

The bill (H.R. 3104) was read the third time and passed.

Mr. FRIST. I appreciate the courtesy of the manager and ranking member, and I yield the floor.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006—Continued

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, there is a desire for back and forth. That is perfectly fine with me. I think the Senator from Arizona wanted to say something, and then if we could go to the Senator from New York.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, this debate has been held before, as has been noted. About a year ago, a similar amendment was defeated by a vote of 55 to 42 in this body. I urge my colleagues to defeat the amendment this year as well. The question has been asked about whether we would be going down a road that we would be taking a step toward something—I am not exactly sure—if we were to conduct this study. As my colleague, the distinguished chairman of the Armed Services Committee has noted, this is not the testing of a weapon or even the design of a weapon. This is merely to study the feasibility.

I want to make the point clear, to study the feasibility of what? To study the feasibility of taking an existing warhead and simply providing a different kind of casing for it and a different kind of fuse which would enable it to penetrate deep into the earth and potentially take out something that a potential enemy would have very deep underground.

The deterrent effect of this is obvious. A country that might wish us harm, such as North Korea, for example, that thinks it can bury something deep within the ground because we have no way of getting to it, would no longer be able to pursue that course of action if they understood that we had this kind of a weapon.

It is precisely the point that Secretary Rumsfeld made when he said:

Countries all across the globe are putting things underground. And we have no capability, conventional or nuclear, to deal with the issue of deep penetrator.

He goes on to say:

The idea of proceeding with this study is just imminently sensible. And anyone would look back five years from now, if we failed to take a responsible step like that, and feel we'd made a mistake.

General Cartwright, Commander of U.S. Strategic Command, stated before the Armed Services Subcommittee on Strategic Forces:

We're going to have to have multiple ways by which we can hold [hard and deeply buried targets] at risk. . . . The robust nuclear earth penetrator is one of several capabilities and I think will be necessary.

The point is deterrence. Because we are already a nuclear power under the

Nuclear Non-Proliferation Treaty, we are entitled to have nuclear warheads and weapons. We have them. We are not developing any new ones. We would be taking something out of the inventory and putting it into a form which a potential enemy would have to believe could be used against them. It might just prevent some of our potential enemies from going deep, as Senator WARNER has said—from deeply burying things into the ground with the belief and hope that we would never be able to get to it. That is what this study is for. I remind my colleagues that only if the feasibility study demonstrates that it can work, and only if the Nuclear Weapons Council approves its development, and only if Congress authorizes its development could it ever proceed.

So Congress still has at least two opportunities to determine whether or not to proceed with something that has never even been studied. My colleagues seem very certain about the consequences of one of these weapons. They have never even been designed, let alone tested. I think it is a little premature to suggest, with great certainty, exactly what would happen if one of these weapons were ever used. Again, the point is to have the deterrence, not to use the weapons. We have not used anything in our nuclear stockpile. Yet it has provided a great deterrence for this country because an enemy cannot know we will not use it if they ever act against us.

Again, it simply modifies a Clinton administration design of a previous warhead, which was determined could not penetrate the kind of rock, for example, that we believe some of our potential adversaries have. That is why this study to try to find a way, if we could, to be able to penetrate that rock and send a signal to those countries that they ought not try to go deep with their nuclear programs.

Again, there is nothing violative of the nonproliferation treaty because we already have the weapon. We would simply be taking an existing warhead and determining whether or not it could be used for this purpose.

I remind my colleagues, as I said, we already voted on this before. We have defeated this amendment in the past. The Secretary of State, the Secretary of Defense, and the general in command of the U.S. Strategic Forces all have asked that we proceed to fund the \$4 million for this study. As Senator WARNER pointed out, what could be wrong with a study to simply determine whether something like this is feasible?

It seems to me that since our military leaders have requested it, since the President requested it, it is up to Congress to fulfill our obligation to provide the resources necessary for the study. As Secretary Rumsfeld said, if we don't do it and one of our adversaries has something deeply buried that we would like to get to and we cannot do it because we don't have this, we would ask ourselves someday

why we were not willing to provide this funding for a study.

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

Mr. KYL. Yes.

Mr. SESSIONS. With regard to this feasibility study, the study is really to determine the effect of the casing that we use on nuclear weapons—hardened casing—and how deeply that would penetrate. It is not going to be a feasibility study in which a nuclear weapon would be detonated; is that correct?

Mr. KYL. Mr. President, that is exactly correct. There are no plans—none—to test any kind of nuclear weapon. The study, as the Senator from Alabama has noted, is not to test any kind of nuclear weapon but simply to determine whether or not a casing, and fuse, and the other elements of a weapon could be designed to include an existing nuclear warhead within it in order to have this kind of capability.

I believe my time is up. I inquire of my time.

The PRESIDING OFFICER. The Senator from Arizona has 14 minutes.

Mr. KYL. I believe the agreement was that I had 5 minutes.

Mr. WARNER. I think there may well be—

The PRESIDING OFFICER. The total time in opposition is 14 minutes.

Mr. WARNER. Mr. President, before the Senator yields, it is somewhat difficult for those who are just trying to grasp a short debate here tonight, which is really a repetition of 2 previous years of debates. Let us assure our colleagues that nothing in this entire test scenario will involve any fissionable material whatsoever. As the distinguished Senator said, it would not involve a bomb. It didn't involve the use of any fissionable material whatsoever. It is simply a study.

It is important that the Congress be informed, and it is interesting that the money for this was struck last year. But guess what. North Korea went out and proudly announced—once the money was knocked out of the bill—we have a nuclear weapon. So I think it is very wise for this Nation to have this. It does not involve the use of any fissionable material.

The PRESIDING OFFICER. Who yields time?

The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I think Senator CLINTON has asked for 5 minutes, and I yield that time to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mrs. CLINTON. Mr. President, I am honored to join my colleagues from California, Massachusetts, Michigan, and elsewhere to oppose this funding for the robust nuclear penetrator, the so-called nuclear bunker buster. I thought this issue was closed at the end of last year. Regrettably, it is not.

This program has been the subject of debate and discussion for several years.

I think it is important to look at the funding request because it tells a slightly different story about what the intentions are behind this program.

In its fiscal year 2003 budget request, the Department of Energy sought \$15 million to fund the first year of what was to be a 3-year, \$45 million study to determine the feasibility of using one of two existing large nuclear weapons as a robust nuclear earth penetrator. In fiscal year 2003, \$15 million was authorized and appropriated for this, but the DOE was not to begin work until it submitted a report setting forth the requirements for the penetrator and the target types that the nuclear penetrator was designed to hold at risk. DOE submitted the report in April 2003, the funds were released, and the work began.

In its fiscal year 2004 budget request, DOE again sought \$15 million for the penetrator, but only \$7.5 million was appropriated.

In the fiscal 2005 budget request, DOE sought \$27.5 million for the RNEP. For the first time, however, DOE included the robust nuclear earth penetrator in its 5-year budget report. The cost of the feasibility study had increased dramatically, from \$45 million to \$145 million. Moreover, the DOE determined that the feasibility would take 5 years rather than 3 to complete.

Most significantly, the DOE 5-year budget plan also included \$484.7 million to complete the engineering and design phases. Based on this cost progression, the nuclear penetrator would cost in excess of \$1 billion to produce.

Finally, Congress had enough of this, although the administration persisted in pursuing the nuclear penetrator, and in its fiscal 2006 budget requested \$4 million to restart the feasibility study. An additional \$14 million would be needed in fiscal 2007 to complete the feasibility study.

We have heard that the robust nuclear penetrator is a concept to modify an existing large yield nuclear weapon to be an earth penetrator that would penetrate hard rock. But we also now know more than we knew a couple of years ago. The administration told us a couple years ago about what the effect of this would be, how far into the earth it could penetrate—12 feet or so, according to the National Academy of Sciences. What would be the collateral damage? Maybe up to a million casualties.

The funding requests would lead to the development of a weapon that would have devastating impacts.

I conclude by pointing out that before Operation Iraqi Freedom started, Iraq was one of the countries used as an example of a potential enemy with a hard and deeply buried WMD storage and manufacturing areas. It was the principal justification for the development of this bunker buster. I believe this body needs to once again join the House in saying that to create a weapon—which, believe me, this may not be just a research and report; the DOE

budget figures demonstrate they clearly have much more in mind in the administration that would be used in a first strike offensive manner—would require confidence in the accuracy of intelligence that at this time we simply do not have.

I hope this amendment will be successful this year based on the additional information, particularly with respect to the National Academy of Sciences' analysis which demonstrates the devastating effect such a weapon could have with very little intelligence available to guide the use of it.

I yield back my time.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from New York for those comments. She put all of this in both a practical and fiscal perspective. I also thank the Senator from Michigan because he was right on. Do what we say, don't do what we do to every other nation. The nonproliferation treaty does not matter. It is just a terribly arrogant position for the United States to take and I think a morally wrong one.

How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator from California has 13 minutes remaining.

Mrs. FEINSTEIN. I yield 5 minutes to the junior Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KERRY. Mr. President, I ask my colleagues to stop and think hard about this, not just be swayed by the fact the Pentagon is asking for it, not just be swayed by the fact our great friend, the distinguished chairman of the Armed Services Committee, is arguing in favor of it. But I ask my colleagues to stop and think about this for a minute: Do we have a bunker buster with a nuclear warhead today? The answer is no, we do not. So if we are going to study the—whatever you want to call it—the modification, creation, it is the creation of a weapon we do not have today.

By any definition anywhere in the world, any leader in any country looking at us sees that as a new weapon, as a new weapon capacity. I do not remember everything from nuclear, chemical, biological warfare school, but that is one of the things the Navy did for me. I will tell you, a nuclear weapon that goes 10 or 12 feet into the ground with 70 times the capacity of Hiroshima is a weapon that is going to have unbelievable consequences to civilian populations all over the world.

This is a study of the absurd. There are two outcomes to this study: Either you find it does not work and you don't use it, or you find that it does and then you have to confront the choice, would you ever use it. With the thousands of warheads we still have, with the deterrent we still have, do we need to go seeking yet another kind of nuclear weapon to send some kind of deterrent

threat? It just does not make sense against any measurement of what we need to defend ourselves and provide for the security of the United States.

Should we look at other forms of deep penetrating bunker busting? Sure, that would make more sense, far more sense than the notion of the United States using a nuclear weapon for the purpose of bunker busting, especially when you consider that tactically, if you were going to use it, you would probably try to use it in a selective way that takes out a few bunkers, and you wind up with a nuclear weapon usage that only invites more consequences with nuclear weapons. It is not usable.

That is the conclusion the National Academy of Sciences came to, and for the Senate to casually dismiss our own National Academy of Sciences and pretend we have to study something that has already been studied is really a study of the absurd in itself. It is a study in a waste of money, especially at a time when the resources of this country are already taxed.

I do not know any person you talk to who has dealt with proliferation issues over a long period of time who is not sensitive to the fact that if we go ahead and study this new kind of weapon, we invite any other country that views us as a threat to do the same. If you look at every stage of the arms race, from the late 1940s all the way through every weapon that was designed, each stage of it was driven by one nation or the other—usually the United States, incidentally—being the first to develop a particular new technology.

You can go right back through every stage of nuclear development, from the first bombs to the hydrogen to the silent submarines to the MIRVing and all the way through until the modern times. I think it was only on two occasions that the Soviet Union, in fact, was first in the development of a particular weapon.

This is the United States leading down the road, sending a signal to the world that we are trying to develop a new nuclear weapon that we do not have today. It is just a matter of common sense that has an impact on people throughout the world.

By every test, by what it does to proliferation efforts, by what it does with respect to common sense and the possibility of it being used, by what it does with respect to the dismissal of the National Academy of Sciences and the studies already done, by what it does with respect to a test of common sense as to its usage at 71 Hiroshimas and the implications of the fallout and what is dismissed as collateral damage, the vast implications of nuclear fallout that would come from that, this is a study truly that we do not need to undertake that has dramatic negative consequences.

I hope colleagues will make a commonsense assessment with respect to this new weapon.

I yield back to the Senator from California the remainder of my time.

Mrs. FEINSTEIN. I thank the Senator from Massachusetts. He has made some excellent points. I very much appreciate them.

I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from New Mexico.

Mr. DOMENICI. Has time expired on the Feinstein amendment?

The PRESIDING OFFICER. It has not.

Mr. DOMENICI. How much time do the proponents have?

The PRESIDING OFFICER. There is 12 minutes in opposition and 7 minutes for the Senator from California.

Mr. DOMENICI. I ask the Senator from California, in the interest of moving along, would she like to shorten her time if we shorten ours? We have 12 minutes, and the Senator from California has 7.

Mrs. FEINSTEIN. What would the Senator from New Mexico propose?

Mr. DOMENICI. I propose we have 5 minutes and Senator FEINSTEIN have 2.

Mrs. FEINSTEIN. Make it 5 and 5.

Mr. DOMENICI. Five and 5? We have 12, and the Senator from California has 5. I will take it: 5 and 5; is that all right?

Mrs. FEINSTEIN. Five and 5.

Mr. DOMENICI. Five and 5. Without using this time on this unanimous consent request, I ask we move off this amendment for the purpose of offering two amendments that are going to be accepted.

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

AMENDMENT NO. 1097

Mr. DOMENICI. Mr. President, I send to the desk on behalf of Senators ALLARD and SALAZAR an amendment relating to the purchase of mineral rights at Rocky Flats technical site. I note the presence of both Senators from Colorado, and I say to them that I am pleased to accept the amendment. It has been cleared on both sides. I appreciate their work. We will do everything we can to keep it in conference.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. ALLARD and Mr. SALAZAR, proposes an amendment numbered 1097.

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

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

The amendment is as follows:

(Purpose: To set aside certain amounts for the purchase of mineral rights at the Rocky Flats Environmental Technology Site)

At the end of title __, add the following:

SEC. _____. Of amounts appropriated to the Secretary of Energy for the Rocky Flats Environmental Technology Site for fiscal year

2006, the Secretary may provide no more than \$10,000,000 for the purchase of mineral rights at the Rocky Flats Environmental Technology Site.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is agreed to.

The amendment (No. 1097) was agreed to.

Mr. DOMENICI. The second amendment I referred to will be offered by the Senator from Colorado and withdrawn—no, it will not be withdrawn. It will be offered.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I have a rather lengthy statement on this amendment. There is still some time, I understand, on the Robust Nuclear Earth Penetrator; is that correct?

Mr. DOMENICI. Five minutes on our side.

AMENDMENT NO. 1084, AS MODIFIED

Mr. ALLARD. Mr. President, I send the amendment to the desk and that amendment is amendment No. 1084.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for himself and Mr. SALAZAR, proposes an amendment numbered 1084, as modified.

Mr. ALLARD. This amendment should read sponsored by both Allard and SALAZAR. Here is a corrected amendment. I will send that to the desk.

The PRESIDING OFFICER. The amendment at the desk appears to be the same amendment that was just adopted.

Mr. ALLARD. The only difference would be that the listing of the sponsors on there should list ALLARD and SALAZAR. Otherwise there is no difference. Maybe we are okay to move forward. Is that correct, Mr. President?

Mr. DOMENICI. Mr. President, the previous amendment that was adopted, I ask consent that Senator SALAZAR be deemed an original cosponsor when it was entered as if it were there.

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

Mr. DOMENICI. That takes care of that one.

The PRESIDING OFFICER. Without objection, amendment 1084, as modified, is agreed to.

The amendment (No. 1084), as modified, was agreed to, as follows:

(Purpose: To set aside certain amounts to provide regular and early retirement benefits to workers at the Rocky Flats Environmental Technology Site)

At the end of title __, add the following:

SEC. _____. Of amounts appropriated to the Secretary of Energy for the Rocky Flats Environmental Technology Site for fiscal year 2006, the Secretary may provide not more than \$15,000,000 to provide regular and early retirement benefits to workers at the Rocky Flats Environmental Technology Site.

The PRESIDING OFFICER. The Senator from Colorado.

The Chair would note that amendment 1084, as modified, has been agreed

to. It reflects the additional cosponsors.

Mr. ALLARD. Mr. President, I rise in support of the amendment and make a few comments, if I might.

I have had faith in the workers of Rocky Flats and I am pleased to say that Kaiser-Hill and the workers at Rocky Flats have not disappointed me. In fact, it appears that Kaiser-Hill and the workers at Rocky Flats are far exceeding their cleanup commitments at Rocky Flats in the State of Colorado. I cannot express the full extent of how proud I am of their achievements.

Listen to some of their accomplishments. All weapons-grade plutonium was removed in 2003; more than 1,400 contaminated glove boxes and hundreds of process tanks have been removed; more than 400,000 cubic meters of low-level radioactive waste have been removed; 650 of the 802 facilities have been demolished; all 4 uranium production facilities have been demolished; all 5 plutonium production facilities have been demolished or will be within the next 3 months; 310 of 360 sites of soil contamination have been remediated, and the last shipment of transuranic waste was shipped this last April.

It now appears the cleanup of Rocky Flats will be completed as early as October, a full year ahead of schedule, and save the American taxpayer billions upon billions of dollars of what was envisioned when we first started talking about cleanup at Rocky Flats.

One can appreciate the magnitude of this accomplishment only when they realize that within 6 years Rocky Flats will have been transformed from one of the most dangerous places on Earth to a beautiful and safe natural wildlife refuge. Yet the cleanup contractor could not have achieved this demanding goal as established by the Department of Energy without the hard work and determination of the Rocky Flats workers. Most of these workers had to literally develop an entire new skill set. They went from manufacturing plutonium pits to dismantling glove boxes. They tore down buildings while wearing stiff environmental protection suits. They cleaned up rooms that were so contaminated that they were forced to use the highest level of respiratory protection available. Perhaps more importantly, these workers were extraordinarily productive even though they knew they were essentially working themselves out of a job.

With the completion of the cleanup and closure of Rocky Flats, they knew they would have to find employment elsewhere. There was no guarantee that their next job would pay as much or provide the same level of benefits. Despite knowing that they were going to lose their jobs, the workers of Rocky Flats remained highly motivated and totally committed to their cleanup mission. They believed in what they were doing and worked hard to clean up the facility as quickly and safely as possible.

They achieved more in less time and with less money than anyone dreamed possible. I am proud of the workers at Rocky Flats. I believe they have once again earned our Nation's sincere appreciation and respect. Given the sacrifice and dedication demonstrated by these workers, one would think the Department of Energy would do everything it could do to ensure that these workers received the compensation and benefits they have earned. One would think assisting those workers who lose their retirement benefits because of the early completion of the cleanup would be a top priority for the Department. After all, these workers saved the Department billions upon billions of cleanup costs.

Last year, it became clear to the Department of Energy and to me that the cleanup at Rocky Flats would be completed much earlier than anyone expected. The workers were supportive of early closure but were concerned that some of their colleagues would lose retirement benefits because of early closure. I shared their concern and requested in last year's defense authorization bill that the Department of Energy provide Congress with a report on the number of workers who would not receive retirement benefits and the cost of providing these benefits.

After a lengthy delay, the Department of Energy reported that about 29 workers would not receive pension and/or lifetime medical benefits because of early closure. The cost of providing benefits to those workers was just over \$12 million.

To my dismay, I discovered the Department of Energy's report was woefully incomplete. I was subsequently informed that at least another 50 workers would have qualified for retirement benefits had the Department of Energy bothered to include those workers who already had been laid off because of the accelerated closure schedule.

This means as many as 75 workers at Rocky Flats will lose their pensions, medical benefits, or in some cases both because they worked faster, less expensively and achieved more than they were supposed to.

They not only worked themselves out of a job, but they also worked themselves out of retirement benefits and medical care.

I find the Department of Energy's refusal to pay these benefits to be outrageous and shameful.

Many of the workers at Rocky Flats have served our Nation for over 2 decades. They have risked their lives day in and day out, first by building nuclear weapon components and then by cleaning up some of the most contaminated buildings in the world. All they have asked for in return is to be treated with fairness and honesty.

To my disappointment and to the disappointment of the workers at Rocky Flats, the Department of Energy cannot seem to keep its end of the bargain. The Department seems to think that the only thing these workers deserve is a shove out the door.

These workers would have received their retirement benefits had the cleanup continued to 2035 as originally predicted. These workers would have received their retirement benefits had the cleanup continued to 2007 as the site contract specifies. But by accelerating the cleanup by over a year and saving the American taxpayer hundreds of millions of dollars, these workers are left without the retirement benefits they deserve and have earned.

The Department's refusal to provide these benefits has ramifications far beyond Rocky Flats. Because Rocky Flats is the first major DOE clean-site, workers at other sites around the country are watching to see how the Department of Energy treats the workers at Rocky Flats. Unfortunately, they have seen how the Department of Energy has failed to step up and provide retirement benefits to those who have earned it.

The workers at other sites now have no incentive to accelerate clean-up. Why should they? The Department of Energy has not lifted a finger to help the workers at Rocky Flats. It would be foolish for workers at other sites think the Department of Energy would act fairly with them.

To me, the Department's decision is a penny wise and a pound foolish. By refusing to provide these benefits, the Department saves money in the short term. Yet, by discouraging the workers from supporting acceleration, the Department is going to cost the American taxpayer hundreds of millions in additional funding in the long run.

I believe Congress needs to correct the Department's mistake before it is too late.

Today, I offer an amendment that will provide the benefits to those workers who would have lost their retirement benefits because of early closure. This amendment is designed to provide retirement benefits to only those who would have received retirement benefits had the site remained open until December 15, 2005, the date of site cleanup contract.

To be clear, this funding is not an additional bonus for a job well-done. Nor is it a going away present for two decades of service. These retirement benefits are what these workers have already earned—nothing more, nothing else.

I urge my colleagues to support this amendment. These workers have earned these benefits, and it is up to this body to see that they receive them. Let us not let the bureaucrats in the Department of Energy tarnish the credibility of the Federal Government. It is time for this body to correct this mistake before the Department's foolishness costs the American taxpayer even more money in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I will be very short. I want to first congratulate

my good friend from Colorado, Senator ALLARD, for the sponsorship of these amendments which are important for Rocky Flats and for the cleanup of our DOE facilities. I think we have a great facility and a model in the State of Colorado that is applicable to other Department of Energy sites and in the end we are going to be able to provide some cost savings to our whole DOE cleanup challenge in this country.

The legislation in front of us in the form of the modified amendments would do two things: One, it would help all of the employees who have been laid off at Rocky Flats because of the closure of that plant and the surplus funds would therefore go for a very good purpose to help with the retirement of the employees who have worked at Rocky Flats for a very long time.

The second amendment deals with the mineral rights, which is all part of completing the stewardship process at the DOE facility, which will be one of the first ones cleaned up in the Nation. So I applaud my friend from Colorado for helping in this effort and for having worked on it for such a long time. I also want to state my appreciation to the minority leader, Senator REID, for his work on this effort as well as to the chairman, Senator PETE DOMENICI, and Senator WARNER for his great assistance in this effort as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, there is no time agreement on the amendment, but I did understand we were going to accept it. I didn't think we were going to have any time. I ask the Senator, could we proceed to adopt the amendment, if the Senator from New Mexico is willing to do that?

Mr. ALLARD. Yes, that will be fine.

Mr. DOMENICI. We are willing to accept the last amendment that was offered by the Senator.

The PRESIDING OFFICER. The Chair notes the amendment of the Senator from Colorado has already been adopted as modified.

Mr. DOMENICI. I say to the Senator, you understand this is a difficult amendment. We have had objection from the Armed Services authorizing committee. We take it to conference willingly, with the clear understanding we are going to work on it with the Secretary of Energy, and Defense, and with you and the Armed Services Committee, and do the best we can as we complete the matter in conference.

Mr. ALLARD. That is my understanding. I thank the chairman of the Energy and Water Committee and I thank the chairman of the Armed Services Committee.

AMENDMENT NO. 1098

Mr. DOMENICI. I have an amendment on behalf of Senator LINDSEY GRAHAM that has been cleared on both sides. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. GRAHAM, proposes an amendment numbered 1098.

Mr. DOMENICI. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To make the Savannah River National Laboratory eligible for laboratory directed research and development funding)

On page 105, between lines 2 and 3, insert the following:

SEC. 3 _____. Notwithstanding Department of Energy order 413.2A, dated January 8, 2001, beginning in fiscal year 2006 and thereafter, the Savannah River National Laboratory may be eligible for laboratory directed research and development funding.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection the amendment is agreed to.

The amendment (No. 1098) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1085

Mr. DOMENICI. Mr. President, I understand we are now back on the Feinstein amendment and there is 5 minutes on each side.

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. May I tell Senators, if nothing else breaks here, there are no other amendments. We will vote on this. Senator COBURN has one and he will withdraw it. Can the Senator wait until Senator FEINSTEIN finishes and then he will be recognized?

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I think we have had a good discussion. I was somewhat interested in the comment that: We have done this before, why should we do it again?

Probably this is one of the most important issues we have to deal with because it will affect, I believe, my family's lifetime and my grandchildren's lifetime. I think if we have learned anything, it is that human nature is better off without nuclear weapons.

In this case, I would like to sum up with one of the conclusions of the National Academy of Sciences' recent reports. It is conclusion No. 3: Current experience and empirical predictions indicate that earth penetrator weapons cannot penetrate to depths required for total containment of the effects of a nuclear explosion.

That is not my view. That is the view of the National Academy of Sciences. To my knowledge it has been backed up by everybody. So why does the administration persist?

The one bright light in this is the House of Representatives. They have

removed the money from all programs, from time to test readiness, increasing it from 3 years to 18 months; money for the 400 new plutonium pits; and money for the robust nuclear earth penetrator.

This year the administration did not come back and request the so-called advanced weapons concepts, which is essentially low-yield tactical nuclear weapons. It has been stated here, and I believe it has been stated correctly, that you cannot have a policy which says, "Do as we say but don't do as we do."

I do not believe we can have a policy that puts at risk hundreds of thousands, and, yes, even millions of lives. And I do not believe we can develop a weapon and then say: Well, this is just to protect us. It will never be used. I do not believe that.

I truly believe the documents coming out of this administration, from the Nuclear Posture Review to the National Security Directive No. 17, clearly indicate that it is the goal of this administration to build a new generation of nuclear weapons. For those of us who do not believe that is the way to go, they must vote. To those of us who are not on this side, I want to say we will be back, and back, and back. So get used to hearing from us because it is not going to end here.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the Senator wants 2 minutes, and then I will wrap it up.

Mr. KYL. Mr. President, I will just take 1 minute. The point I want to make is to correct something that was incorrectly noted before. It was stated this will be a brand new weapon. The truth is that this weapon was already developed during the Clinton administration. Using the current B61, which is a nuclear warhead, the B61 mod 11 was developed as an earth penetrator weapon. But it was determined by feasibility studies that it did not have sufficient capability to penetrate and thus provide a deterrent. The B61-11 is not sufficiently hardened to penetrate certain target geologies. So the feasibility study is designed to determine whether a more robust outer casing, which still protects the internal components of the warhead, could be developed for the B83 warhead.

That is all it is, is to determine whether an existing warhead could be used with a different casing to penetrate, and thus replace a weapon that is already in our inventory.

Mr. ALLARD. Mr. President, I rise to oppose the amendment before us.

The bill before us includes an appropriation of \$4 million to continue an Air Force-led feasibility study on the robust nuclear earth penetrator—RNEP. This is not a new issue for the Congress to consider. In both the defense authorization and energy and water appropriations bills the last 2 years, amendments have been offered

to cut all funding for the robust nuclear earth penetrator. These amendments have been defeated on multiple occasions.

The purpose of the RNEP feasibility study is to determine if an existing nuclear weapon can be modified to penetrate into hard rock in order to destroy a deeply buried target that could be hiding weapons of mass destruction or command and control assets. The Department of Energy has modified nuclear weapons in the past to modernize their safety, security, and reliability aspects. We have also modified existing nuclear weapons to meet new military requirements. Under the Clinton administration, we modified the B-61 so that it could penetrate frozen soils.

The RNEP feasibility study is narrowly focused on determining whether the B-83 warhead can be modified to penetrate hard rock or reinforced, underground facilities. Funding research on options—both nuclear and conventional—for attacking such targets is a responsible step for our country to take.

As many as 70 nations are developing or have built hardened and deeply buried targets to protect command and communications, and weapons of mass destruction production and storage assets. Of that number, a number of nations have facilities that are sufficiently hard and deep enough that we cannot destroy most of them with conventional weapons. Some of them are so sophisticated that they are beyond the current U.S. nuclear weapons capabilities. I believe it is prudent and imperative that we fund this study on potential capabilities to address this growing category of threat.

Should the Department of Energy determine, through this study, that the robust nuclear penetrator can meet the requirement to hold a hardened and deeply buried target at risk, the department still could not proceed to full-scale weapon development, production, or deployment without an authorization and appropriation from Congress. Let me repeat that: the Department of Energy cannot go beyond this study without the expressed authorization and appropriation from Congress.

We should allow our weapons experts to determine if the robust nuclear earth penetrator could destroy hardened and deeply buried targets. Then Congress would have the information it would need to decide whether or not development of such a weapon is appropriate and necessary to maintain our nation's security.

I urge my colleagues to oppose the amendment before us.

Mr. DOMENICI. I am hearing talk about a new nuclear weapon. I wish those who were talking about a new nuclear weapon were reading the current evaluations and studies about the future of nuclear weapons. You sure are not talking about this. If ever there were going to be new nuclear weapons, they would be little nuclear weapons. They would not be blockbusters. Whole

studies are looking at whether all the countries with big nuclear weapons are going to have a whole new generation someday of smaller ones, less in size, where the world can have far fewer.

That is not the subject tonight because this weapon is not a new nuclear weapon. First of all, this is a bill, appropriations, that says the Congress is approving to build a new nuclear weapon for the astronomical sum of money of \$4 million. I don't know what you could build for \$4 million. It says "a study." And then it determines what the study is.

I don't know, I have never heard so much said about so little. That sounds like something somebody said about something else in history, so I don't want to demean it because we are just talking about an issue on the floor of the Senate. But if you want to give a speech of significance about nuclear weapons and put maps up showing the devastation of the two that were used, we ought to have a big debate. Maybe some think that was a mistake. But the truth is, none of that has anything to do with this amendment. The United States of America, through its experts, says we should have a study.

This Senator said to them, tell me how much money you need for a study—not 10 years from now to build something. What do you need for a study? They said: \$4 million. That is what is in this bill. That is all. No more, no less. That is what the amendment is about.

I hope we will once again say let's let our country do this kind of research.

I yield any time I might have.

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

Mr. DOMENICI. I have no time.

Mr. KERRY. The Senator yielded some back.

The PRESIDING OFFICER. The Senator from New Mexico has about 50 seconds.

Mr. DOMENICI. I am glad to yield that.

Mr. KERRY. Two questions. No. 1, is it not true there is \$14 million not just \$4 million; \$14 million for the next year? And, second, do we have a bunker busting nuclear weapon today? The answer to that is no. If we do not have it, don't you agree, if we are studying the creation of one, that is a new nuclear weapon? It is a weapon we do not have in the arsenal today.

Mr. DOMENICI. Let me say in the appropriations in this bill for the fiscal year we are appropriating, it is \$4 million. There is no appropriation for the following year or the following year or the following year. So I do not know what that will be.

But I tell you, you have to come back for another appropriation, so that is for sure. That is the situation.

With reference to whether we have this in our arsenal, I think the distinguished Senator from the State of Arizona answered that question with reference to the instrument that will deliver a weapon, if we ever do the re-

search to know whether we need it. Am I correct?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. I yield the floor. We don't need any additional time. Have you had the yeas and nays?

The PRESIDING OFFICER. The Senator from California has 2 minutes.

Mrs. FEINSTEIN. Yes, there is only \$4 million in this budget and there is \$4.5 million in defense. It is a different strategy this year. The money was split.

Last year the request was for \$27.5 million and a 5-year projection of \$486 million. That is fact.

Now, their projection over 5 years is not this year in the budget so it is a little tricky because they have split it up and they have operated it into two budgets. The House removed all of the money. The House removed the authorization.

Clearly, there are people on this Hill who believe it is a mistake. Last year, the money was removed. So this year is a slightly different approach by the administration.

What we are saying is, it is a new weapon. If you do not have it today, and you might have it tomorrow, it is a new weapon. What we are saying is, there is not one physicist who will say that a casing can be built to drive a weapon deep enough into the Earth with enough explosive power that will take out a bunker and not spew radiation that can kill hundreds of thousands and, yes, even millions of people. We urge a "yes" vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. LEAHY. 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. DOMENICI. I am trying to get us finished so we will have two votes back to back, one on this amendment and one on final passage.

Senator COBURN wants to take a few minutes. He wants to offer an amendment.

AMENDMENT NO. 1086 WITHDRAWN

Mr. COBURN. Mr. President, I will call up amendment 1086 and then I will withdraw it by unanimous consent. It is important that Members recognize what is written in the report language in this bill. I will read a portion of one sentence and talk about it: Congressionally directed projects. The committee recommends including the following congressionally directed projects. The committee has provided sufficient funding to cover the cost of these additions so as not to impact research.

That is the key question. By the misstatement of the committee itself, these projects are not essential. Yet, there is \$87 million in projects to 30 States averaging less than \$1 million a project. These are for biomass, bio-

diesel, hydrogen, solar, and other forms of energy.

It is going to pass, there is no question. I can't stop it, but I think the American people ought to go online and look at this. There are two problems. No. 1, it is not essential and we will spend \$544 billion we do not have this year; No. 2, by having this many projects at such low value, we do not get our money's worth because we spend a ton of money in administrative and overhead costs for these small projects. If we are going to spend this money, it ought to be 3 or 6 projects, not the 30-some projects that are in there.

I ask unanimous consent to withdraw the amendment.

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

The amendment (No. 1086) is withdrawn.

AMENDMENT NO. 1095, AS MODIFIED

Mr. DOMENICI. Mr. President, I ask amendment 1095 be modified as stated in the instruction which I am going to send to the desk. There is an error. This corrects the error. I ask consent that be done.

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

The amendment will be so modified.

The modification is as follows:

(Purpose: Making technical corrections for NNSA security)

"Strike everything after "buses;" on page 90, line 14, through page 92, line 25 and insert the following:"

Mr. DOMENICI. I ask consent that Senator JOHN MCCAIN be recognized now for 10 minutes to speak on the bill, or whatever he desires; when he has completed, we proceed to the Feinstein amendment; then we proceed to final passage and there will be 10 minutes on the Feinstein amendment on the rollcall, after which we proceed to rollcall on final passage.

Mr. REID. I ask it be modified to have the second vote also 10 minutes. We have a lot of work to do after that vote is over.

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

Mr. MCCAIN. What is the agreement?

The PRESIDING OFFICER. The Senator from Arizona will have 10 minutes.

Mr. MCCAIN. I object.

Mr. REID. I have no objection.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. The rest of the request was that subsequent votes would be 10 minutes each and there would be a 10-minute vote on the Feinstein amendment and a 10-minute vote on final passage.

Mr. DOMENICI. I ask it be in order to ask for the yeas and nays on final passage at this time.

The PRESIDING OFFICER. It is in order. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I believe the hour now is 5 minutes to midnight

as I note from the clock. We are now completing consideration of an appropriations bill that entails \$31.2 billion of the taxpayers' money. We began consideration of this around 10:30, I think. So, between the hours of 10:30 p.m. and midnight we have now thoroughly scrutinized the expenditure of \$31.2 billion of taxpayer money, which also happens to be \$1.5 billion over the request. I am sure all of my colleagues feel we have thoroughly examined a \$31.2 billion expenditure of their money.

This system we are under now is broken. We shouldn't be, on a night before we are—we all know we are going into a recess—considering a bill of this magnitude in an hour and a half at a very late hour. I certainly do not quarrel with any of my colleagues who did not have an opportunity to examine the bill and the report language.

It really rolls out the pork barrel. It has \$1.5 billion for unrequested earmarks with more than \$1.3 billion going to 618 Army Corps of Engineers projects, 618 projects that the Corps has not identified as priorities for fiscal year 2006. I don't know how we can justify providing more than \$1 billion for low priority, nonessential water projects and, at the same time, pat ourselves on the back for a very stringent budget that we passed which caused many Americans to make sacrifices in very important programs because we could not afford them.

So we are adding \$1 billion for low priority, nonessential water projects. Certainly when it comes to funding the pet water projects, budget deficit and national priorities flow out of the minds of our appropriators.

We just found out that we had about \$1 billion or \$1.5 billion or \$2 billion shortfall in funding for our veterans and their health care, but we can afford more than \$1 billion for nonessential projects. One of them, \$145 million for additional Army Corps projects in Mississippi. The banks of the Yazoo River Basin overflow with \$113.3 million and the Yazoo pumps are humming right along with \$25 million. The Yazoo pumps is the controversial project that I spoke about in the Senate more than 2 years ago. The bill brings the total appropriated to the pumps since fiscal year 2003 to \$59 million. The project was opposed by the EPA. It was opposed by the Fish and Wildlife Service because it will drain and damage 200,000 acres of public and private wetlands in the heart of the Mississippi flyway for no important public purpose. Residential flooding problems were addressed decades ago by the Federal construction of the Yazoo backwater levy.

We have \$90 million for the central and south Florida and the Kissimmee River; \$67 million for Alaska projects, including \$15 million for the Nome and Unalaska Harbor improvements. With these improvements Alaska residents will continue to enjoy a great deal of the taxpayers' dollars; \$30 million for

the American River watershed in California, and the list goes on.

I will turn, instead, to some of the authorizations in this appropriations bill. It is a violation of Senate rules to authorize on an appropriations bill. That rule continues to be violated in an egregious fashion. Directing or authorizing policy is a function reserved for the authorizing committee. With an appropriations bill full of authorizations that modify existing law and policy and significantly run up the tab for the taxpayers, these authorizing provisions belong in the water resources development legislation. And that is where some of them were taken from and placed into this bill. Others were newly created for the purpose of authorizing projects and appropriating funds for them.

Some examples:

An authorization to increase the funding of the Marmet Lock, Kanawha River, West Virginia, by more than \$128 million—not authorized.

An authorization for the construction of a project on the Lower Mud River, West Virginia, in accordance with a draft Corps report—a draft Corps report; not a final report, a draft Corps report—and a 75-percent Federal cost share of \$34,125,000.

If a 75/25 Federal cost share seems generous, well, my friends, there is a provision in this bill that goes even further, to strike the required cost-sharing provisions secured by President Reagan in the Water Resources Development Act of 1986. The Yazoo Basin Headwater Improvement, Mississippi, is authorized to include the design and construction at full Federal expense such measures as determined by the Corps to be "advisable"—take note of the word "advisable"—not technically feasible or economically beneficial—for the entire Yazoo River and more than 27 tributaries and watersheds. There is no way of telling how much advisable measures might end up costing the taxpayers.

Authorization to increase the cost ceiling of the Central New Mexico Army Corps project by \$25 million.

Authorization for the Corps of Engineers to remove the sunken vessel State of Pennsylvania from the Christina River in Delaware with funding of \$275,000. I guess when \$175,000 was earmarked for this project in the Emergency Supplemental Act of 2005, no one appreciated that the Corps did not have the authority to address this "emergency" as well as not knowing the cost.

Authorization for \$10 million for the Army Corps projects in Alpine, CA.

Language reauthorizing the Water 2025 grant program and making it permanent.

Language deauthorizing a portion of an Army Corps project in Tacoma, WA. I have cosponsored the Corps of Engineers Modernization and Improvement Act of 2005 with Senator FEINGOLD for the purpose of making effective and responsible changes in the Army Corps

water projects program through a deliberative process.

I encourage my colleagues to look at page 123 of the committee report. Under the heading of Congressionally Directed Projects, as my colleague from Oklahoma has just pointed out, you will find a list of 47 projects totaling \$60.75 million that the committee states are not essential.

I quote:

The Committee has provided sufficient funding to cover the cost of these additions so as not to impact essential research.

So, therefore, it must be non-essential. And there is only one thing in common with all of these projects: They are earmarked for a specific location or institute of higher learning. There is not a one that is just for a general purpose.

Well, we are spending \$87 million—oh, additionally, beginning on page 126 of the report, there are eight more Congressionally Directed Projects totaling over \$26 million that, again, the committee describes as nonessential.

Why are we spending over \$87 million on research that is not essential? We have a \$365 billion deficit. We are in a war. I do not think it is in keeping with the priorities we need to establish if we are going to address the budget deficit nor our priorities of winning the war on terror and taking care of the men and women in the military.

I hope that at some point in time we can restore the authorization process which then would precede the appropriations process. I would hope we would at some time consider enforcing the rule of the Senate against authorizing on an appropriations bill.

I do not think there is any doubt that with us considering a bill at 10:30 p.m. until midnight, for \$31.5 billion, it is not the way the American taxpayers want us to do business. Therefore, I will oppose passage of this bill.

Mr. President, I yield the floor.

AMENDMENT NO. 1085

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Feinstein amendment.

Mr. DOMENICI. Mr. President, I believe from our side—and Senator REID is here—there is no further business to bring before the Senate on this bill.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, am I correct in understanding this is a 10-minute rollcall vote?

The PRESIDING OFFICER. That is correct.

The question is on agreeing to amendment No. 1085. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Kentucky (Mr. BUNNING) and the Senator from Pennsylvania (Mr. SPECTER).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "nay."

Mr. DURBIN. I announce that the Senator from Maryland (Ms. MIKULSKI) is necessarily absent.

I announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent due to a death in family.

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

The result was announced—yeas 43, nays 53, as follows:

[Rollcall Vote No. 171 Leg.]

YEAS—43

Akaka	Dorgan	Lincoln
Baucus	Durbin	Murray
Biden	Feingold	Obama
Bingaman	Feinstein	Pryor
Boxer	Harkin	Reed
Byrd	Inouye	Reid
Cantwell	Jeffords	Rockefeller
Carper	Johnson	Salazar
Chafee	Kennedy	Sarbanes
Clinton	Kerry	Schumer
Collins	Kohl	Stabenow
Conrad	Landrieu	Voivovich
Corzine	Lautenberg	Wyden
Dayton	Leahy	
Dodd	Levin	

NAYS—53

Alexander	Dole	McConnell
Allard	Domenici	Murkowski
Allen	Ensign	Nelson (FL)
Bayh	Enzi	Nelson (NE)
Bennett	Frist	Roberts
Bond	Graham	Santorum
Brownback	Grassley	Sessions
Burns	Gregg	Shelby
Burr	Hagel	Smith
Chambliss	Hatch	Snowe
Coburn	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Isakson	Talent
Cornyn	Kyl	Thomas
Craig	Lott	Thune
Crapo	Lugar	Vitter
DeMint	Martinez	Warner
DeWine	McCain	

NOT VOTING—4

Bunning	Mikulski
Lieberman	Specter

The amendment (No. 1085) was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ECOSYSTEM RESTORATION

Mr. NELSON of Florida. Mr. President I rise today with my colleague from Florida, Senator MEL MARTINEZ, to talk about the biggest ecosystem restoration project in our country's history, the restoration of America's Everglades. The chairman and ranking member of the Energy and Water Subcommittee have supported the Everglades, and I appreciate their dedication to this worthwhile endeavor.

Mr. MARTINEZ. Mr. President, Senator NELSON and I stand united to continue the bipartisan tradition of support for this project. I, too, commend the chairman and ranking member for their support of Everglades restoration.

Mr. NELSON of Florida. Mr. President, even before the Congress passed the Comprehensive Everglades Restoration Plan, CERP, in 2000, the country had begun some important projects that set the stage for CERP. One of

those projects is the Modified Waters Delivery Project. The goal of the Modified Waters Delivery Project, authorized by the Everglades National Park Protection and Expansion Act of 1989, is to increase water deliveries to Everglades National Park, to improve the natural habitat and, to the extent possible, restore the natural hydrological conditions within the park. To do this, however, we must undo the work of the Army Corps of Engineers in the 1940s and 1950s which resulted in the Central and Southern Florida Project, C&SF Project. The C&SF Project created 1,000 miles of canals, 720 miles of levees, and more than 200 water control structures to alter water flow in the Everglades, control flooding, open land for agriculture and provide water supplies to urban areas.

Mr. MARTINEZ. Mr. President, CERP provides that the Modified Waters Delivery Project must be completed before several CERP projects involving waters flows on the east side of the Everglades National Park can receive appropriations. For that reason, it is imperative that we continue to receive funding for the Modified Waters Delivery Project and that the project be completed as soon as possible.

Mr. NELSON of Florida. Mr. President we realize that for the first time the administration's budget included funding for the Modified Waters Delivery Project in the Energy and Water Appropriations bill. Prior to this year, it had been funded solely through the Interior Appropriations bill. The House Energy and Water Subcommittee included funding for the Modified Waters Delivery Project. No matter which bill it receives funding through, it is imperative that it receive the funding needed to complete it.

Mr. REID. Mr. President I say to my colleagues from Florida, I know how important restoring America's Everglades is to the United States and to the State of Florida, and I appreciate the efforts of Senator NELSON and Senator MARTINEZ to keep this project on track. I agree that funding for the Modified Waters Delivery Project is essential to restoring the Everglades and I know that it is the administration and not the elected representatives of the State of Florida that have changed how funding for this project has been allocated. With this in mind, I continue to believe this project should be funded through the Interior Committee, but I will work to ensure that all facets of the Everglades Project receives appropriate funding when our bill goes to conference.

Mr. NELSON of Florida. Mr. President I wholeheartedly thank Senator REID for his work on behalf of the Everglades and look forward to working with him and Chairman DOMENICI on Everglades restoration in the future.

Mr. MARTINEZ. Mr. President, I too commend Senator REID for his efforts and look forward to working with him and Chairman DOMENICI to continue to make progress on restoring America's Everglades.

INDEPENDENT OIL PRODUCERS

Mr. INHOFE. The independent producers of oil and gas are a backbone of our domestic supply of energy. The independent producers have made clear the high value they place on research performed at the Tulsa office of the Strategic Center for Natural Gas and Oil at National Energy Technology Laboratory.

Mr. DOMENICI. I am aware of the concern expressed by numerous producers and Senators about Department of Energy plans to close such oil and gas research facilities.

I understand that according to Energy Information Administration data, fossil fuels provide over 80 percent of U.S. energy supply, and oil and natural gas will continue to provide 65 percent of domestic energy needs for 20 to 25 years in the future.

I understand the argument that is thus fitting that the National Energy Technology Laboratory devote a significant portion of its research to fossil fuels and oil and gas technology research and development.

I understand that independent oil and natural gas producers—small-business owners—drill 85 percent of the wells in the U.S. and provide 75 percent of America's natural gas supply. Independents produce 60 percent of the crude oil in the lower 48 States.

I understand that a 2003 National Petroleum Council study stated: "Eighty percent of domestic natural gas production in 10 years will be from wells yet to be drilled. . . . Small, independent producers will drill most of these wells."

I understand the argument that such independent producers have comparatively limited capacity for research and development of new oil and gas technologies.

I understand the argument that is thus fitting that the National Energy Technology Laboratory utilize its research capacity to assist these independent oil and gas producers by performing the all important oil and gas research and development function.

I understand that the bulk of the independent oil and gas production in United States is performed in the west.

I understand that many of the independent oil and gas companies are headquartered in the west.

I understand the argument that it is thus appropriate to have a significant and even proportionate share of the research of the National Energy Technology Laboratory performed in the west, at such facilities as the Tulsa office.

It is my hope that the Department of Energy will not perform organizational or staffing realignments in such a way as to reduce or close the Tulsa office of the National Energy Technology Laboratory.

Mr. REID. I concur in these understandings.

JEFFERSON LAB

Mr. WARNER. I respectfully request if the chairman, Senator DOMENICI,

would engage in a colloquy regarding the Jefferson Lab in Virginia with the Senators from Virginia?

First, I would like to compliment the chairman of the Energy & Water Subcommittee, and the ranking member, Senator REID, for an excellent job in preparing a good and balanced appropriations bill for consideration by the Senate. I particularly want to compliment the chairman and ranking member for providing increases for the Office of Science and for the several important programs within the Office of Science, including Nuclear Physics. I know the chairman is well acquainted with Jefferson Lab in Newport News, VA, which is one of our world-class basic research laboratories. My colleague from Virginia, Senator ALLEN, and I are both proud of the excellent scientific programs at Jefferson Lab, which is a credit to the commonwealth of Virginia and to the Nation. The increase in funding provided by the subcommittee for nuclear physics will permit Jefferson Lab to increase its operational time so the Nation's return on this investment will be enhanced.

In the 10 years since commissioning, Jefferson Lab has made groundbreaking discoveries on several scientific fronts. An important next step to insure we maintain the pace of scientific discovery, as recommended by the Department's November 2003 report, is to upgrade the energy of the Jefferson Lab electron beam. This will enormously expand the scientific discovery potential of the lab, as well as leverage future technological advances. Senator ALLEN and I wrote to the subcommittee suggesting that language be included in the committee report urging that the Department proceed with the project engineering and design for this energy upgrade.

Mr. DOMENICI. I appreciate the Senators from Virginia and their interest in this important matter and I agree with the importance of the 12GeV Upgrade at the Jefferson Lab. With the funds available to the subcommittee, we made recommendations to give priority to increasing operational time for all of our existing labs as opposed to spending these resources on capital expansions. I recognize, however, that with regard to Jefferson Lab we are soon at a scientific turning point when the increased energy will be critical to maintaining the pace of discovery. If it would be satisfactory to the two Virginia Senators, I would like to explore this matter further to see if it can be addressed in the fiscal year Conference and by the Department in their fiscal year budget proposal.

Mr. REID. I also thank the Virginia Senators for their support of the Energy & Water bill and for their strong support for programs that advance science. I will join with Senator DOMENICI in an effort to accommodate the matter that has been brought to our attention.

Mr. ALLEN. I want to add my voice in thanking the chairman, Senator

DOMENICI and the ranking member, Senator REID, for their commitment to help us keep Jefferson Lab at the forefront of scientific discovery. We appreciate their continued interest and look forward to working with them.

ALTAIR AND WMU PARTNERSHIP

Ms. STABENOW. Mr. President, the senior Senator from Michigan and I would like to engage in a colloquy with the distinguished ranking member of the Energy and Water Appropriations Subcommittee regarding the partnership between Western Michigan University and Altair on the development of nanosensors for chemical and radiological warfare agents.

Senator REID. Is it your understanding that \$1 million of the funding provided to Altair Nanosensor in this bill will be utilized for the continued partnership between Altair Nanosensor and Western Michigan University for the development of nanosensors for chemical and radiological warfare agents?

Mr. REID. Yes, the Senator has my assurance that it is the committee's intent that \$1 million of the funds provided to Altair Nanomaterials should be used for the ongoing partnership with Western Michigan University.

Mr. LEVIN. Mr. President, I thank Senator REID for his support of this important research and join with my colleague from Michigan in supporting this project.

As the ranking member knows, Western Michigan University, Altair Nanomaterials and the University of Nevada, Reno have had a successful partnership to build on their unique strengths to develop nanomaterials and nanosensors for chemical and radiological warfare agents.

We also thank him for his support of this partnership and work on this important legislation.

Ms. STABENOW. Mr. President, I thank the ranking member for his support of this partnership and my colleague for joining me in this colloquy.

DEPARTMENT OF ENERGY—STATE ENERGY CONSERVATION PROGRAM

Mr. INOUE. I would like to engage the chairman of the subcommittee, Senator DOMENICI, in a brief colloquy on the subject of the State Technologies Advancement Collaborative, commonly called STAC, a program in the energy efficiency portion of the Department of Energy appropriation.

Mr. DOMENICI. I would be pleased to enter into a colloquy with the Senator from Hawaii, Mr. INOUE, a member of the subcommittee.

Mr. INOUE. The STAC program is a collaboration among two State organizations and the Department of Energy, initiated by an agreement among the parties in November of 2003. The program was to be a 5-year pilot of a joint planning process between the States and the Department, resulting in projects that were multistate collaborations across the country, of interest to both States and the Federal Government, and cost-shared by the State at

no less than 50 percent. To date the program has had two competitive solicitations for projects, resulting in almost \$24 million in buildings, industry, transportation, distributed generation and fossil energy activities, with over \$12 million of that amount being provided by the States. These projects involve 36 different States.

Mr. DOMENICI. As you know, the comprehensive energy legislation that the Senate recently passed authorizes this program.

Mr. INOUE. I am aware that the energy legislation does that, and I thank the chairman for including such support in the Energy bill. Despite the support of Congress for this program in the past, and in the Energy bill, no funds are provided for the program in the Energy and Water appropriation now before us. This highly leveraged, efficiently managed program, with wide participation from the States, will not continue, even with the language included in the Energy bill, without strong support from the appropriations process. Would the chairman consider including such support for the program in the conference agreement on the Energy and Water appropriations bill by directing the Department to provide funds out of its regular programs at the level no less than the level Congress supported in the fiscal year 2005 appropriation for the program?

Mr. DOMENICI. I would like to assure the Senator from Hawaii that I will work with him to ensure that this program will be considered in conference.

Mr. INOUE. I thank the chairman for his consideration and for his support of programs important to the States.

Mr. REED. Mr. President, I rise to engage in colloquy with the distinguished chairman and ranking member of the Energy and Water Development Subcommittee of the Committee on Appropriations. I commend them for putting together a bill that provides critical support to our Nation's waterways while promoting energy conservation and protecting our environment.

One of the important programs funded by this legislation is the Department of Energy's Weatherization Assistance Program, WAP, which promotes energy conservation and reduces utility bills for low-income Americans by supporting home weatherization. I want to share with the chairman and ranking member my concern with language on page 122 of the committee report that calls for the consolidation of six DOE regional offices that are used by the Office of Energy Efficiency and Renewable Energy to reach out to State and local weatherization programs.

State energy officials, as well as non-profit organizations, involved in weatherization across the country have expressed concern that the proposed consolidation would reduce the effectiveness of the WAP and the State Energy

Program. DOE Regional Office Weatherization Project Managers currently review and approve State plans and determine whether all requirements of WAP have been met. They provide day-to-day oversight of grants, including monitoring performance by the States against their plans, and they provide technical assistance to DOE Headquarters and the States with regard to special projects, regional training and technical assistance, and resolution of issues among States and local service providers.

I share the concerns of weatherization program managers and state energy officers across the country that it would be unwise to remove this valuable network of DOE personnel that has served the regions so well. At the same time, I recognize the subcommittee leadership's desire to develop a cost effective outreach plan that will maintain the level of service we enjoy today and have a minimal impact on DOE's dedicated public servants. I hope the Chairman and ranking member can work with me as the Energy and Water Appropriations bill moves to conference to preserve the important role of regional DOE staff in a variety of programs, including the Weatherization Assistance Program and the State Energy Program.

Mr. DOMENICI. Mr. President, I appreciate the concerns the Senator from Rhode Island has raised and assure the Senator that I will work to find a solution that does not diminish services and recognizes the concerns of State and local weatherization program managers.

Mr. REID. Mr. President, I second what the chairman has just stated and commit to work with the Senator from Rhode Island during conference to address his concerns. I am confident we can find a way to continue to support local and State weatherization efforts and the State energy offices that have depended on the guidance provided by DOE regional offices.

REGULATORY OVERSIGHT OF ENERGY FUTURES
MARKETS

Ms. CANTWELL. Mr. President, I rise today to discuss regulatory oversight of energy futures markets. Would the distinguished chairman of Agriculture Committee engage me and the Senator from California, Mrs. FEINSTEIN, in a colloquy on this subject?

Mr. CHAMBLISS. I would be pleased to enter into such a colloquy.

Ms. CANTWELL. Senators FEINSTEIN, LEVIN, and I have raised serious concern about off exchange futures transactions in energy commodities under the jurisdiction of the Commodity Futures Trading Commission. In the wake of the Western energy crisis, we believe that there needs to be adequate Federal authority over these energy markets and that they be more transparent in order to prevent fraud and manipulation.

Mrs. FEINSTEIN. It is our understanding that the Agriculture Committee is considering a CFTC proposal

to clarify that its antifraud authority in the Commodity Exchange Act clearly covers principal-to-principal off exchange transactions and a second CFTC proposal to clarify its existing authority to bring civil and administrative actions, including false reporting cases. We would also hope that the committee would add language to clarify that exempt energy transactions are subject to the CFTC's antimanipulation and false reporting authorities.

It is our hope that the Agriculture Committee will include these proposals in legislation when reauthorizing the CFTC this year. However, should the committee report a mark that does not include similar provisions when placed on the Senate Calendar, we would like assurances from the chairman of the Agriculture Committee that we will have the ability to offer an amendment to address these issues when this bill is considered by the full Senate.

Mr. CHAMBLISS. I am willing to consider your proposals as part of the reauthorization of the Commodity Exchange Act. In addition, you have my assurance that I will work with the leadership to accommodate the Senators' desire to address these issues when this matter comes before the full Senate.

Mr. REID. Mr. President, our water resources contribute mightily to our Nation's economic and environmental well-being.

Ports and waterways are integral to our national transportation system that contribute \$718 billion to the Nation's gross domestic product while ensuring domestic and international trade opportunities and safe, low-cost and eco-friendly transportation of import products.

While some consider it an anachronism in the age of e-commerce, the system remains vital to a broad swath of the economy, carrying everything from consumer goods, steel, coal, fertilizer, salt, sand, gravel, cement, petroleum and chemicals, to the wax for coating milk cartons.

The U.S. maritime transportation system moves more than 60 percent of the Nation's grain exports and 95 percent of the Nation's imports. We cannot be competitive in world trade if we don't maintain efficient and reliable transportation.

Much of the infrastructure was built early in the last century. It's showing the effects of time and, according to some, of neglect. Old equipment takes longer to repair, and it's more vulnerable to nature's extremes.

Earlier this year, unusually heavy winter rains swelled rivers and caused a series of accidents, including one on the Ohio River in which a towboat pushing six barges sank after passing through a lock near Industry, PA.

After the accidents, General Electric Co.'s plastics division had to halt chemical operations at a plant in Washington, WV, because barges carrying butadiene, a key raw material,

couldn't get through. The GE plant, which makes plastic used in phones and laptops, continued other production processes during the disruption.

Consol Energy Inc., based in Pittsburgh, moves about a third of the 68 million tons of coal it produces each year by water, with most of that going directly to power plants. After the recent accidents, the company told customers it was invoking the force majeure clause in its contracts, which indicates it won't be able to fulfill its obligations because of circumstances beyond its control.

Costs associated with problems on the waterway network, which carries about 13 percent of U.S. intercity freight annually, can be hard to measure. Towboat companies say it costs them hundreds of dollars an hour to have their vessels sitting idle with barges that can't move.

I was recently told about a port on the Texas coast where bauxite is shipped in to the local aluminum plant. Dredging of this port has not been a priority for the administration due to their budgetary criteria so it has not been dredged on a regular basis. For every inch that the ships have to be light loaded to enter the port, it costs the shipper \$180,000. In other words, for every foot of authorized depth not provided here it cost the shipper nearly \$2.2 million dollars. If one assumes at least one shipment per week, lack of dredging costs the shipper more than \$100 million annually. Ultimately this cost is passed on to you and me in the form of higher prices.

The routine inspection of a lock in Greenup, KY, in September 2003 was supposed to close the facility for 3 weeks. When the inspectors found bad decay, the shutdown stretched to 2 months. Companies could continue using a much smaller auxiliary lock at that location to keep moving some goods, but that meant major delays. The U.S. Army Corps of Engineers, which oversees and maintains the waterways, studied that closure and found the cost of delays to towing companies alone totaled about \$14 million.

Big companies like U.S. Steel Corp., DuPont Co. and Archer-Daniels-Midland Co. make extensive use of the inland waterway system, and usually don't have easy alternatives. The rail and truck-freight systems, which carry about 45 percent and 33 percent, respectively, of U.S. intercity freight, are near capacity and much more costly. Moving materials by barge is about a tenth the cost of using trucks, and two-thirds that of rail.

Many of the facilities are at the fatigue point now, where they need major rehabilitation.

Each year, the U.S. spends about \$500 million on operations and maintenance, including dredging channels of the inland waterway system. The budget for maintenance has held roughly steady in inflation-adjusted dollars for three decades. The fact that the system has held together as well as it has is a

tribute to the foresight and ingenuity of those that made the investments in these structures.

Ports are our gateways to international trade, and their channels must be enhanced and maintained to accommodate the new generations of ships sailing to our shores.

Our flood damage reduction program saves lives and prevents almost \$8 in damages for each dollar spent.

Corps hydropower facilities supply 24 percent the hydropower generated in the United States.

Shore protection projects provide safety from hurricanes and other storm events for transportation, petroleum and agriculture infrastructure around our coastal waterways and deltas as well as recreational benefits, returning \$4 in benefits for each dollar invested.

Projects for water supply, irrigation, recreation and wildlife habitat provide innumerable benefits.

Investing in water resources sustains economic growth and the American worker, directly eases growing congestion on our Nation's roads and railroads and provides a finer quality of life.

Recently, the American Society of Civil Engineers gave the Nation's water a "D—"—their lowest grade—because of their steadily deteriorating condition and reliability.

Our Nation simply cannot afford for this trend to continue. The administration, whether Republican or Democrat, has consistently refused to provide the resources necessary to reverse the decline in our infrastructure.

For fiscal year 2006, the Senate has asserted leadership in reversing this trend. The Senate Bill provides \$5.3 billion for the Corps of Engineers.

The Senate has included \$180 million for the Corps' general investigations program. This account funds nearly all studies that the Corps undertakes to determine the technical adequacy, environmental sustainability and economic viability of water resource solutions. The funding will provide the Corps with a robust national program as opposed to the paltry \$95 million proposed in the administration's fiscal year 2006 budget request.

The Senate bill includes \$2.087 billion for the Corps' construction account. This account provides funding for construction of the water resource solutions authorized by the Congress. The Senate has provided nearly \$450 million more than the administration's fiscal year 2006 request. These additional funds will allow the Corps to make substantial progress on projects recommended by the budget as well as all of the ongoing projects that the administration chose not to fund.

The Senate bill includes \$2.1 billion for the operations and maintenance account. This is about \$121 million more than the President's fiscal year 2006 budget request and will allow the Corps to restore routine levels of services at Corps' facilities and provide dredging for projects that the administration has designated as low use.

The Senate bill rejects the budget proposals from the administration concerning multiple year contracting and direct funding of hydropower maintenance by the Power Marketing Administrations.

The Senate bill also recommends that the administration and the Corps go back to the drawing board on the process that they use to determine which projects should be budgeted. The current process introduces too much uncertainty into the project development process.

The administration needs to honor the commitments that they have made to local sponsors. The sponsors need the certainty that if they get their funding for these projects, the Federal Government will meet their commitments.

Finally, the Senate bill reaffirms the need for the Corps to be able to manage their program in an effective and efficient manner. The ability to reprogram project funds and the use of continuing contracts are a necessary part of this overall management strategy.

The Senate has produced a balanced and fair bill for the Corps.

Thank you Mr. President, I suggest the absence of a quorum.

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 a 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?

The yeas and nays have been ordered. The clerk will call the roll.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING) and the Senator from Pennsylvania (Mr. SPECTER).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted "yea."

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH) and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

I also announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent due to death in family.

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

The result was announced—yeas 92, nays 3, as follows:

[Rollcall Vote No. 172 Leg.]

YEAS—92

Akaka	Cantwell	DeMint
Alexander	Carper	DeWine
Allard	Chafee	Dodd
Allen	Chambliss	Dole
Baucus	Clinton	Domenici
Bennett	Cochran	Dorgan
Biden	Coleman	Durbin
Bingaman	Collins	Ensign
Bond	Conrad	Enzi
Boxer	Cornyn	Feingold
Brownback	Corzine	Feinstein
Burns	Craig	Frist
Burr	Crapo	Graham
Byrd	Dayton	Grassley

Gregg	Levin	Santorum
Hagel	Lincoln	Sarbanes
Harkin	Lott	Schumer
Hatch	Lugar	Sessions
Hutchison	Martinez	Shelby
Inhofe	McConnell	Smith
Inouye	Murkowski	Snowe
Isakson	Murray	Stabenow
Jeffords	Nelson (FL)	Stevens
Johnson	Nelson (NE)	Talent
Kennedy	Obama	Thomas
Kerry	Pryor	Thune
Kohl	Reed	Vitter
Kyl	Reid	Voinovich
Landrieu	Roberts	Warner
Lautenberg	Rockefeller	Wyden
Leahy	Salazar	

NAYS—3

Coburn	McCain	Sununu
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NOT VOTING—5

Bayh	Lieberman	Specter
Bunning	Mikulski	

The bill (H.R. 2419), as amended, was passed.

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

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. FRIST. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House and the Chair be authorized to appoint conferees.

There being no objection, the Presiding Officer appointed Mr. DOMENICI, Mr. COCHRAN, Mr. MCCONNELL, Mr. BENNETT, Mr. BURNS, Mr. CRAIG, Mr. BOND, Mrs. HUTCHISON, Mr. ALLARD, Mr. REID, Mr. BYRD, Mrs. MURRAY, Mr. DORGAN, Mrs. FEINSTEIN, Mr. JOHNSON, Ms. LANDRIEU, and Mr. INOUE conferees on the part of the Senate.

MORNING BUSINESS

Mr. FRIST. I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 10 minutes each.

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

The PRESIDING OFFICER. The minority leader.

UNANIMOUS CONSENT REQUEST—
VETERANS APPROPRIATIONS

Mr. REID. Mr. President, I ask unanimous consent that when the Senate receives from the House the emergency supplemental bill for veterans health care, the Senate proceed to its immediate consideration; that if the bill is less than \$1.5 billion, all after the enacting clause be stricken and the text of the amendment as authorized earlier today by the Appropriations Committee to include the full \$1.5 billion as passed by the Senate yesterday by a vote of 96 to 0 be agreed to; that the bill as amended be read a third time and passed and motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?