
$5,000,000 for Chicago, Illinois, Ravenswood line extension project;
$24,223,268 for St. Louis, Missouri, Metrolink St. Clair extension project;
$30,000,000 for Chicago, Illinois, Metra North central, South West, Union Pacific commuter project;
$10,000,000 for Charlotte, North Carolina, South corridor light rail transit project;
$9,000,000 for Raleigh, North Carolina, Triangle transit project;
$65,000,000 for San Diego, California, Mission Valley East light rail transit extension project;
$10,000,000 for Los Angeles, California, East Side corridor light rail transit project;
$80,605,331 for San Francisco, California, BART extension project;
$9,289,557 for Los Angeles, California, North Hollywood extension project;
$5,000,000 for Stockton, California, Altamont commuter rail project;
$113,336 for San Jose, California, Tasman West, light rail transit project;
$6,000,000 for Nashville, Tennessee, Commuter rail project;
$19,170,000 for Memphis, Tennessee, Medical Center rail extension project;
$150,000 for Des Moines, Iowa, DSM bus feasibility project;
$100,000 for Macro Vision Pioneer, Iowa, light rail feasibility project;
$3,500,000 for Sioux City, Iowa, light rail project;
$300,000 for Dubuque, Iowa, light rail feasibility project;
$2,000,000 for Charleston, South Carolina, Monobeam project;
$5,000,000 for Anderson County, South Carolina, transit system project;
$70,000,000 for Dallas, Texas, North central light rail transit extension project;
$25,000,000 for Houston, Texas, Metro advanced transit plan project;
$4,000,000 for Fort Worth, Texas, Trinity railway express project;
$12,000,000 for Honolulu, Hawaii, Bus rapid transit project;
$10,631,245 for Boston, Massachusetts, South Boston Piers transitway project;
$1,000,000 for Boston, Massachusetts, Urban ring transit project;
$4,000,000 for Kenosha-Racine, Milwaukee Wisconsin, commuter rail extension project;
$23,000,000 for New Orleans, Louisiana, Canal Street car line project;
$7,000,000 for New Orleans, Louisiana, Airport CBD commuter rail project;
$3,000,000 for Burlington, Vermont, Burlington to Middlebury rail line project;
$1,000,000 for Detroit, Michigan, light rail airport link project;
$1,500,000 for Grand Rapids, Michigan, ITP metro area, major corridor project;
$500,000 for Iowa, Metrolink light rail feasibility project;
$6,000,000 for Fairfield, Connecticut, Commuter rail project;
$4,000,000 for Stamford, Connecticut, Urban transitway project;
$3,000,000 for Little Rock, Arkansas, River rail project;
$14,000,000 for Maryland, MARC commuter rail improvements projects;
$3,000,000 for Baltimore, Maryland rail transit project;
$60,000,000 for Largo, Maryland, metrorail extension project;
$18,110,000 for Baltimore, Maryland, central light rail transit double track project;
$24,500,000 for Puget Sound, Washington, Sounder commuter rail project;
$30,000,000 for Fort Lauderdale, Florida, Tri-County commuter rail project;
$8,000,000 for Pawtucket-TF Green, Rhode Island, commuter rail and maintenance facility project;
$1,500,000 for Johnson County, Kansas, commuter rail project;
$20,000,000 for Long Island Railroad, New York, east side access project;
$3,000,000 for New York, New York, Second Avenue subway project;
$4,000,000 for Birmingham, Alabama, transit corridor project;
$5,000,000 for Nashua, New Hampshire-Lowell, Massachusetts, commuter rail project;
$10,000,000 for Pittsburgh, Pennsylvania, North Shore connector light rail extension project;
$16,000,000 for Philadelphia, Pennsylvania, Schuykill Valley metro project;
$20,000,000 for Pittsburgh, Pennsylvania, stage II light rail transit reconstruction project;
$2,500,000 for Scranton, Pennsylvania, rail service to New York City project;
$2,500,000 for Wasilla, Alaska, alternate route project;
$1,000,000 for Ohio, Central Ohio North Corridor rail (COTA) project;
$4,000,000 for Virginia, VRE station improvements project;
$50,000,000 for Twin Cities, Minnesota, Hiawatha Corridor light rail transit project;
$70,000,000 for Portland, Oregon, Interstate MAX light rail transit extension project;
$50,149,000 for San Juan, Tren Urbano project;
$10,296,000 for Alaska and Hawaii Ferry projects.

JOB ACCESS AND REVERSE COMMUTE GRANTS

Notwithstanding section 3037(l)(3) of Public Law 105–178, as amended, for necessary expenses to carry out section 3037 of the Federal Transit Act of 1998, $25,000,000, to remain available until expended: *Provided*, That no more than $125,000,000 of budget authority shall be available for these purposes: *Provided further*, That up to $250,000 of the funds provided under this heading may be used by the Federal Transit Administration for technical assistance and support and performance reviews of the Job Access and Reverse Commute Grants program.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operations and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $13,345,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $41,993,000, of which $645,000 shall be derived from the Pipeline Safety Fund, and of which $5,434,000 shall remain available until September 30, 2004: *Provided*, That up to $1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further*, That there may be credited to this appropriation, to be available until expended, funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for travel expenses incurred in performance of hazardous materials exemptions and approvals functions.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

(OIL SPILL LIABILITY TRUST FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, $58,750,000, of which $11,472,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2003; of which $47,278,000 shall be derived from the Pipeline Safety Fund, of which $30,828,000 shall remain available until September 30, 2004.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), $200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 2004: *Provided*, That not more than $14,300,000 shall be made available for obligation in fiscal year 2002 from amounts made available by 49 U.S.C. 5116(i) and 5127(d): *Provided further*, That none of the funds made available by 49 U.S.C. 5116(i) and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $50,614,000: *Provided*, That the Inspector General shall have all necessary authority, in carrying out the duties specified in the Inspector General Act, as amended (5 U.S.C. App. 3) to investigate allegations of fraud, including false statements to the government (18 U.S.C. 1001), by any person or entity that is subject to regulation by the Department: *Provided further*, That the funds made available under this heading shall be used to investigate, pursuant to section 41712 of title 49, United States Code: (1) unfair or deceptive practices and unfair methods of competition by domestic and foreign air carriers and ticket agents; and (2) the compliance of domestic and foreign air carriers with respect to item (1) of this proviso.

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, $18,457,000: *Provided*, That notwithstanding any other provision of law, not to exceed $950,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used

for necessary and authorized expenses under this heading: *Provided further*, That the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2002, to result in a final appropriation from the general fund estimated at no more than $17,507,000.

BUREAU OF TRANSPORTATION STATISTICS

OFFICE OF AIRLINE INFORMATION

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses of the Office of Airline Information, under chapter 111 of title 49, United States Code, $3,760,000, to be derived from the Airport and Airway Trust Fund as authorized by Section 103(b) of Public Law 106–181.

TITLE II

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $5,015,000: *Provided*, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–15; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902) $70,000,000, of which not to exceed $2,000 may be used for official reception and representation expenses.

TITLE III—GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefore, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Such sums as may be necessary for fiscal year 2002 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 303. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 304. None of the funds in this Act shall be available for salaries and expenses of more than 98 political and Presidential appointees in the Department of Transportation.

SEC. 305. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 306. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 307. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 308. (a) No recipient of funds made available in this Act shall disseminate personal information (as defined in 18 U.S.C. 2725(3)) obtained by a State department of motor vehicles in connection with a motor vehicle record as defined in 18 U.S.C. 2725(1), except as provided in 18 U.S.C. 2721 for a use permitted under 18 U.S.C. 2721.

(b) Notwithstanding subsection (a), the Secretary shall not withhold funds provided in this Act for any grantee if a State is in noncompliance with this provision.

SEC. 309. (a) For fiscal year 2002, the Secretary of Transportation shall—

(1) not distribute from the obligation limitation for Federal-aid Highways amounts authorized for administrative expenses and programs funded from the administrative takedown authorized by section 104(a)(1)(A) of title 23, United States Code, for the highway use tax evasion program, amounts provided under section 110 of title 23, United States Code, and for the Bureau of Transportation Statistics;

(2) not distribute an amount from the obligation limitation for Federal-aid Highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for the previous fiscal year the funds for which are allocated by the Secretary;

(3) determine the ratio that—

(A) the obligation limitation for Federal-aid Highways less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

(4) distribute the obligation limitation for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) of section 117 of title 23, United States Code (relating to high priority projects program), section 201 of the Appalachian Regional Development Act of 1965, the Woodrow Wilson Memorial Bridge Authority Act of 1995, and $2,000,000,000 for such fiscal year under section 105 of title 23, United States Code (relating to minimum guarantee) so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, $2,000,000,000) for such fiscal year;

(5) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

(6) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highways and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under title 23, United States Code, in the ratio that—

(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

(b) EXCEPTIONS FROM OBLIGATION LIMITATION.—The obligation limitation for Federal-aid Highways shall not apply to obligations: (1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978; (3) under section 9 of the Federal-Aid Highway Act of 1981; (4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; (5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987; (6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991; (7) under section 157 of title 23, United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century; and (8) under section 105 of title 23, United States Code (but, only in an amount equal to $639,000,000 for such fiscal year).

(c) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (a), the Secretary shall after August 1 for such fiscal year revise a distribution of the obligation limitation made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code, section 160 (as in effect on the day before the enactment of the Transportation Equity Act for the 21st Century) of title 23, United States Code, and under section 1015 of the Intermodal Surface Transportation Act of 1991 (105 Stat. 1943–1945).

(d) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—The obligation limitation shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years.

(e) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds: (1) that are authorized to be appropriated for such fiscal year for Federal-aid highways programs (other than the program under section 160 of title 23, United States Code) and for carrying out subchapter I of chapter 311 of title 49, United States Code, and highway-related programs under chapter 4 of title 23, United States Code; and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in

such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (a)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

(f) SPECIAL RULE.—Obligation limitation distributed for a fiscal year under subsection (a)(4) of this section for a section set forth in subsection (a)(4) shall remain available until used and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

SEC. 310. The limitations on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation.

SEC. 311. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 312. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 313. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport-aid program, airport development aid program or airport improvement program grant. The Federal Aviation Administration shall accept such equipment, which shall thereafter be operated and maintained by FAA in accordance with agency criteria.

SEC. 314. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under ''Federal Transit Administration, Capital investment grants'' for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 2004, and other recoveries, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 315. The Secretary of Transportation shall, in cooperation with the Federal Aviation Administrator, encourage a locally developed and executed plan between the State of Illinois, the City of Chicago, and affected communities for the purpose of modernizing O'Hare International Airport, addressing traffic congestion along the Northwest Corridor including western airport access, and moving forward with a third Chicago-area airport. If such a plan cannot be developed and executed by said parties, the Secretary and the Administrator shall work with Congress to enact a federal solution to address the aviation capacity crisis in the Chicago area.

SEC. 316. Notwithstanding any other provision of law, any funds appropriated before October 1, 2001, under any section of chapter 53 of title 49, United States Code, that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 317. None of the funds in this Act may be used to compensate in excess of 335 technical staff-years under the federally funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 2002.

SEC. 318. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's ''Federal-Aid Highways'' account, the Federal Transit Administration's ''Transit Planning and Research'' account, and to the Federal Railroad Administration's ''Safety and Operations'' account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

SEC. 319. Effective on the date of enactment of this Act, of the funds made available under section 1101(a)(12) of Public Law 105–178, as amended, $9,231,000 are rescinded.

SEC. 320. Beginning in fiscal year 2002 and thereafter, the Secretary may use up to 1 percent of the amounts made available to carry out 49 U.S.C. 5309 for oversight activities under 49 U.S.C. 5327.

SEC. 321. Funds made available for Alaska or Hawaii ferry boats or ferry terminal facilities pursuant to 49 U.S.C. 5309(m)(2)(B) may be used to construct new vessels and facilities, or to improve existing vessels and facilities, including both the passenger and vehicle-related elements of such vessels and facilities, and for repair facilities: *Provided*, That not more than $3,000,000 of the funds made available pursuant to 49 U.S.C. 5309(m)(2)(B) may be used by the State of Hawaii to initiate and operate a passenger ferryboat services demonstration project to test the viability of different intra-island and inter-island ferry routes.

SEC. 322. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to 49 U.S.C. 111 may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: *Provided*, That such funds shall be subject to the obligation limitation for Federal-aid highways and highway safety construction.

SEC. 323. Section 3030(a) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended by adding at the end, the following line: ''Washington County—Wilsonville to Beaverton commuter rail.''.

SEC. 324. Section 3030(b) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended by adding at the end the following: ''Detroit, Michigan Metropolitan Airport rail project.''.

SEC. 325. None of the funds in this Act may be obligated or expended for employee training which: (a) does not meet identified needs for knowledge, skills and abilities bearing directly upon the performance of official duties; (b) contains elements likely to induce high levels of emotional response or psychological stress in some participants; (c) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluations; (d) contains any methods or content associated with religious or quasi-religious belief systems or ''new age'' belief systems as defined in Equal Employment Opportunity Commission Notice N–915.022, dated September 2, 1988; (e) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or (f) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees.

SEC. 326. None of the funds in this Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegraph, telephone, letter, printed or written material, radio, television, video presentation, electronic communications, or other device, intended or designed to influence in any manner a Member of Congress or of a State legislature to favor or oppose by vote or otherwise, any legislation or appropriation by Congress or a State legislature after the introduction of any bill or resolution in Congress proposing such legislation or appropriation, or after the introduction of any bill or resolution in a State legislature proposing such legislation or appropriation: *Provided*, That this shall not prevent officers or employees of the Department of Transportation or related agencies funded in this Act from communicating to Members of Congress or to Congress, on the request of any Member, or to members of State legislature, or to a State legislature, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of business.

SEC. 327. (a) IN GENERAL.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF THE CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 328. Notwithstanding any other provision of law, the Commandant of the United States Coast Guard shall maintain an on-board staffing level at the Coast Guard Yard in Curtis Bay, Maryland of not less than 530 full time equivalent civilian employees: *Provided*, That the Commandant may reconfigure his vessel maintenance schedule and new construction projects to maximize employment at the Coast Guard Yard.

SEC. 329. Rebates, refunds, incentive payments, minor fees and other funds received by the Department from travel management centers, charge card programs, the subleasing of building space, and miscellaneous sources are to be credited to appropriations of the Department and allocated to elements of the Department using fair and equitable criteria and such funds shall be available until December 31, 2002.

SEC. 330. For necessary expenses of the Amtrak Reform Council authorized under section 203 of Public Law 105–134, $420,000, to remain available until September 30, 2003.

SEC. 331. In addition to amounts otherwise made available under this Act, to enable the Secretary of Transportation to make grants for surface transportation projects, $20,000,000, to remain available until expended.

SEC. 332. Section 648 of title 14, United States Code, is amended by striking the words ''or such similar Coast Guard industrial establishments''; and inserting after the words ''Coast Guard Yard'': ''and other Coast Guard specialized facilities''. This paragraph is now labeled ''(a)'' and a new paragraph ''(b)'' is added to read as follows:

''(b) For providing support to the Department of Defense, the Coast Guard Yard and other Coast Guard specialized facilities designated by the Commandant shall qualify as components of the Department of Defense for competition and workload assignment purposes. In addition, for purposes of entering into joint public-private partnerships and other cooperative arrangements for the performance of work, the Coast Guard Yard and other Coast Guard specialized facilities may enter into agreements or other arrangements, receive and retain funds from and pay funds to such public and private entities, and may accept contributions of funds, materials, services, and the use of facilities from such entities. Amounts received under this subsection may be credited to appropriate Coast Guard accounts for fiscal year 2002 and for each fiscal year thereafter.''.

SEC. 333. None of the funds in this Act may be used to make a grant unless the Secretary of Transportation notifies the House and Senate Committees on Appropriations not less than three full business days before any discretionary grant award, letter of intent, or full funding grant agreement totaling $1,000,000 or more is announced by the department or its modal administrations from: (1) any discretionary grant program of the Federal Highway Administration other than the emergency relief program; (2) the airport improvement program of the Federal Aviation Administration; or (3) any program of the Federal Transit Administration other than the formula grants and fixed guideway modernization programs: *Provided,* That no notification shall involve funds that are not available for obligation.

SEC. 334. INCREASE IN MOTOR CARRIER FUNDING. (a) IN GENERAL.—Notwithstanding any other provision of law, whenever an allocation is made of the sums authorized to be appropriated for expenditure on the Federal lands highway program, and whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, the Interstate maintenance program, the bridge program, the Appalachian development highway system, and the minimum guarantee program, the Secretary of Transportation shall deduct a sum in such amount not to exceed two-fifths of 1 percent of all sums so made available, as the Secretary determines necessary, to administer the provisions of law to be financed from appropriations for motor carrier safety programs and motor carrier safety research. The sum so deducted shall remain available until expended.

(b) EFFECT.—Any deduction by the Secretary of Transportation in accordance with this paragraph shall be deemed to be a deduction under section 104(a)(1)(B) of title 23, United States Code.

SEC. 335. For an airport project that the Administrator of the Federal Aviation Administration (FAA) determines will add critical airport capacity to the national air transportation system, the Administrator is authorized to accept funds from an airport sponsor, including entitlement funds provided under the ''Grants-in-Aid for Airports'' program, for the FAA to hire additional staff or obtain the services of consultants: *Provided,* That the Administrator is authorized to accept and utilize such funds only for the purpose of facilitating the timely processing, review, and completion of environmental activities associated with such project.

SEC. 336. None of the funds made available in this Act may be used to further any efforts toward developing a new regional airport for southeast Louisiana until a comprehensive plan is submitted by a commission of stakeholders to the Administrator of the Federal Aviation Administration and that plan, as approved by the Administrator, is submitted to and approved by the Senate Committee on Appropriations and the House Committee on Appropriations.

SEC. 337. Section 8335(a) of title 5, United States Code, is amended by inserting the following before the period in the first sentence: ''if the controller qualifies for an immediate annuity at that time. If not eligible for an immediate annuity upon reaching age 56, the controller may work until the last day of the month in which the controller becomes eligible for a retirement annuity unless the Secretary determines that such action would compromise safety''.

SEC. 338. Notwithstanding any other provision of law, States may use funds provided in this Act under Section 402 of Title 23, United States Code, to produce and place highway safety public service messages in television, radio, cinema and print media, and on the Internet in accordance with guidance issued by the Secretary of Transportation: *Provided,* That any State that uses funds for such public service messages shall submit to the Secretary a report describing and assessing the effectiveness of the messages: *Provided further,* That $15,000,000 designated for innovative grant funds under Section 157 of Title 23, United States Code shall be used for national television and radio advertising to support the national law enforcement mobilizations conducted in all 50 states, aimed at increasing safety belt and child safety seat use and controlling drunk driving.

SEC. 339. Section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note) is amended—

(1) in the subsection heading, by inserting ''OVER-THE-ROAD BUSES AND'' before ''PUBLIC'';

(2) in paragraph (1), by striking ''to any vehicle which'' and inserting the following: ''to—

''(A) any over-the-road bus; or

''(B) any vehicle that''; and

(3) by striking paragraphs (2) and (3) and inserting the following:

''(2) STUDY AND REPORT CONCERNING APPLICABILITY OF MAXIMUM AXLE WEIGHT LIMITATIONS TO OVER-THE-ROAD BUSES AND PUBLIC TRANSIT VEHICLES.—

''(A) STUDY AND REPORT.—Not later than July 31, 2003, the Secretary shall conduct a study of, and submit to Congress a report on, the maximum axle weight limitations applicable to vehicles using the Dwight D. Eisenhower National System of Interstate and Defense Highways established under section 127 of title 23, United States Code, or under State law, as the limitations apply to over-the-road buses and public transit vehicles.

''(B) DETERMINATION OF APPLICABILITY OF VEHICLE WEIGHT LIMITATIONS.—

''(i) IN GENERAL.—The report shall include—

''(I) a determination concerning how the requirements of section 127 of that title should be applied to over-the-road buses and public transit vehicles; and

''(II) short-term and long-term recommendations concerning the applicability of those requirements.

''(ii) CONSIDERATIONS.—In making the determination described in clause (i)(I), the Secretary shall consider—

''(I) vehicle design standards;

''(II) statutory and regulatory requirements, including—

''(aa) the Clean Air Act (42 U.S.C. 7401 et seq.);

''(bb) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

''(cc) motor vehicle safety standards prescribed under chapter 301 of title 49, United States Code; and

''(III)(aa) the availability of lightweight materials suitable for use in the manufacture of over-the-road buses;

''(bb) the cost of those lightweight materials relative to the cost of heavier materials in use as of the date of the determination; and

''(cc) any safety or design considerations relating to the use of those materials.

''(C) ANALYSIS OF MEANS OF ENCOURAGING DEVELOPMENT AND MANUFACTURE OF LIGHTWEIGHT BUSES.—The report shall include an analysis of, and recommendations concerning, means to be considered to encourage the development and manufacture of lightweight buses, including an analysis of—

''(i) potential procurement incentives for public transit authorities to encourage the purchase of lightweight public transit vehicles using grants from the Federal Transit Administration; and

''(ii) potential tax incentives for manufacturers and private operators to encourage the purchase of lightweight over-the-road buses.

''(D) ANALYSIS OF CONSIDERATION IN RULEMAKINGS OF ADDITIONAL VEHICLE WEIGHT.—The report shall include an analysis of, and recommendations concerning, whether Congress should require that each rulemaking by an agency of the Federal Government that affects the design or manufacture of motor vehicles consider—

''(i) the weight that would be added to the vehicle by implementation of the proposed rule;

''(ii) the effect that the added weight would have on pavement wear; and

''(iii) the resulting cost to the Federal Government and State and local governments.

''(E) COST-BENEFIT ANALYSIS.—The report shall include an analysis relating to the axle weight of over-the-road buses that compares—

''(i) the costs of the pavement wear caused by over-the-road buses; with

''(ii) the benefits of the over-the-road bus industry to the environment, the economy, and the transportation system of the United States.

''(3) DEFINITIONS.—In this subsection:

''(A) OVER-THE-ROAD BUS.—The term 'over-the-road bus' has the meaning given the term in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

''(B) PUBLIC TRANSIT VEHICLE.—The term 'public transit vehicle' means a vehicle described in paragraph (1)(B).''.

SEC. 340. None of the funds in this Act shall be used to pursue or adopt guidelines or regulations requiring airport sponsors to provide to the Federal Aviation Administration without cost building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings for services relating to air traffic control, air navigation or weather reporting. The prohibition of funds in this section does not apply to negotiations between the Agency and airport sponsors to achieve agreement on ''below-market'' rates for these items or to grant assurances that require airport sponsors to provide land without cost to the FAA for air traffic control facilities.

SEC. 341. None of the funds provided in this Act or prior Appropriations Acts for Coast Guard ''Acquisition, construction, and improvements'' shall be available after the fifteenth day of any quarter of any fiscal year, unless the Commandant of the Coast Guard first submits a quarterly report to the House and Senate Committees on Appropriations on all major Coast Guard acquisition projects including projects executed for the Coast Guard by the United States Navy and vessel traffic service projects: *Provided*, That such reports shall include an acquisition schedule, estimated current and year funding requirements, and a schedule of anticipated obligations and outlays for each major acquisition project: *Provided further*, That such reports shall rate on a relative scale the cost risk, schedule risk, and technical risk associated with each acquisition project and include a table detailing unobligated balances to date and anticipated unobligated balances at the close of the fiscal year and the close of the following fiscal year should the Administration's pending budget request for the acquisition, construction, and improvements account be fully funded: *Provided further*, That such reports shall also provide abbreviated information on the status of shore facility construction and renovation projects: *Provided further*, That all information submitted in such reports shall be current as of the last day of the preceding quarter.

SEC. 342. Funds provided in this Act for the Transportation Administrative Service Center (TASC) shall be reduced by $37,000,000, which limits fiscal year 2002 TASC obligational authority for elements of the Department of Transportation funded in this Act to no more than $88,323,000: *Provided*, That such reductions from the budget request shall be allocated by the Department of Transportation to each appropriations account in proportion to the amount included in each account for the Transportation Administrative Service Center.

SEC. 343. SAFETY OF CROSS-BORDER TRUCKING BETWEEN UNITED STATES AND MEXICO. No funds limited or appropriated in this Act may be obligated or expended for the review or processing of an application by a Mexican motor carrier for authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border until—

(1) the Federal Motor Carrier Safety Administration—

(A) performs a full safety compliance review of the carrier consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, and gives the carrier a satisfactory rating before granting conditional and, again, before granting permanent authority to any such carrier;

(B) requires that any such safety compliance review take place onsite at the Mexican motor carrier's facilities;

(C) requires Federal and State inspectors to verify electronically the status and validity of the license of each driver of a Mexican motor carrier commercial vehicle crossing the border;

(D) gives a distinctive Department of Transportation number to each Mexican motor carrier operating beyond the commercial zone to assist inspectors in enforcing motor carrier safety regulations including hours-of-service rules under part 395 of title 49, Code of Federal Regulations;

(E) requires State inspectors whose operations are funded in part or in whole by Federal funds to check for violations of Federal motor carrier safety laws and regulations, including those pertaining to operating authority and insurance;

(F) requires State inspectors who detect violations of Federal motor carrier safety laws or regulations to enforce them or notify Federal authorities of such violations;

(G) equips all United States-Mexico border crossings with Weigh-In-Motion (WIM) systems as well as fixed scales suitable for enforcement action and requires that inspectors verify by either means the weight of each commercial vehicle entering the United States at such a crossing;

(H) the Federal Motor Carrier Safety Administration has implemented a policy to ensure that no Mexican motor carrier will be granted authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border unless that carrier provides proof of valid insurance with an insurance company licensed and based in the United States; and

(I) publishes in final form regulations—

(i) under section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31144 nt.) that establish minimum requirements for motor carriers, including foreign motor carriers, to ensure they are knowledgeable about Federal safety standards, that include the administration of a proficiency examination;

(ii) under section 31148 of title 49, United States Code, that implement measures to improve training and provide for the certification of motor carrier safety auditors;

(iii) under sections 218(a) and (b) of that Act (49 U.S.C. 31133 nt.) establishing standards for the determination of the appropriate number of Federal and State motor carrier inspectors for the United States-Mexico border;

(iv) under section 219(d) of that Act (49 U.S.C. 14901 nt.) that prohibit foreign motor carriers from leasing vehicles to another carrier to transport products to the United States while the lessor is subject to a suspension, restriction, or limitation on its right to operate in the United States;

(v) under section 219(a) of that Act (49 U.S.C. 14901 nt.) that prohibit foreign motor carriers from operating in the United States that is found to have operated illegally in the United States; and

(vi) under which a commercial vehicle operated by a Mexican motor carrier may not enter the United States at a border crossing unless an inspector is on duty; and

(2) the Department of Transportation Inspector General certifies in writing that—

(A) all new inspector positions funded under this Act have been filled and the inspectors have been fully trained;

(B) each inspector conducting on-site safety compliance reviews in Mexico consistent with the safety fitness evaluation procedures set forth in part 385 of title 49, Code of Federal Regulations, is fully trained as a safety specialist;

(C) the requirement of subparagraph (B) has not been met by transferring experienced inspectors from other parts of the United States to the United States-Mexico border, undermining the level of inspection coverage and safety elsewhere in the United States;

(D) the Federal Motor Carrier Safety Administration has implemented a policy to ensure compliance with hours-of-service rules under part 395 of title 49, Code of Federal Regulations, by Mexican motor carriers seeking authority to operate beyond United States municipalities and commercial zones on the United States-Mexico border;

(E) the information infrastructure of the Mexican government is sufficiently accurate, accessible, and integrated with that of U.S. law enforcement authorities to allow U.S. authorities to verify the status and validity of licenses, vehicle registrations, operating authority and insurance of Mexican motor carriers while operating in the United States, and that adequate telecommunications links exist at all United States-Mexico border crossings used by Mexican motor carrier commercial vehicles, and in all mobile enforcement units operating adjacent to the border, to ensure that licenses, vehicle registrations, operating authority and insurance information can be easily and quickly verified at border crossings or by mobile enforcement units;

(F) there is adequate capacity at each United States-Mexico border crossing used by Mexican motor carrier commercial vehicles to conduct a sufficient number of meaningful vehicle safety inspections and to accommodate vehicles placed out-of-service as a result of said inspections;

(G) there is an accessible database containing sufficiently comprehensive data to allow safety monitoring of all Mexican motor carriers that apply for authority to operate commercial vehicles beyond United States municipalities and commercial zones on the United States-Mexico border and the drivers of those vehicles; and

(H) measures are in place in Mexico, similar to those in place in the United States, to ensure the effective enforcement and monitoring of license revocation and licensing procedures.

For purposes of this section, the term ''Mexican motor carrier'' shall be defined as a Mexico-domiciled motor carrier operating beyond United States municipalities and commercial zones on the United States-Mexico border.

SEC. 344. Notwithstanding any other provision of law, for the purpose of calculating the non-federal contribution to the net project cost of the Regional Transportation Commission Resort Corridor Fixed Guideway Project in Clark County, Nevada, the Secretary of Transportation shall include all non-federal contributions (whether public or private) made on or after January 1, 2000 for engineering, final design, and construction of any element or phase of the project, including any fixed guideway project or segment connecting to that project, and also shall allow non-federal funds (whether public or private) expended on one element or phase of the project to be used to meet the non-federal share requirement of any element or phase of the project.

SEC. 345. Item 1348 of the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 306) is amended by striking ''Extend West Douglas Road'' and inserting ''Second Douglas Island Crossing''.

SEC. 346. Item 642 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 281), relating to Washington, is amended by striking ''Construct passenger ferry facility to serve Southworth, Seattle'' and inserting ''Passenger only ferry to serve Kitsap County-Seattle''.

Item 1793 in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 322), relating to Washington, is amended by striking ''Southworth Seattle Ferry'' and inserting ''Passenger only ferry to serve Kitsap County-Seattle''.

SEC. 347. Notwithstanding any other provision of law, historic covered bridges eligible for Federal assistance under section 1224 of the Transportation Equity Act for the 21st Century, as amended, may be funded from amounts set aside for the discretionary bridge program.

SEC. 348. (a) Item 143 in the table under the heading ''Capital Investment Grants'' in title I of the Department of Transportation and Related Agencies Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–456) is amended by striking ''Northern New Mexico park and ride facilities'' and inserting ''Northern New Mexico park and ride facilities and State of New Mexico, Buses and Bus-Related Facilities''.

(b) Item 167 in the table under the heading ''Capital Investment Grants'' in title I of the Department of Transportation and Related Agencies Appropriations Act, 2000 (Public Law 106–69; 113 Stat. 1006) is amended by striking ''Northern New Mexico Transit Express/Park and Ride buses'' and inserting ''Northern New Mexico park and ride facilities and State of New Mexico, Buses and Bus-Related Facilities''.

SEC. 349. Beginning in fiscal year 2002 and thereafter, notwithstanding 49 U.S.C. 41742, no essential air service subsidies shall be provided to communities in the United States (except Alaska) that are located fewer than 100 highway miles from the nearest large or medium hub airport, or fewer than 70 highway miles from the nearest small hub airport, or fewer than 50 highway miles from the nearest airport providing scheduled service with jet aircraft; or that require a rate of subsidy per passenger in excess of $200 unless such point is greater than 210 miles from the nearest large or medium hub airport.

This Act may be cited as the ''Department of Transportation and Related Agencies Appropriations Act, 2002''.

SA 1026. Mr. DURBIN (for himself and Mr. BENNETT) proposed an amendment to the bill S. 1172, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, and for other purposes; as follows:

On page 8, insert between lines 9 and 10 the following:

(e) EFFECTIVE DATE.—This section shall apply to fiscal year 2002 and each fiscal year thereafter.

On page 9, lines 13 and 14, strike ''as increased by section 2 of Public Law 106–57'' and insert ''as adjusted by law and in effect on September 30, 2001''.

On page 15, insert between lines 9 and 10 the following:

(d) This section shall apply to fiscal year 2002 and each fiscal year thereafter.

On page 16, add after line 21 the following:

(f) This section shall apply to fiscal year 2002 and each fiscal year thereafter.

On page 17, line 21, strike ''$55,000,000'' and insert ''$54,000,000''.

On page 17, line 25, insert ''after the date'' after ''days''.

On page 17, line 25, insert before the period the following: '': *Provided further*, That notwithstanding any other provision of law and subject to the availability of appropriations, the Architect of the Capitol is authorized to secure, through multi-year rental, lease, or other appropriate agreement, the property located at 67 K Street, S.W., Washington, D.C., for use of Legislative Branch agencies, and to incur any necessary incidental expenses including maintenance, alterations, and repairs in connection therewith: *Provided further*, That in connection with the property referred to under the preceding proviso, the Architect of the Capitol is authorized to expend funds appropriated to the Architect of the Capitol for the purpose of the operations and support of Legislative Branch agencies, including the United States Capitol Police, as may be required for that purpose''.

On page 33, line 6, strike ''$419,843,000'' and insert ''$420,843,000''.

On page 34, line 4, insert before the period the following: ''*Provided further*, That $1,000,000 from funds made available under this heading shall be available for a pilot program in technology assessment: *Provided further*, That not later than June 15, 2002, a report on the pilot program referred to under the preceding proviso shall be submitted to Congress''.

On page 38, line 15, strike ''to read''.

On page 39, line 2, insert ''pay'' before ''periods''.

SA 1027. Mr. SPECTER proposed an amendment to the bill S. 1172, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, and for other purposes; as follows:

At the appropriate place, insert the following:

MAILINGS FOR TOWN MEETINGS

For mailings of postal patron postcards by Members for the purpose of providing notice of a town meeting by a Member in a county (or equivalent unit of local government) with a population of less than 50,000 that the Member will personally attend to be allotted as requested, $3,000,000, subject to authorization: *Provided* That any amount allocated to a Member for such mailing under this paragraph shall not exceed 50 percent of the cost of the mailing and the remaining costs shall be paid by the Member from other funds available to the Member.''.

On page 33, line 6, strike ''$419,843,000'' and insert ''$416,843,000''.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce, for the information of the Senate and the public, that the Committee on Energy and Natural Resources has scheduled two hearings to receive testimony on legislative proposals relating to comprehensive electricity restructuring, including electricity provisions of S. 388 and S. 597, and electricity provisions contained in S. 1273 and S. 2098 of the 106th Congress.

The hearings will take place on Wednesday, July 25, at 9:30 a.m., in room 366 of the Dirksen Senate Office Building, and Thursday, July 26, at 9:45 a.m., in room 106 of the Dirksen Senate Office Building.

Those wishing to submit written statements on the legislation should address them to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention, Leon Lowery.

For further information, please call Leon Lowery at 202/224–2209.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, July 19, 2001. The purpose of this hearing will be to discuss the nutrition title of the next Federal farm bill.

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

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 19, 2001, at 9:30 a.m., in open session to continue to receive testimony on ballistic missile defense programs and policies, in review of the Defense authorization request for fiscal year 2002.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. 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 July 19, 2001, to conduct a hearing on the nomination of Mr. Harvey L. Pitt to be Chairman of the Securities and Exchange Commission.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 19, at 9:30 a.m., to conduct a hearing. The committee will receive testimony on proposals related to removing barriers to distributed generation, renewable energy, and other advanced technologies in electricity generation and transmission, including section 301 and title VI of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; sections 110, 111, 112, 710, and 711 of S. 388, the National Energy Security Act of 2001; and S. 933, the Combined Heat and Power Advancement Act of 2001. The committee will also receive testimony on proposals relating to the hydroelectric relicensing procedures of the Federal Energy Regulatory Commission, including title VII of S. 388, title VII of S. 597; and S. 71, the Hydroelectric Licensing Process Improvement Act of 2001.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, July 19, 2001, to hear testimony on Trade Adjustment Assistance.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 19, at 10 a.m., to hold a hearing titled, ''Mexico City Policy: Effects of Restrictions on International Family Planning Funding''.

WITNESSES

Panel 1: The Honorable Tim Hutchinson, United States Senate, Washington, DC; The Honorable Nita M. Lowey, United States House of Representatives, Washington, DC; The Honorable Harry Reid, United States Senate, Washington, DC.

Panel 2: Mr. Alan J. Kreczko, Acting Assistant Secretary of the Bureau of Population, Refugees and Migration, State Department, Washington, DC.

Panel 3: Mr. Daniel E. Pellegrom, President, Pathfinder International, Watertown, MA; Dr. Nicholas N. Eberstadt, Visiting Scholar, American Enterprise Institute, Washington, DC; Mr. Aryeh Neier, President, Open Society Institute, New York, NY; Cathy Cleaver, Director of Planning & Information, U.S. Conference of Catholic Bishops, Washington, DC.

Panel 4: Dr. Nirmal Bista, Director General, Family Planning Association of Nepal, Kathmandu, Nepal; Ms. Susana Silva Galdos, President, Movimiento Manuela Ramos, Lima, Peru; Professor M. Sophia Aguirre, The Catholic University of America, Department of Business Economics, Washington, DC.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 19, 2001, at 2:30 p.m., to hold a nomination hearing.

NOMINEES

Panel 1: Mr. Stuart A. Bernstein, of the District of Columbia, to be Ambassador to Denmark. Mr. Michael E. Guest, of South Carolina, to be Ambassador to Romania. Mr. Charles A. Heimbold, Jr., of Connecticut, to be Ambassador to Sweden. Mr. Thomas J. Miller, of Virginia, to be Ambassador to Greece.

Panel 2: The Honorable Larry C. Napper, of Texas, to be Ambassador to the Republic of Kazakhstan. Mr. Jim Nicholson, of Colorado, to be Ambassador to the Holy See. Mr. Mercer Reynolds, of Ohio, to be Ambassador to Switzerland, and to serve concurrently and without additional compensation as Ambassador to the Principality of Liechtenstein.

The PRESIDING OFFICER. Without objection, it so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, July 19, 2001, at 10 a.m., in SD226.

I. Nominations: Ralph F. Boyd Jr. to be Assistant Attorney General, Civil Rights Division; Robert D. McCallum Jr. to be Assistant Attorney General, Civil Division.

II. Bills: S. 407, The Madrid Protocol Implementation Act [Leahy/Hatch]; S. 778. A bill to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings. [Kennedy/Hagel]; S. 754, Drug Competition Act of 2001.

III. Commemorative Legislation: S. Res. 16, A resolution designating August 16, 2001, as ''National Airborne Day.'' [Thurmond]: S. Con. Res. 16, A concurrent resolution expressing the sense of Congress that the George Washington letter to Touro Synagogue in Newport, Rhode Island, which is on display at the B'nai B'rith Klutznick National Jewish Museum in Washington, D.C., is one of the most significant early statements buttressing the nascent American constitutional guarantee of religious freedom. [Chafee/Reed].

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on Thursday, July 19, 2001, beginning at 9:15 a.m., in room 428A of the Russell Senate Office Building to markup pending legislation to be immediately followed by a hearing regarding the President's nomination of Hector V. Barreto, Jr., to be Administrator of the U.S. Small Business Administration.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, July 19, 2001, at 1 p.m., in room 418 of the Russell Senate Office Building, for a hearing on S. 739, the Heather French Henry Homeless Veterans Assistance Act, and other pending health-care related legislation.

COMMITTEE ON VETERANS' AFFAIRS—UNITED STATES SENATE

HEARING ON PENDING VETERANS HEALTH-RELATED LEGISLATION, JULY 19, 2001

Agenda

S. 739: Provisions to improve programs for homeless veterans. Sponsor: Senator Wellstone.

a. Encourages all Federal, State, and local departments and agencies and other entities and individuals to work toward the national goal of ending homelessness among veterans within a decade.

b. Establishes within the Department of Veterans Affairs the Advisory Committee on Homeless Veterans.

c. Directs the Secretary of Veterans Affairs to: (1) support the continuation within the Department of at least one center to monitor the structure, process, and outcome of Department programs addressing homeless veterans; and (2) assign veterans receiving specified services provided in, or sponsored or coordinated by, the Department as being within the ''complex care'' category.

d. Directs the Secretary to: (1) make grants to Department health care facilities and to grant and per diem providers for the development of programs targeted at meeting certain special needs of homeless veterans; (2) require certain officials to initiate a plan for joint outreach to veterans at risk of homelessness; (3) carry out two treatment trials in integrated mental health services delivery; (4) ensure that each Department primary care facility has a mental health treatment capacity; (5) carry out a program of transitional assistance grants to eligible homeless veterans; and (6) make technical assistance grants to aid nonprofit community-based groups in applying for homeless program grants.

e. Extends through FY 2006 the homeless veterans reintegration program.

S. 1188: Provisions to improve recruitment and retention of VA nurses. Sponsors: Senators Rockefeller, Cleland.

a. Modifies the VA Employee Incentive Scholarship Program and Debt Reduction Program;

b. Mandates that VA provide Saturday premium pay to title 5/title 38 hybrids;

c. Requires a report on VA's use of authority to request waivers of the pay reduction for re-employed annuitants;

d. Gives VA nurses enrolled in the Federal Employee Retirement System the same ability to use unused sick leave as part of the retirement year calculation that VA nurses enrolled in the Civilian Retirement System have.

e. Requires an evaluation of nurse-managed clinics, including primary care and geriatric clinics;

f. Requires VA to develop a nationwide policy on staffing standards to ensure that veterans are provided with safe and high quality care. Such staffing standards should consider the numbers and skill mix required of staff in specific medical settings (such as critical care and long-term care);

g. Requires a report on the use of mandatory overtime by licensed nursing staff and nursing assistants in each facility;

h. Elevates the office of the Nurse Consultant so that person shall report directly to the Under Secretary for Health;

i. Exempts registered nurses, physician assistants, and expanded-function dental auxiliaries from the requirement that part-time service performed prior to April 7, 1986, be prorated when calculating retirement annuities;

j. Requires a report on VA's nurse qualification standards;

k. Makes technical clarifications to the nurse locality pay authorities.

S. 1160: Authorizes VA to provide certain hearing-impaired veterans and veterans with spinal cord injury or dysfunction, in addition to blind veterans, with service dogs to assist them with everyday activities. Sponsor: Senator Rockefeller.

S. : Draft legislation to change the means test used by the VA in determining whether veterans will be placed in enrollment priority group 5 or 7. The current placement eligibility threshold is set at approximately $24,000 regardless of where in the country the veteran is living (text forthcoming). Sponsor: .

S. 1042: Provides that within the limits of Department facilities, VA shall furnish hospital and nursing home care and medical services to Commonwealth Army veterans and new Philippine Scouts in the same manner as provided for under section 1710 of title 38 USC. Also authorizes VA to furnish care and services to the same veterans for the treatment of the service-connected disabilities and non-service-connected disabilities of such veterans and scouts residing in the Republic of the Philippines on an outpatient basis at the Manila VA Outpatient Clinic. Sponsor: Senator Inouye.

S. Res. 61: Expresses the sense of the Senate that the Secretary of Veterans Affairs should, for the payment of special pay by the Veterans Health Administration, recognize board certifications from the American Association of Physician Specialists, Inc., to the same extent that the Secretary recognizes board certifications from the American Board of Osteopathic Specialists. Sponsor: Senator Hutchinson.

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

SUBCOMMITTEE ON AIRLAND

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee

on Airland of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 19, 2001, at 2:30 p.m., in open session to receive testimony on Army modernization and transformation, in review of the Defense authorization request for fiscal year 2002.

The PRESIDING OFFICER. Without objection, it is ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 19, at 2:30 p.m., to conduct a hearing. The subcommittee will receive testimony on S. 976, the California Ecosystem, Water Supply, and Water Quality Enhancement Act of 2001.

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

FLOOR PRIVILEGE

Mr. DURBIN. Mr. President, I ask unanimous consent that David Sarokin, a detailee on my staff, be given privileges of the floor today and any subsequent days during which the nomination of John Graham is being considered.

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

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that on Friday, July 20, at 9:15 a.m. the Senate proceed to executive session to consider en bloc the nominations of Roger Gregory, Sam Haddon, and Richard Cebull; that there be 30 minutes for debate equally divided between Senators LEAHY and HATCH, or their designees; that at 9:45 a.m. the Senate vote on the Gregory nomination to be followed by a vote on the Haddon nomination, to be followed by a vote on the Cebull nomination; that upon the disposition of these nominations the Senate consider and confirm Calendar Nos. 247 and 249; that the motions to reconsider all of the above votes be tabled, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

Mr. REID. Mr. President, I further ask unanimous consent that after the first vote there be 10-minute votes.

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

EXECUTIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations, Calendar Nos. 202, 211, 212, 236 through 240, 242, 243, and 244; that the HELP Committee be discharged from consideration of the following nominations: Laurie Rich, Assistant Secretary for Intergovernmental and Interagency Affairs; Robert Pasternak, Assistant Secretary for Special Education; Joanne Wilson, Commissioner for Rehabilitation Services Administration; Carl D'Amico, Assistant Secretary for Vocational and Adult Education; Cari Dominguez, to be a member of the Equal Employment Opportunity Commission; that the nominations be confirmed en bloc, the motions to reconsider be laid on the table, and any statements thereon be printed in the RECORD, 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 were considered and confirmed as follows:

DEPARTMENT OF DEFENSE

Susan Morrisey Livingstone, of Montana, to be Under Secretary of the Navy.

Alberto Jose Mora, of Virginia, to be General Counsel of the Department of the Navy.

Stephen A. Cambone, of Virginia, to be Deputy Under Secretary of Defense for Policy.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Kevin Keane, of Wisconsin, to be an Assistant Secretary of Health and Human Services.

DEPARTMENT OF COMMERCE

William Henry Lash, III, of Virginia, to be an Assistant Secretary of Commerce.

DEPARTMENT OF THE TREASURY

Brian Carlton Roseboro, of New Jersey, to be an Assistant Secretary of the Treasury.

EXECUTIVE OFFICE OF THE PRESIDENT

Allen Frederick Johnson of Iowa, to be Chief Agricultural Negotiator, Office of the United States Trade Representative, with the rank of Ambassador.

DEPARTMENT OF TRANSPORTATION

Allan Rutter, of Texas, to be Administrator of the Federal Railroad Administration.

DEPARTMENT OF COMMERCE

Samuel W. Bodman, of Massachusetts, to be Deputy Secretary of Commerce.

EXECUTIVE OFFICE OF THE PRESIDENT

Mark B. McClelland, of California, to be a Member of the Council of Economic Advisers.

DEPARTMENT OF THE TREASURY

Sheila C. Blair, of Kansas, to be an Assistant Secretary of the Treasury.

DEPARTMENT OF EDUCATION

Laurie Rich, of Texas, to be Assistant Secretary for Intergovernmental and Interagency Affairs, Department of Education.

Robert Pasternack, of New Mexico, to be Assistant Secretary for Special Education and Rehabilitative Services, Department of Education.

Joanne M. Wilson, of Louisiana, to be Commissioner of the Rehabilitation Services Administration, Department of Education.

Carol D'Amico, of Indiana, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Cari M. Dominguez, of Maryland, to be a member of the Equal Employment Opportunity Commission for a term expiring July 1, 2006.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

AUTHORIZING SENATE LEGAL COUNSEL REPRESENTATION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 137 submitted earlier today by the majority leader and the Republican leader.

The PRESIDING OFFICER. The clerk will report the resolution by Title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 137) to authorize representation by the Senate Legal Counsel in John Hoffman, et al. v. James Jeffords.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, two Republican voters in Pennsylvania have commenced a civil action against Senator JEFFORDS in federal district court in the District of Colombia to challenge Senator JEFFORDS' recent decision to become an Independent and to caucus with the Democratic party for organizational purposes within the Senate. Specifically, this lawsuit seeks ''to assert the invalidity of Senator JEFFORDS change of party by mere announcement'' and requests a court order requiring Senator JEFFORDS ''to reinstate his status as a Republican Senator'' particularly ''during the Senate polling and caucusing of its members.''

Through this action, the plaintiffs seek to subject to judicial control a Senator's choice of with which Senators to caucus, as well as the process by which the Senate chooses its officers and the chairs of its committees. This attempt to question a Senator in court about the performance of his legislative responsibilities in the Senate is barred by the Speech or Debate Clause of the Constitution, which commits such oversight of Senators to the electorate, not to the judiciary. This suit also runs afoul of the clauses of the Constitution that commit to each House of Congress the responsibility to elect officers and determine the rules of its proceedings.

Because this suit seeks to challenge the validity of actions taken by Senator JEFFORDS in his official capacity, representation in this case falls appropriately within the Senator Legal Counsel's statutory responsibility. This resolution would accordingly authorize the Senate Legal Counsel to represent Senator JEFFORDS to present to the Court the constitutional bases for dismissing this suit.

Mr. REID. Mr. President, I ask unanimous consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table en bloc, and any statements related thereto be printed in the RECORD.

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

The resolution (S. Res. 137) was agreed to.

The preamble was agreed to.

(The resolution is printed in today's RECORD under ''Resolutions Submitted.'')

SUDAN PEACE ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 89, S. 180.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 180) to facilitate famine relief efforts and comprehensive solutions to the war in Sudan.

There being no objection, the Senate proceeded to consider the bill which had been referred to the Committee on Foreign Relations with an amendment in the nature of a substitute.

[Strike out all after the enacting clause and insert the part printed in italic.]

S. 180

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 ''Sudan Peace Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Government of Sudan has intensified its prosecution of the war against areas outside of its control, which has already cost more than 2,000,000 lives and has displaced more than 4,000,000.

(2) A viable, comprehensive, and internationally sponsored peace process, protected from manipulation, presents the best chance for a permanent resolution of the war, protection of human rights, and a self-sustaining Sudan.

(3) Continued strengthening and reform of humanitarian relief operations in Sudan is an essential element in the effort to bring an end to the war.

(4) Continued leadership by the United States is critical.

(5) Regardless of the future political status of the areas of Sudan outside of the control of the Government of Sudan, the absence of credible civil authority and institutions is a major impediment to achieving self-sustenance by the Sudanese people and to meaningful progress toward a viable peace process.

(6) Through manipulation of traditional rivalries among peoples in areas outside their full control, the Government of Sudan has effectively used divide and conquer techniques to subjugate their population, and internationally sponsored reconciliation efforts have played a critical role in reducing the tactic's effectiveness and human suffering.

(7) The Government of Sudan is utilizing and organizing militias, Popular Defense Forces, and other irregular units for raiding and slaving parties in areas outside of the control of the Government of Sudan in an effort to severely disrupt the ability of those populations to sustain themselves. The tactic is in addition to the overt use of bans on air transport relief flights in prosecuting the war through selective starvation and to minimize the Government of Sudan's accountability internationally.

(8) The Government of Sudan has repeatedly stated that it intends to use the expected proceeds from future oil sales to increase the tempo and lethality of the war against the areas outside its control.

(9) Through its power to veto plans for air transport flights under the United Nations relief operation, Operation Lifeline Sudan (OLS), the Government of Sudan has been able to manipulate the receipt of food aid by the Sudanese people from the United States and other donor countries as a devastating weapon of war in the ongoing effort by the Government of Sudan to subdue areas of Sudan outside of the Government's control.

(10) The efforts of the United States and other donors in delivering relief and assistance through means outside OLS have played a critical role in addressing the deficiencies in OLS and offset the Government of Sudan's manipulation of food donations to advantage in the civil war in Sudan.

(11) While the immediate needs of selected areas in Sudan facing starvation have been addressed in the near term, the population in areas of Sudan outside of the control of the Government of Sudan are still in danger of extreme disruption of their ability to sustain themselves.

(12) The Nuba Mountains and many areas in Bahr al Ghazal, Upper Nile, and Blue Nile regions have been excluded completely from relief distribution by OLS, consequently placing their populations at increased risk of famine.

(13) At a cost which has sometimes exceeded $1,000,000 per day, and with a primary focus on providing only for the immediate food needs of the recipients, the current international relief operations are neither sustainable nor desirable in the long term.

(14) The ability of populations to defend themselves against attack in areas outside the Government of Sudan's control has been severely compromised by the disengagement of the front-line sponsor states, fostering the belief within officials of the Government of Sudan that success on the battlefield can be achieved.

(15) The United States should use all means of pressure available to facilitate a comprehensive solution to the war in Sudan, including—

(A) the multilateralization of economic and diplomatic tools to compel the Government of Sudan to enter into a good faith peace process;

(B) the support or creation of viable democratic civil authority and institutions in areas of Sudan outside government control;

(C) continued active support of people-to-people reconciliation mechanisms and efforts in areas outside of government control;

(D) the strengthening of the mechanisms to provide humanitarian relief to those areas; and

(E) cooperation among the trading partners of the United States and within multilateral institutions toward those ends.

SEC. 3. DEFINITIONS.

In this Act:

(1) GOVERNMENT OF SUDAN.—The term ''Government of Sudan'' means the National Islamic Front government in Khartoum, Sudan.

(2) OLS.—The term ''OLS'' means the United Nations relief operation carried out by UNICEF, the World Food Program, and participating relief organizations known as ''Operation Lifeline Sudan''.

SEC. 4. CONDEMNATION OF SLAVERY, OTHER HUMAN RIGHTS ABUSES, AND TACTICS OF THE GOVERNMENT OF SUDAN.

Congress hereby—

(1) condemns—

(A) violations of human rights on all sides of the conflict in Sudan;

(B) the Government of Sudan's overall human rights record, with regard to both the prosecution of the war and the denial of basic human and political rights to all Sudanese;

(C) the ongoing slave trade in Sudan and the role of the Government of Sudan in abetting and tolerating the practice; and

(D) the Government of Sudan's use and organization of ''murahalliin'' or ''mujahadeen'', Popular Defense Forces (PDF), and regular Sudanese Army units into organized and coordinated raiding and slaving parties in Bahr al Ghazal, the Nuba Mountains, Upper Nile, and Blue Nile regions; and

(2) recognizes that, along with selective bans on air transport relief flights by the Government of Sudan, the use of raiding and slaving parties is a tool for creating food shortages and is used as a systematic means to destroy the societies, culture, and economies of the Dinka, Nuer, and Nuba peoples in a policy of low-intensity ethnic cleansing.

SEC. 5. SUPPORT FOR AN INTERNATIONALLY SANCTIONED PEACE PROCESS.

(a) FINDINGS.—Congress hereby recognizes that—

(1) a single viable, internationally and regionally sanctioned peace process holds the greatest opportunity to promote a negotiated, peaceful settlement to the war in Sudan; and

(2) resolution to the conflict in Sudan is best made through a peace process based on the Declaration of Principles reached in Nairobi, Kenya, on July 20, 1994.

(b) UNITED STATES DIPLOMATIC SUPPORT.—The Secretary of State is authorized to utilize the personnel of the Department of State for the support of—

(1) the ongoing negotiations between the Government of Sudan and opposition forces;

(2) any necessary peace settlement planning or implementation; and

(3) other United States diplomatic efforts supporting a peace process in Sudan.

SEC. 6. MULTILATERAL PRESSURE ON COMBATANTS.

It is the sense of Congress that—

(1) the United Nations should be used as a tool to facilitating peace and recovery in Sudan; and

(2) the President, acting through the United States Permanent Representative to the United Nations, should seek to—

(A) revise the terms of Operation Lifeline Sudan to end the veto power of the Government of Sudan over the plans by Operation Lifeline Sudan for air transport of relief flights and, by doing so, to end the manipulation of the delivery of those relief supplies to the advantage of the Government of Sudan on the battlefield;

(B) investigate the practice of slavery in Sudan and provide mechanisms for its elimination; and

(C) sponsor a condemnation of the Government of Sudan each time it subjects civilians to aerial bombardment.

SEC. 7. REPORTING REQUIREMENT.

Section 116 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n) is amended by adding at the end the following:

''(g) In addition to the requirements of subsections (d) and (f), the report required by subsection (d) shall include—

''(1) a description of the sources and current status of Sudan's financing and construction of oil exploitation infrastructure and pipelines, the effects on the inhabitants of the oil fields regions of such financing and construction, and the Government of Sudan's ability to finance the war in Sudan;

''(2) a description of the extent to which that financing was secured in the United States or with involvement of United States citizens;

''(3) the best estimates of the extent of aerial bombardment by the Government of Sudan forces in areas outside its control, including targets, frequency, and best estimates of damage; and

''(4) a description of the extent to which humanitarian relief has been obstructed or manipulated by the Government of Sudan or other forces for the purposes of the war in Sudan.''.

SEC. 8. CONTINUED USE OF NON-OLS ORGANIZATIONS FOR RELIEF EFFORTS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should continue to increase the use of non-OLS agencies in the distribution of relief supplies in southern Sudan.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the President shall submit a detailed report to Congress describing the progress made toward carrying out subsection (a).

SEC. 9. CONTINGENCY PLAN FOR ANY BAN ON AIR TRANSPORT RELIEF FLIGHTS.

(a) PLAN.—The President shall develop a contingency plan to provide, outside United Nations auspices if necessary, the greatest possible amount of United States Government and privately donated relief to all affected areas in Sudan, including the Nuba Mountains, Upper Nile, and Blue Nile, in the event the Government of Sudan imposes a total, partial, or incremental ban on OLS air transport relief flights.

(b) REPROGRAMMING AUTHORITY.—Notwithstanding any other provision of law, in carrying out the plan developed under subsection (a), the President may reprogram up to 100 percent of the funds available for support of OLS operations (but for this subsection) for the purposes of the plan.

SEC. 10. HUMANITARIAN ASSISTANCE FOR EXCLUSIONARY "NO GO" AREAS OF SUDAN.

(a) PILOT PROJECT ACTIVITIES.—The President, acting through the United States Agency for International Development, is authorized and requested to undertake, immediately, pilot project activities to provide food and other humanitarian assistance, as appropriate, to vulnerable populations in Sudan that are residing in exclusionary ''no go'' areas of Sudan.

(b) STUDY.—The President, acting through the United States Agency for International Development, shall conduct a study examining the adverse impact upon indigenous Sudan communities by OLS policies that curtail direct humanitarian assistance to exclusionary ''no go'' areas of Sudan.

(c) EXCLUSIONARY ''NO GO'' AREAS OF SUDAN DEFINED.—In this section, the term ''exclusionary 'no go' areas of Sudan'' means areas of Sudan designated by OLS for curtailment of direct humanitarian assistance, including, but not limited to, the Nuba Mountains, the Upper Nile, and the Blue Nile.

Mr. REID. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be read a third time, and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment in the nature of a substitute was agreed to.

The bill (S. 180), as amended, was read the third time and passed.

EXPRESSION OF APPRECIATION

Mr. REID. Mr. President, let me say in closing, the assistant minority leader is in the Chamber, and I express through him to the entire Republican caucus our appreciation for their cooperation in moving this legislation that we have just completed, and the nominations. We now have completed three appropriations bills. Last Congress at this same time we were able to complete eight before the August recess. That is a goal we have. We certainly would like to be able to do that.

Even though there has been a few missteps this week back and forth, I think there has been an understanding as to what is expected on each side. Again, I express my appreciation to the entire Republican caucus, through my friend, the senior Senator from Oklahoma, the assistant minority leader.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to thank my friend and colleague, Senator REID from Nevada. We did get some things accomplished today. We did pass two appropriations bills. We did confirm, I think, about 18 people. And we are going to confirm about three judges tomorrow, and several other individuals. So we are making progress.

I thank my friend and colleague as well for his patience. This is not the easiest process, as we found out in the last session of Congress. Sometimes it is more difficult to pass appropriations bills than it should be. But my friend from Nevada has been very persistent. He is getting his appropriations bills passed and we are getting some nominations through. I pledge to continue working with him to see if we can accomplish both objectives: completing appropriations bills in a timely manner and also seeing to it that President Bush's nominees are given fair consideration and are confirmed in an appropriate timeframe.

The PRESIDING OFFICER. The Senator from Nevada.

ORDERS FOR FRIDAY, JULY 20, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:15 a.m, Friday, July 20. I further ask unanimous consent that on Friday, immediately following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

PROGRAM

Mr. REID. Mr. President, tomorrow the Senate will convene at 9:15 a.m., with 30 minutes of closing debate in relation to the Gregory, Haddon, and Cebull nominations, followed by up to three rollcall votes beginning at approximately 9:45 tomorrow morning.

Following disposition of the nominations, the Senate will resume consideration of the Transportation appropriations bill. As has been announced by the majority leader, after those votes tomorrow, the first vote will be at 5:45 p.m. on Monday.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. REID. 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 10:38 p.m., adjourned until Friday, July 20, 2001, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate July 19, 2001:

DEPARTMENT OF ENERGY

LINTON F. BROOKS, OF VIRGINIA, TO BE DEPUTY ADMINISTRATOR FOR DEFENSE NUCLEAR NONPROLIFERATION, NATIONAL NUCLEAR SECURITY ADMINISTRATION. (NEW POSITION)

DEPARTMENT OF STATE

RONALD E. NEUMANN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF BAHRAIN.

NANCY GOODMAN BRINKER, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HUNGARY.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 19, 2001:

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN D. GRAHAM, OF MASSACHUSETTS, TO BE ADMINISTRATOR OF THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS, OFFICE OF MANAGEMENT AND BUDGET.

DEPARTMENT OF DEFENSE

SUSAN MORRISEY LIVINGSTONE, OF MONTANA, TO BE UNDER SECRETARY OF THE NAVY.

ALBERTO JOSE MORA, OF VIRGINIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE NAVY.

STEPHEN A. CAMBONE, OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR POLICY.

FEDERAL RESERVE SYSTEM

ROGER WALTON FERGUSON, JR., OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

KEVIN KEANE, OF WISCONSIN, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF COMMERCE

WILLIAM HENRY LASH, III, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

DEPARTMENT OF THE TREASURY

BRIAN CARLTON ROSEBORO, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

EXECUTIVE OFFICE OF THE PRESIDENT

ALLEN FREDERICK JOHNSON, OF IOWA, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF TRANSPORTATION

ALLAN RUTTER, OF TEXAS, TO BE ADMINISTRATOR OF THE FEDERAL RAILROAD ADMINISTRATION.

DEPARTMENT OF COMMERCE

SAMUEL W. BODMAN, OF MASSACHUSETTS, TO BE DEPUTY SECRETARY OF COMMERCE.

EXECUTIVE OFFICE OF THE PRESIDENT

MARK B. MCCLELLAN, OF CALIFORNIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

DEPARTMENT OF THE TREASURY

SHEILA C. BAIR, OF KANSAS, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DEPARTMENT OF EDUCATION

LAURIE RICH, OF TEXAS, TO BE ASSISTANT SECRETARY FOR INTERGOVERNMENTAL AND INTERAGENCY AFFAIRS, DEPARTMENT OF EDUCATION.

ROBERT PASTERNACK, OF NEW MEXICO, TO BE ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES, DEPARTMENT OF EDUCATION.

JOANNE M. WILSON, OF LOUISIANA, TO BE COMMISSIONER OF THE REHABILITATION SERVICES ADMINISTRATION, DEPARTMENT OF EDUCATION.

CAROL D'AMICO, OF INDIANA, TO BE ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION, DEPARTMENT OF EDUCATION.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CARI M. DOMINGUEZ, OF MARYLAND, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2006.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.