

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2004—Continued

Mr. REID. Mr. President, I expected Senator DOMENICI to be in the Chamber. We have a couple of amendments we wanted to clear before the vote began, but he is not present. So Senator FEINSTEIN should go ahead and start her debate if she cares to.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I ask the minority whip how much time I have.

Mr. REID. Before I respond, Senator DOMENICI is present and we will be happy to extend the time of the Senator if we need to.

AMENDMENTS NOS. 1665, 1666, 1667, AND 1668 EN BLOC

Mr. REID. Senator DOMENICI and I have been working on a number of issues. I send a series of four amendments to the desk and ask that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes amendments numbered 1665, 1666, 1667, and 1668 en bloc.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1665

At the appropriate place insert the following:

WORKING CAPITAL FUND  
(RESCISSION)

From unobligated balances under this heading \$4,525,000 are rescinded.

AMENDMENT NO. 1666

On page 32, line 10 strike "853,517,000" and insert in lieu thereof "859,517,000".

AMENDMENT NO. 1667

At the appropriate place insert the following:

SEC. . That of the funds provided, an additional \$3,000,000 shall be available for the Middle Rio Grande, NM project and an additional \$3,000,000 shall be available for the Lake Tahoe Regional Wetlands Development project.

AMENDMENT NO. 1668

On page 33, at the end of line 12 insert the following:

"BUREAU OF RECLAMATION LOAN PROGRAM  
ACCOUNT

For administrative expenses necessary to carry out the program for direct loans and/or

grants, \$200,000, to remain available until expended, of which the amount that can be financed by the Reclamation Fund shall be derived from that fund."

Mr. REID. Mr. President, our staff has worked on these amendments during the last several days. I ask they be agreed to en bloc.

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

The amendments (Nos. 1665 through 1668) en bloc were agreed to.

Mr. REID. I ask that the Senator from California be given an extra minute from the time we just took.

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

The Senator from California.

AMENDMENT NO. 1655

Mrs. FEINSTEIN. Mr. President, I ask the Chair to let me know when 7 minutes have expired so I can defer to my cosponsor, Senator KENNEDY.

The PRESIDING OFFICER. The Chair will inform the Senator.

Mrs. FEINSTEIN. Mr. President, I also ask unanimous consent that the names of Senators JOHNSON, MURRAY, CLINTON, and ROCKEFELLER be added to our amendment as cosponsors.

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

Mrs. FEINSTEIN. Mr. President, yesterday Senator KENNEDY and I came to the floor and we spent some time arguing on behalf of an amendment to this bill which contained language similar to what was recently past by a large majority in the House of Representatives. The bill passed by the House of Representatives struck the language that appropriates funds to begin a new generation of nuclear weapons.

Now, there are some on the other side who say, and continue to say, this is just a study; there is no development. I believe that is not the case. Let me connect the dots for you.

In January of 2002, the administration put forward a Nuclear Posture Review which advocates the development of new types of nuclear weapons. Later that year, the President signed National Security Directive 17, indicating that the United States might use nuclear weapons first to respond to a chemical or biological attack.

Earlier this year, a decade-old prohibition on the development of low-yield nuclear weapons was rescinded in the Defense authorization bill. For 10 years, this kind of thing was prohibited. That prohibition, known as the Spratt-Furse amendment, was repealed earlier this year.

This spring a statement of administration policy for the Defense authorization bill clearly included support for the research and development of low-yield nuclear weapons.

In this bill the Senate is being asked to provide the dollars to begin this effort—\$15 million for the study of a robust nuclear earth penetrator. We are talking in excess of 100 kilotons; \$6 million for advanced concepts research, including low-yield weapons; funding for enhanced test site readiness; and a

huge new \$4 billion plutonium pit facility—all of this when we are already spending \$2.3 billion for a Los Alamos facility that can provide replacement for the U.S. nuclear stockpile.

We are strongly opposed to America beginning a new generation of nuclear weapons. We are opposed to it for two reasons: No. 1, the low-yield nuclear weapon—under 5 kilotons—essentially begins to blur the use between conventional and nuclear weapons, therefore making it easier to use. And, No. 2, because the world will watch this and the world will respond. The way in which they will respond is with a new nuclear arms race.

If the United States begins to develop tactical, battlefield nuclear weapons, how long will it take for two indigenous nuclear powers, namely India and Pakistan, arch enemies, to say we should do the same thing. How long will it take for North Korea or Iran or any other nation that so seeks to begin such a similar program?

As many internationally have said: America preaches nonproliferation, and then it goes ahead and develops new nuclear weapons.

I think that is hypocritical. I do not think this country should be in that position.

So we strike these items; we fence two, we place the rest of the money in deficit reduction.

I want to say a few words about the nuclear pits because I think there is some misunderstanding. Although current production capacity may be limited, it is simply not true, as some have asserted, that the United States lacks the capacity to manufacture replacement pits. According to the Department of Energy's own Web site:

The first pit that could be certified for use in the stockpile was manufactured in April 2003 as a first step to establish an interim—10 to 20 pits per year—production capability at Los Alamos in 2007.

And the Los Alamos facility can be modified to produce 150 pits a year.

Although the exact number is classified, reputable open sources estimate that there are between 5,000 and 12,000 extra pits in reserve at Pantex, beyond the 10,600 current intact warheads.

The average age of the plutonium pits in the U.S. stockpile is 19 years, and the Department of Energy estimates a pit minimum life to be between 45 and 60 years, with no life-limiting factors.

This is the beginning. This money will go to field a new generation of nuclear weapons. We should not do this. The House had the good sense to eliminate this language. The Senate should follow.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? Who yields time?

Mrs. FEINSTEIN. I yield 4 minutes to the distinguished Senator from Massachusetts.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. Five minutes ten seconds.

Mr. KENNEDY. And how much on the other side?

The PRESIDING OFFICER. They have 13 minutes.

Mr. KENNEDY. Four minutes?

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. I am recognized for how long?

The PRESIDING OFFICER. The Senator from California has yielded 4 minutes.

Mrs. FEINSTEIN. Mr. President, I am happy to yield the remainder of my time to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KENNEDY. Then, would the Chair let me know when I have a minute and a half left, please?

First of all, I welcome the opportunity to be here with my friend and colleague from California in what I consider to be one of the most important votes that we will have this year. It is an issue involving our security. It is an issue, I believe, also, in the battle on terrorism.

It was just 40 years September 24, 40 years ago on September 24, that we had the signing of the first partial test ban treaty.

This chart reflects in a very abbreviated way, but an enormously important way what has happened over the last 40 years as leaders of the Democrats and Republicans alike moved us away from the real possibility of nuclear confrontation, and we have seen enormous success. We have seen the willingness of countries around the world to give up their capability of developing nuclear weapons because they wanted to be a part of the worldwide effort on nuclear proliferation. They also recognized it would be a more secure world if we didn't have further nuclear expansion.

We listened to the debate yesterday and the points that were well-made by my very good friend from New Mexico about how this legislation is really not about developing a new nuclear weapon. But the Senator from California pointed out three different references, all which have been included as a part of the RECORD. The most obvious is the administration's own statement of administration policy this past spring asking for the continued need for "flexibility in the cooperative threat reduction program and support for critical research and the development"—I will say this again—"and the development for low-yield nuclear weapons." That is what this issue is about.

Are we going to reverse the last 40 years? Do we possibly think there will be a safer America if we begin to move back towards the testing and the developing of what they call mini-nukes?

I don't believe so, because I believe a nuke is a nuke is a nuke. It is an entirely different weapons system than those in our conventional forces. We understand that. We have to take what the administration has stated: they in-

tend to move ahead in the development of a new nuclear capability.

Those with responsibility within the administration have made it very clear. In February of 2003, Fred Celec, Deputy Assistant Secretary of Defense for Nuclear Affairs, said:

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

In April of 2003, Linton Brooks, Chief of Nuclear Weapons at the Department of Energy, stated before the Senate Armed Services Committee:

I have a bias in favor of the lowest usable yield because . . . I have a bias in favor of things that might be usable.

We have been warned. We have the capability that exists to make sure we have the deterrence on into the future. But this is a radical departure of 40 years of Republicans and Democrats alike moving us away from the dangers of nuclear confrontations and the dangers of nuclear proliferation to the development of small nuclear weapons. And we will find this an invitation for the terrorists around the world to come and seek out that weapon. If we develop a small nuclear weapon, what are we going to find? The corresponding action by countries around the world—the Iranians and the North Koreans continuing their progress in developing their own nuclear weapons system.

That doesn't make sense in terms of the country that is the number one military force in the world today. It doesn't make sense, and it doesn't make sense for our battle against the war on terrorism.

It is very clear why this amendment is needed. The administration pretends it is not really planning to produce these new kinds of nuclear weapons—the mini-nukes and the bunker busters. They just want to find out if they are feasible.

We all know what is at stake. The administration wants us to take the first steps down a new path. But going down that path could easily make nuclear war more likely. Just a little step—they say. But it is still a first step. And a step down that path now could make the next step easier, and the next and the next. It is a path that makes nuclear war more likely, and the time to call a halt is now—before we take the first step.

We ask for and implore the support of our colleagues to move us away from the real dangers of nuclear proliferation and the development of these dangerous mini-nukes that can pose a danger to the world population.

I withhold whatever time is left.

Mrs. FEINSTEIN. Mr. President, before the chairman of the committee speaks, I ask unanimous consent that Senator STABENOW be listed as a co-sponsor.

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

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, fellow Senators, first of all, it should be un-

derstood by everyone that this language which is being stricken does not permit the United States of America to build any new nuclear weapons—large, small, medium-sized, or otherwise. There is no authority in this bill to build new nuclear weapons.

No. 2, this bill says that in Nevada we used to test nuclear weapons for decades. Whenever our nuclear laboratory experts used to certify to our Presidents that the weapons were in good shape, ready, reliable, available, and safe, they did it principally because we had a testing ground in Nevada, and we tested bombs to know precisely their efficacy, reliability, et cetera.

When we decided to no longer test, we essentially closed down or put that test facility in mothballs. But we knew we must always keep it in case we needed it. We left it there, saying if we ever need it, we can use it in 3 years.

All this amendment does—it could be a totally freestanding amendment, if one wanted, but it is part of the amendment that the Senator from California strikes—is say let us upgrade that Nevada Test Site so if we need it, we can use it in 1½ years. There are few American nuclear experts who do not think 1½ years is the correct amount—not 3 but 1½. That has nothing to do with us setting about to build a brand new small nuclear weapon. It has nothing to do with us building a stockpile of new weapons. It has to do with just what I explained and nothing else.

Third, regardless of what has gone on in Los Alamos for the last 7 years in an effort to produce for America plutonium pits—the ingredient for a nuclear weapon that must be there or you don't have a nuclear weapon—we have no American manufacturing center for the production of pits. The Los Alamos facility has been a facility that we just pushed. We pushed it and pushed it, and finally it has almost produced a pit. But it has not produced a certifiable pit yet in 7 years of effort. It has produced a pit or two, but they are not certifiable, which means they are not complete.

All this bill says is the time has come to build a plant to manufacture pits for the next 40 years—not for a new weapons system but so we can have them in storage for the next 40 years. We are the only nuclear weapons power without spare pits for nuclear weapons. Yes, the only one. Why would we say we should not do that? The only reason we would do it is if we believed what the Senator from California alleges; that is, we are doing it because we are going to build a new set of nuclear weapons.

If we were authorizing a series or a set of new nuclear weapons, this amendment would be the biggest amendment in the country. It would have been written about, talked about, harked about, and we would have been all over and upside down and inside out. But there is nothing in the bill that produces a single new nuclear weapon.

That comes to the final part. It is very simple, if you will just listen and know what we are trying to do.

Those who manage our nuclear, those who are our nuclear experts, who use their minds to dream up ideas about where we are going to be, what troubles we might have in the future, and what new might occur in the world that might require changes, are the men and women of great talent. This bill does what the executive branch and the experts on nuclear management say: Let those people think, let those people design, let those people postulate, and don't put blinders on their brains and say you can't even think about these things because it might someday yield an idea that might cause us to do something different with a nuclear weapon.

Frankly, I believe the men and women who already put that fantastic brainpower to work in this area deserve to have their brains used, not tied in knots by rules about what you cannot think about and what you cannot plan for.

The third part, this amendment says you cannot plan, think about, design for the future, even when you know you cannot build them, which is what the rule is going to be.

We have argued this about as long as we can. I have argued it about as hard as I can. I am getting close to being tired of arguing this, but it is so important we not make a mistake. It would be a tragic mistake to vote for the Feinstein amendment. There is nothing we are doing that the Feinstein amendment should stop. If, in fact, we were going to build nuclear weapons, you ought to be concerned and perhaps vote with her, if she is saying do not do it. But we do not plan to. It is not in here. And she cannot stop it because we are not going to do it. In that regard, the amendment is useless.

But it is not useless when it comes to the three things that it does: It will stop us from planning the manufacturing plant of the future for pits. It will do that. And we should not do that. Second, it will stop the money and the planning and the work to bring the Nevada Test Site up to par and ready for a new test in 18 months rather than 3 years. It will do that. And third, it will put blinders on the scientists with reference to them being able to speak about the future and future needs, which change.

How much time remains?

The PRESIDING OFFICER. The Senator from New Mexico has 4 minutes remaining. The Senator from California has 9 seconds.

Mr. DOMENICI. I reserve my time.

AMENDMENTS NOS. 1676, 1677, 1678, EN BLOC

Mr. REID. Mr. President, I send three amendments of Senator DOMENICI to the desk. They have been reviewed. I ask they be considered en bloc.

The PRESIDING OFFICER. The clerk will report the amendments, en bloc.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DOMENICI, proposes amendments Nos. 1676, 1677, and 1678, en bloc.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1676

At the appropriate place, insert the following:

**SEC. . LOWER COLORADO RIVER BASIN DEVELOPMENT.**

(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 revised Stipulation Regarding a Stay and for Ultimate Judgment Upon the Satisfaction of Conditions, filed in United States district court on April 24, 2003, in Central Arizona Water Conservation District v. United States (No. CIV 95-625-TUC-WDB (EHC), No. CIV 95-1720-OHX-EHC (Consolidated Action)), and any amendment or revision thereof, is met.

(b) PAYMENT TO GENERAL FUND.—If any of the provisions of the stipulation referred to in subsection (a) are not met by the date that is 10 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. 1534(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 may not be expended until further Act of Congress.

AMENDMENT NO. 1677

(Purpose: To set aside additional funds for the Mni Wiconi project, South Dakota)

On page 33, line 12, before the period at the end, insert the following: “: *Provided further*, That of the funds provided under this heading, an additional \$5,000,000 may be available for the Mni Wiconi project, South Dakota”.

AMENDMENT NO. 1678

(Purpose: To set aside funds for certain projects and activities at the Alabama-Coosa River, Alabama)

On page 15, line 16, after the colon, insert the following: “*Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, may use not less than \$5,461,000 of the funds made available under this heading for the Alabama-Coosa River, Alabama (including for routine operations and maintenance work at Swift Creek Park), of which not less than \$2,500,000 may be used for annual maintenance dredging of navigational channels of the Alabama-Coosa River:”.

Mr. REID. These have been cleared by Senator DOMENICI, this Senator, and our respective staffs.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (Nos. 1676, 1677, and 1678) were agreed to.

Mr. DOMENICI. 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.

VOTE ON AMENDMENT NO. 1655

Mrs. FEINSTEIN. I yield the remaining time.

Mr. DOMENICI. I yield my remaining time. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. All time having expired, is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL, I announce that the Senator from Illinois (Mr. FITZGERALD) is necessarily absent.

I further announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID of North Carolina. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY) the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote “nay.”

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

The result was announced—yeas 53, nays 41, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—53

Alexander	Dole	Miller
Allard	Domenici	Murkowski
Allen	Ensign	Nelson (FL)
Bayh	Enzi	Nelson (NE)
Bennett	Frist	Nickles
Bond	Graham (SC)	Roberts
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Campbell	Hatch	Snowe
Chambliss	Hollings	Specter
Cochran	Hutchison	Stevens
Coleman	Inhofe	Sununu
Collins	Kyl	Talent
Cornyn	Lott	Thomas
Craig	Lugar	Voivovich
Crapo	McCain	Warner
DeWine	McConnell	

NAYS—41

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

NOT VOTING—6

Edwards	Graham (FL)	Lieberman
Fitzgerald	Kerry	Smith

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, Senator JACK REED has an amendment that is acceptable, if he is ready. Is the Senator ready?

Mr. REED. I have my amendment.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I send amendment No. 1659 to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, Mr. LEVIN, Mr. KENNEDY, Mrs. FEINSTEIN, and Mr. NELSON of Florida, proposes an amendment numbered 1569.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of fund for certain activities relating to advanced nuclear weapons concepts, including the robust nuclear earth penetrator)

At the end of title III, add the following:

SEC. 313. No funds appropriated or otherwise made available to the Department of Energy by this Act may be available for activities at the engineering development phases, phase 3 or 6.3, or beyond, in support of advanced nuclear weapons concepts, including the robust nuclear earth penetrator.

Mr. REED. Mr. President, I ask unanimous consent that Senator NELSON of Florida be added as a cosponsor.

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

Mr. REED. Mr. President, I am disappointed the Feinstein-Kennedy amendment did not pass because I believe that amendment really responded to the issues of the moment. We are in a dangerous time because we see around the globe where there are nations aspiring to become nuclear powers, where proliferation is one of the most dangerous threats this Nation faces, particularly proliferation that would provide fissile material to terrorists, which is the great fear of all of us.

In order to resist the growth of nuclear powers around the globe, we have to be faithful to our commitment to arms control and our sense that further development of nuclear weapons—and, I would argue, weapons without military requirements—is really not so much an exercise in protecting the United States but it is an exercise that will lead us down a path that could see our country exposed to even more dangers. So I am very much concerned that the Feinstein-Kennedy amendment failed.

Therefore, I am proposing an amendment that I hope will essentially put restraints upon the use of these dollars in the development of nuclear weapons, and I will explain it in more detail later. It would constrain the expenditure of funds to the the research phase. It would preclude monies to be used to engineer a weapon, to test a weapon, and to deploy a weapon. It is language that is consistent with the language included in the Defense Authorization Act which we passed several months ago.

We are at a difficult moment in our history, as I mentioned.

Mr. NELSON of Florida. Will the Senator yield for a question?

Mr. REED. I would be happy to yield for a question to my cosponsor, Senator NELSON.

Mr. NELSON of Florida. I appreciate the Senator offering this amendment and I just want to underscore with a question that the Senator's amendment will allow the research to go on as we intended in the Defense authorization bill but would not allow the development and the engineering where these weapons would be actually designed until such time as the executive branch would come back to the Congress to get approval to do that. Is that correct?

Mr. REED. That is absolutely correct. It reflects the value of the contribution the Senator from Florida made in the Defense authorization debate.

Mr. NELSON of Florida. I thank the Senator.

Mr. REED. There are some who have criticized any attempts at arms control as futile, as failures. That, I think, is a dangerous idea. I hope arms controls work because history seems to show that, without controlling arms, eventually they wind up being used, and when it comes to the issue of nuclear weapons, that is a great nightmare that has haunted all mankind since 1945.

Since that date, we have been successful in containing the use of nuclear weapons. It is because we took prudent steps to try to control the proliferation of nuclear weapons, the development of nuclear weapons. And at this juncture in history, to stand up and say arms control does not work not only misreads history but misses the point entirely. We have to make it work. Indeed, arms control has provided us at least some respite, some bit of breathing space, from the horrors of Hiroshima. That in itself is a success.

Today, particularly when we look at North Korea, I think we had all better hope fervently that arms control can work because without some type of arms control there, we will be in an extraordinarily precarious situation.

If we look at the situation in Iran, where the international arms control agency is trying to work with the Iranians, trying to get them to cooperate with the world community, that is an example of arms control in action. I hope—and I am sure I speak for everyone else—that that effort succeeds.

Time and again, when we have had serious situations, we have been able to use the norms established by international arms control agreements as leverage in a particular crisis. Arms control is not perfect, but without it we would be in a much more dangerous and much more devastating world environment.

This administration, however, has effectively turned its back on so many different initiatives: The repeal of the ABM Treaty, the failure to follow up the Comprehensive Test-Ban Treaty by sending it again to the Senate for a

vote. This and so many other examples suggest that the administration has not effectively read the lessons of history. I believe they have the mistaken view that arms control will never work rather than trying to make it work, understanding it is not perfect but it is essential to our national security strategy.

My colleague and friend John Spratt stated it very well in an article in the March 2003 edition of Arms Control Today. In his words:

My greatest concern is that some in the administration and in the Congress seem to think that the United States can move the world in one direction while Washington moves in another, that we can continue to prevail on other countries not to develop nuclear weapons while we develop new tactical applications for such weapons and possibly resume nuclear testing.

Congressman SPRATT was very clear. In life, one really cannot have it both ways. I think this is an example of that. At one time, you cannot be trying to persuade, convince, and cajole other nations to abandon the development of nuclear weapons while you are blatantly going ahead and developing them yourself. The approach of the administration has been to attempt to get it both ways. It will be doomed to failure.

I would argue that rather than declaring the arms control movement dead, we have to give it renewed life. Indeed, we can point to successes in the past that should give us some comfort to know that if we work hard, if we work in a disciplined and dedicated way, we can use arms control to enhance our security—not exclusively depend, certainly, on arms control, but it has to be an important part of our repertoire.

In the early 1960s, when there were a few nuclear powers—the United States, Soviet Union, Britain, France, and China—there was a fear that within a decade or more, as President Kennedy expressed it, there would be at least 25 countries that developed nuclear weapons. What was feared did not come to pass because of effective, meaningful arms control exemplified in many respects by the nonproliferation treaty and other initiatives.

Deputy Secretary of State Richard Armitage has cited this record, indicating his support for continued efforts at arms control. In his words:

[I]nstead of the 25 or so countries that President Kennedy once predicted, only a handful of nations possess nuclear weapons. Of course we suspect many more countries have chemical or biological weapons, but still short of the scores that had been predicted in the past. We have reached this state of affairs in no small part through the concerted effort of many nations. Agreements, such as the nuclear nonproliferation treaty and the Chemical Weapons Convention, organizations such as the IAEA and the Nuclear Suppliers Group—these constitute a global security architecture that has served us satisfactorily and kept us safe.

But critics of arms control fail to acknowledge that Argentina and Brazil and South Korea and Taiwan ceased

their suspected nuclear programs in part because of the international norms represented by the nonproliferation treaty. Without these norms and without the United States exemplifying these norms, I don't think we would have the success we have had in these cases that I have cited.

Similarly, when the Soviet Union dissolved and the Newly Independent States of Belarus, Kazakhstan, and Ukraine found themselves with nuclear weapons, they voluntarily turned them in as a result of the norms established by the international arms control regimes. South Africa has also given up their nuclear weapons.

This is an example, not of perfect success but of success. If we begin to abide by our commitment to the nonproliferation treaty, to our commitments to reducing nuclear weapons rather than building new ones, we might be able to provide more leverage on countries such as India and Pakistan so that they would join the nonproliferation treaty and the Comprehensive Test-Ban Treaty. That is the kind of leadership we need at the moment. I hope we can get it.

As I mentioned before, we also are facing very serious problems with North Korea and Iran. I hope they can be resolved peacefully. But that peaceful resolution implies extending arms control agreements to these countries. So disparaging arms control is doing a great disservice to our national security and to our strategy.

The Bush administration has seemed bound since their first days in office to reverse 50 years of arms control activities, both by Republican and Democratic administrations. In December 2001, they published their Nuclear Posture Review.

This review was troubling in many respects. For the first time in history, this review suggested that we would use weapons, nuclear weapons, not simply to deter another nuclear power but to engage a nonnuclear power. The report essentially said that we would consider for the first time and be prepared to use nuclear weapons against nonnuclear nations that were nonaligned with a nuclear power—a tremendous reversal in our strategic outlook, blurring the distinction between conventional weapons and nuclear weapons, a distinction that since Hiroshima we on both sides of the aisle have endeavored mightily to maintain crystal clear. This blurring, this suggestion that we would use nuclear weapons in a first strike against nonnuclear powers, set the tone for other administration pronouncements.

Last November, a memo from then-Under Secretary of Defense for Acquisition, Technology and Logistics, Pete Aldridge, became public. The memo directed nuclear weapons laboratories to: . . . assess the technical risks associated with maintaining the U.S. arsenal without nuclear testing . . . [and suggested the] U.S. take another look at conducting small nuclear tests.

Following up to this memo, the President's budget for fiscal year 2004 included \$24 million to reduce the time needed to prepare to conduct a nuclear weapons test from 2-3 years at present to 18 months—once again, a very sobering and ominous suggestion that we would begin to test nuclear weapons again; that we would abandon our efforts to assure the quality of our stockpile through nontesting means and that we would conduct tests.

If the United States of America begins again to conduct nuclear tests, I think that would be an open invitation to other countries, such as India and Pakistan, and perhaps powers undeclared as yet, to begin a nuclear testing program. It certainly would be good cover internationally.

The President's budget in 2004 also went on to request \$22.8 million to accelerate the design and select a site for a new modern pit facility.

Plutonium pits are necessary components of nuclear weapons. We have not had the ability to build such pits since 1988. We do need a pit facility. But the proposal of the administration goes far beyond any conceivable needs, given the current situation. They want to create a facility that is capable of producing up to 500 pits per year. That would be 500 nuclear weapons per year. That is a rate that rivals anything in the cold war, and according to the administration, the cold war is over—except, I guess, when it comes to nuclear policy or at least nuclear design and production policy.

Then in addition to this development, the administration has been vigorously pressing for the design of a robust nuclear earth-penetrator to be used against hard and deeply buried targets. The RNEP would be a modification of an existing nuclear device, necessarily a very large nuclear device. It has been deemed a bunker buster. But, frankly, the kilotonnage or the tonnage of this RNEP is so large it would be a city buster, not a bunker buster. The kilotons of the weapons dropped on Hiroshima and Nagasaki were 14 and 21 kilotons, respectively, and this RNEP could be 71 times larger than the bomb dropped on Hiroshima. That is not a bunker buster. That is not a discrete weapon that could take the place of precision conventional weapons. Yet the administration is pressing forward.

Then this year the administration requested the repeal of the 1993 statutory ban on the research, development, and production of low-yield nuclear weapons and \$6 million for funding for advanced nuclear weapons concepts.

Current law prohibits work, design, research with respect to weapons below 5 kilotons. The administration seeks to repeal this ban—strike it out—even though there is no military requirement for these small sized nuclear weapons.

When asked about this proposal, Ambassador Linton Brooks, the Acting Director of the National Nuclear Security

Administration, stated before the Armed Services Committee:

I have a bias in favor of something that is the minimum destruction. . . .that means I have a bias in favor of things that might be usable.

Here we have it. A history of 5 decades of trying to create a nuclear policy that dissuades the world from using nuclear weapons and we are trying to develop small nuclear weapons, which the scientists at this time say—the lab leaders say—are designed to be used. We have crossed a huge space between our policy of 5 decades and this newly emerging policy. We have moved from being the leader in arms control to being someone who treats arms control casually, if not flippantly. The irony, of course, is we stand to suffer the most. I hope we could reverse this trend.

I had hoped very much that the Feinstein-Kennedy amendment would be agreed to because I think that would have sent a strong signal and be a practical and pragmatic step. But now we have the opportunity to constrain the funds that are being expended for those preliminary research aspects of nuclear weapons development. As my colleague, Senator NELSON, said, it will give Congress a chance to decide, after more information, more debate, and more justification, whether it is in our national interest to proceed with the development, engineering, and deployment of a new class of nuclear weapons.

The amendment I offer today will allow the Department of Energy to use \$22 million in funding that the President requested for advanced nuclear weapons concepts for research alone. The amendment would not allow money to be used for developing, testing, or deploying new nuclear weapons, or RNEP, which is a modification of an existing weapon.

This amendment would assure that the appropriations bill is consistent with the language that is included in the fiscal year 2004 Defense authorization bill. During that debate, an amendment that would require the Department of Energy to seek specific authorization and appropriations before proceeding with phases beyond research passed this body by a vote of 96 to 0. The Senate has clearly spoken on this issue. The amendment I offer today will ensure that the Department of Energy will comply with the wishes of Congress by returning to the Congress before beginning development, testing, production, and deployment of a new nuclear weapon or the RNEP.

I believe we should retain the prohibition on any research or development of low-yield nuclear weapons. But if that must change—if we must eliminate the threat-first amendment—I believe the research is all that is necessary at this time and that there should be a full and complete debate on any development funding for a system of nuclear weapons or the RNEP based upon research first.

The primary reason that the administration says it needs this money for advanced nuclear concepts is to, in their terms, "train the next generation of nuclear weapons scientists and engineers."

Ambassador Brooks, Director of the National Nuclear Security Administration, stated that research must be funded to "remove the chilling effect on scientific inquiry that could hamper our ability to maintain and exercise our intellectual capabilities to respond to needs that one day might be articulated by the President."

In July, Energy Secretary Abraham said: "We are not planning any nuclear weapons at all." If research is the reason, if research is the justification, if we are planning no nuclear weapons, then this amendment provides the funding and the authority for the research.

This amendment is very clear about what is allowed. There are very distinct phases in the development of nuclear weapons. Since 1953, the Department of Defense and the Department of Energy have worked in a very formalized weapons development process. Indeed, the Atomic Energy Commission was one of the predecessors of the effort. And the Atomic Energy Commission was also involved in the formulation of the process.

My amendment would prohibit "development engineering," which is the third phase. This is for new weapons development.

All of these phases would be authorized, and the funds could be expended for concept definition, feasibility study, design definition, and cost study. But you could not go into phase 3, development definition. It is clear and precise—allowing the research and allowing all that is necessary, according to both the rationale to train our scientists and also the affirmation by the Secretary of Energy that we were not planning to develop new nuclear weapons.

Mr. DOMENICI. Mr. President, I wonder if the Senator will yield.

Mr. REED. I am happy to yield.

Mr. DOMENICI. Did the Senator conclude amendment No. 1659 regarding the Energy Department's research on nuclear weapons?

Mr. REED. I did not. In the next few minutes I will complete my comments on the amendment.

Mr. DOMENICI. I wonder if the Senator might offer that amendment so I could give him my concurrence.

Mr. REED. The amendment has been offered. I think Senator LEVIN wants to speak. But the Senator's concurrence will be invited as soon as I conclude.

Mr. DOMENICI. Mr. President, on this side of the aisle, we accept the Reed-Levin-Kennedy-Feinstein amendment because it is current policy. It just repeats current policy unequivocally. This is what the policy of the country is. We did not change that in our bill. The Senator is most welcome to try to make it eminently

clear what that current policy is. For that reason, we will accept it whenever it is ready to be accepted by the Senate.

Mr. REED. Mr. President, reclaiming my time, I thank the chairman for his kindness in accepting the amendment. The policy is included in the Defense authorization bill. But there is a debate ongoing about what the precise policy is. We want to at least set this limit with respect to the policy.

The chairman suggesting that it will be accepted will prompt me to quickly conclude my comments.

I note that my colleague from Michigan is here also seeking recognition.

We brought this measure to the Defense authorization debate. As was indicated in my discussion with Chairman DOMENICI, the Senate passed this provision overwhelmingly. This is now included in this appropriations bill. It is going to be an interesting conference because our colleagues in the House have stricken the money; that is the preference that I would suggest is the best approach. But short of that, this at least constrains the spending of the funds to the first three phases of research, which apparently, at least in my view, directly responds to the professed need for the funds, and it will also again support the statement of the Secretary of Energy that there is no plan to develop nuclear weapons.

In a letter to the Armed Services Committee, Admiral Ellis, the Commander of the Strategic Command, which command is responsible for all nuclear weapons, stated that:

U.S. Strategic Command is interested in conducting rigorous studies of all new technologies examining the merits of precision, increased penetration, and reduced yields for our nuclear weapons.

Once again, this proposal corresponds to the request from our military leaders in what they are looking for today.

I hope that not only this amendment will be incorporated into this pending appropriations bill but that in conference we at least maintain this.

I again urge my colleagues to think hard again about the Kennedy-Feinstein proposal and the proposal that is already included in the House provisions. But today is an opportunity at least to slow down a rush to develop nuclear weapons which have no, or very limited, military requirements, and it would give us an opportunity as a Congress to debate the wisdom of our course of action.

Let me conclude by saying we have changed course dramatically. After 50 years of being the leading nation in the world arguing for arms control, arguing for sensible constraints in the development of nuclear weapons and limits on nuclear weapons, we have become a nation that is casual about our commitment to arms control, that denigrates it too often, and that course has left us with the only other option which is I think less appropriate. As I said initially, if there are no arms control, then there is a higher probability

of arms usage. With nuclear weapons, that is a thought that no one wants to contemplate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend my friend from Rhode Island for his leadership in this area. It is critically important that we show some constraint—at least in funding of new nuclear weapons and modifications of existing nuclear weapons in order to make them more usable.

Appropriating funds, as this bill does, for research on a new nuclear weapon and research on a modification of existing weapons in order to make them more useful moves us in a dangerous new direction which marks a major shift in American policy. It is inconsistent with our longstanding commitment under the Nuclear Non-Proliferation Treaty to end the nuclear arms race. It undermines our argument to other countries around the world that they should not develop or test nuclear weapons. Unfortunately, the bill before us supports this dangerous new direction by putting funds into research of both the new weapon and modification of existing weapons to make them more usable.

At least the pending amendment of the Senator from Rhode Island puts an explicit constraint on the expenditure of that money. Why it is so important this language be included is that it makes explicit, before we can move to the developmental stage of these new weapons, there must be an explicit congressional vote. It cannot happen—this next stage, which we hope will never come—if the Reed language is adopted and maintained in conference, and if we were able to maintain similar language in conference in the authorization bill that development of these new weapons and modified weapons, to make them more usable, could not happen without an explicit action on the part of Congress.

That is not the current policy that there be an explicit authorization. It is not inconsistent with current policy that there be an explicit authorization before we approve development, but it is not the existing policy.

It is critically important that at least if we cannot stop this country from moving in a direction which is so totally inconsistent with what we are urging the rest of the world to do, at a minimum, we go as far as we can in expressing the determination of at least many of us that we move not at all, if possible, before we move that there be a formal vote on the part of Congress.

I do not understand how we can argue to other countries, with our heads high, that they should not move in a nuclear direction at the same time we are doing research on new nuclear weapons. We are telling others, do not go down that road. But instead of being a leader in the effort to prevent the proliferation of nuclear weapons, we are going to move recklessly down that

same road. We are following a policy that we do not tolerate in others.

The adoption of the Reed amendment would at least put some brake on the speed at which we are going down that road, and hopefully, before development is reached, before taking the next milestone on that road.

Appropriating funds for research in new nuclear weapons begins to take the United States in a dangerous new direction that marks a major shift in American policy, is inconsistent with our longstanding commitment under the Nuclear Nonproliferation Treaty to end the nuclear arms race, and undermines our argument to other countries around the world that they should not develop or test nuclear weapons. Unfortunately the bill now on the Senate floor would also support this dangerous new direction. But the pending amendment puts an explicit constraint on it.

Current U.S. law bans research and development of new nuclear weapons that could lead to their production. The specific weapons covered by the ban are so called low-yield nuclear weapons which have a nuclear explosive yield of 5 kilotons or less. Five kilotons is roughly a third the size of the nuclear bomb that was used at Hiroshima, which immediately killed an estimated 140,000 people and left many more injured.

The Bush administration asked that this ban be repealed. If the ban is repealed, the purpose is to make nuclear weapons more usable. As stated by Linton Brooks, the Administrator of the National Nuclear Security Administration in testimony before the Subcommittee on Strategic Forces of the Senate Armed Services Committee on April 8, 2003, "I have a bias in favor of the lowest usable yield because I have the bias in favor of something that is the minimum destruction . . . I have a bias in favor of things that might be usable."

The language approved by a majority of the Armed Services Committee and included in the Senate passed version of the Defense authorization bill would repeal this ban. Without this ban there is no impediment in law to research, development, testing, production, or deployment of new, low yield nuclear weapons. The bill before us would also support the repeal of this ban by appropriating \$6 million to begin the research on new low-yield nuclear weapons, or for any other advanced new nuclear weapons concept.

The Defense authorization bill authorizes the National Nuclear Security Administration to continue work on a robust nuclear earth penetrator (RNEP). The Energy and Water bill would appropriate these funds.

This effort would modify one of two existing high-yield nuclear weapons to create a nuclear weapon that will penetrate rock. Both weapons being looked at for possible modification are high yield nuclear weapons with yields that are approximately 30 and 70 times the explosive power of the Hiroshima

bomb. Without a requirement that the earth penetrator weapon be authorized by Congress, there is no legal impediment to its development, testing, production, or deployment.

At a time when the United States is trying to dissuade other countries from going forward with nuclear weapons development, when we strongly oppose North Korea's pulling out of the Nuclear Nonproliferation Treaty, when we are trying to prevent Iran from establishing a nuclear weapons program and when we are spending over a billion dollars to prevent the spread of nuclear weapons material and technology, these actions would send a terrible message. We are telling others not to go down the road to nuclear weapons. But instead of being a leader in the effort to prevent the proliferation of nuclear weapons, we are recklessly driving down that same road. In short, the United States is following a policy that we do not tolerate in others.

President Bush on June 18 stated that the United States will not tolerate a nuclear Iran. Similarly in May President Bush, in a joint statement with the President of South Korea, said he would not tolerate a North Korean nuclear weapon.

The leaked version of the Nuclear Posture Review identifies both North Korea and Iran as countries against which the United States should be prepared to use nuclear weapons. Clearly North Korea is the focus of the concern about hard and deeply buried targets and the desire to pursue the development of an RNEP.

At the same time that the United States is actively engaging in talks with North Korea to persuade them to give up their nuclear weapons program and urging the IAEA to ensure that Iran does not pursue a nuclear weapons program, we are beginning the process to develop new nuclear weapons. The Bush administration is taking action to ensure that there is a robust complex to build new nuclear weapons and an accelerated test readiness program to test them.

Where is the consistency in our actions? Having undertaken a preemptive war against an alleged imminent threat in the name of counter proliferation, can the United States effectively unite the world against Iran and North Korea's pursuance of nuclear weapons programs when the Bush administration appears to be on the verge of reversing a decades old nuclear policy and pursuing new tactical nuclear weapons? Weapons that, in the words of Linton Brooks, the Administrator of the National Security Administration, "might be usable."

The inconsistency of U.S. action was noted in a May 17 editorial in the Economist Magazine:

. . . America would dangerously blur the line against nuclear use by anyone. That would make it more likely, not less, that America's own forces would eventually have nuclear weapons used against them too. Mr. Bush has said repeatedly, with reason, that he wants

America to rely less on nuclear weapons for its future security, not more. In their determination to leave no weapons avenue unexplored, his advisors are proposing to lead America along a dangerous path. Time the president called a halt.

On July 17 of this year the New York Times also commented on the inconsistency between urging others to forego nuclear weapons development at a time when the United States is beginning to put in place all the elements of a new nuclear weapons program. Particularly a program whose goal appears to be to produce nuclear weapons that "might be usable."

The July 17 editorial cautioned:

Nuclear bombs should not be casually re-engineered for ordinary battlefield use at a time when countries like North Korea, Pakistan and India have added nuclear weapons to their arsenals and a chief objective of U.S. policy is to make sure these weapons are never used.

I urge the Bush administration to continue to work to persuade both North Korea and Iran to disavow nuclear weapons programs. Arms control still has a vital role to play. As Deputy Secretary of State Armitage said, in defense of the Nonproliferation Treaty, "Agreements such as the Nonproliferation Treaty and the Chemical Weapons Convention, organizations such as the IAEA and the Nuclear Suppliers Group—these constitute a global security architecture that has served us satisfactorily and kept us sage."

As Rose Gottemoeller, a former Assistant Secretary of Energy said:

Other countries watch us like a hawk. They are very attentive to what we do in the nuclear arena. This is going to be considered another step in the tectonic shift. I think people abroad will interpret this as part of a really enthusiastic effort by the Bush administration to renuclearize. And I think definitely there's going to be an impetus to the development of nuclear weapons around the world.

Let us slow down and think about the road on which we are about to travel.

Senator REED, Senator KENNEDY, and I offer an amendment today to once again preserve Congress's role in any decision to move toward the design, engineering, testing, or deploying of any new nuclear weapon. And equally important, this amendment will require us to stop and think seriously before going down the road toward new nuclear weapons.

The amendment would require the Department of Energy to obtain a specific authorization from Congress before the Department could move to phase 3 or beyond in the nuclear weapons development process. Phase 3 is the engineering development phase, the point at which a concept would begin to be a new weapon.

The amendment would also apply to this same phase, the engineering development phase, in the process of modifying an existing weapon for a new military requirement. When the Department modifies an existing weapon the engineering development phase is the 6.3 phase. This amendment would apply to the 6.3 phase as well.

Language similar to this amendment passed the Senate 95-0 during the consideration of the Defense Authorization Act. There was no disagreement then, and should not be now, that Congress retain a central role in any decision to seek new nuclear weapons.

In 1994, Congress determined that the United States did not need to embark on a new nuclear weapons program, which would require nuclear weapons testing prior to being deployed, and banned research that could lead to production of new, low-yield, nuclear weapons. The current law is found at section 3136 of the Fiscal Year 1994 National Defense Authorization Act. It is commonly known as the Spratt-Furse provision.

The Senate passed version of the Fiscal Year 2004 National Defense Authorization Act repeals the current Spratt-Furse law, while the House-passed version of the Fiscal Year 2004 National Defense Authorization Act, modifies the current law. The House modification would allow the Department of Energy to conduct research on low yield nuclear weapons but not to begin the engineering design phase of the nuclear weapons process.

The conferees have been working for several months to resolve the many differences in the two versions of the Defense Authorization Act. One of the issues that the conferees have yet to resolve is the issue of the Spratt-Furse provision.

The conferees are discussing whether Spratt-Furse should be modified, as in the House-passed bill, or repealed, as in the Senate-passed bill, or whether both provisions could be dropped and the current law preserved. It is important to note that the Reed amendment is consistent with any of the possible outcomes in the defense authorization conference.

Whatever the outcome, the Reed amendment will ensure that Congress plays a role in future nuclear weapons decisions.

Mr. REED. 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. 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, we have nothing further to say about the amendment. We are ready to accept it.

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

The amendment (No. 1659) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. 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. 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 address Senators—and I am sure if Senator REID were here, he would concur—there is a real chance that we could finish this bill this evening. We have two windows. We have this window that lasts until 4:30 and then Senators have to be elsewhere. We understand that. Then there is a window from 6 to 7 when Senators could be here.

I am asking Senators, if you have amendments, bring them down and let's get them considered. We will move ahead as soon as Senator REID gets here with amendments that are getting checked and cleared to which there is no objection. We have quite a few of those. We would be very pleased if we heard from Senators, if your staff could tell us there were no more amendments. Then we could say we could finish from 6 to 7 p.m. this evening.

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. 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.

Mr. REID. Mr. President, Senator DOMENICI and I have worked during the lunch hour and up to now to clear some amendments.

AMENDMENTS NOS. 1646, AS MODIFIED; 1656, AS MODIFIED; 1681 THROUGH 1683, EN BLOC

Mr. President, I send five amendments to the desk, two of which—amendments Nos. 1646 and 1656—will be offered as modified, and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes amendments numbered 1646, as modified, 1656, as modified, and 1681 through 1683, en bloc.

The amendments are as follows:

AMENDMENT NO. 1646, AS MODIFIED

(Purpose: To modify the provision relating to the Waikiki Beach project, Oahu, Hawaii)

On page 3, beginning on line 2, strike "the continuation" and all that follows through line 8 and insert "preconstruction engineering and design of Waikiki Beach, Oahu, Hawaii, the project to be designed and evaluated, as authorized."

AMENDMENT NO. 1656, AS MODIFIED

(Purpose: To authorize a wastewater infrastructure project for Coronado, California)

On page 31, between lines 7 and 8, insert the following:

SEC. 117. Section 219(f) of the Water Resources Development Act of 1992 (Public Law

102-580; 106 Stat. 4835), as amended by section 502(b) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 335) and section 108(d) of title I of division B of the Miscellaneous Appropriations Act, 2001 (as enacted by Public Law 106-554; 114 Stat. 2763A-220), is further amended by adding at the end the following:

"(71) CORONADO, CALIFORNIA.—\$10,000,000 may be authorized for wastewater infrastructure, Coronado, California."

AMENDMENT NO. 1681

On page 67, strike line 7 through line 11 and insert in lieu thereof:

**"SEC. 506. CLARIFICATION OF INDEMNIFICATION TO PROMOTE ECONOMIC DEVELOPMENT.**

"Subsection (b)(2) of section 3158 of the National Defense Authorization Act for Fiscal Year 1998 (42 U.S.C. 7274q(b)(2)) is amended by adding the following after subparagraph (C):

"(D) Any successor, assignee, transferee, lender, or lessee of a person or entity described in subparagraphs (A) through (C)."

(b) The amendment made by section 506, as amended by this section, is effective as of the date of enactment of the National Defense Authorization Act for Fiscal Year 1998.

AMENDMENT NO. 1682

At the appropriate place, insert the following:

SEC. . Section 560(f) of Public Law 106-53 is amended by striking "\$5,000,000" and inserting in lieu thereof "7,500,000".

AMENDMENT NO. 1683

(Purpose: To direct the Secretary of the Interior to conduct a water supply feasibility study for Tualatin River Basin, Oregon)

On page 42, between lines 5 and 6, insert the following:

**SEC. 2. TUALATIN RIVER BASIN, OREGON.**

(a) AUTHORIZATION TO CONDUCT FEASIBILITY STUDY.—The Secretary of the Interior may conduct a Tualatin River Basin water supply feasibility study—

(1) to identify ways to meet future water supply needs for agricultural, municipal, and industrial uses;

(2) to identify water conservation and water storage measures;

(3) to identify measures that would—

(A) improve water quality; and

(B) enable environmental and species protection; and

(4) as appropriate, to evaluate integrated water resource management and supply needs in the Tualatin River Basin, Oregon.

(b) FEDERAL SHARE.—The Federal share of the cost of the study conducted under subsection (a)—

(1) shall not exceed 50 percent; and

(2) shall be nonreimbursable and non-returnable.

(c) ACTIVITIES.—No activity carried out under this section shall be considered a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).

(d) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$2,900,000, to remain available until expended.

Mr. REID. Mr. President, I ask unanimous consent that the amendments be agreed to en bloc.

The PRESIDING OFFICER. Without objection, the amendments are adopted en bloc.

The amendments No. 1646, as modified; No. 1656, as modified; Nos. 1681 through 1683 en bloc were agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

The bill 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.

AMENDMENTS NOS. 1687, 1688, 1689, 1690, 1691, AND 1692 EN BLOC

Mr. DOMENICI. Mr. President, we have a package of amendments.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. REID, proposes amendments numbered 1687 through 1692, en bloc.

Mr. DOMENICI. Mr. President, we have cleared these amendments. We have worked on them on both sides. They are acceptable. I understand the distinguished minority leader is willing to accept them; is that correct?

Mr. REID. Mr. President, that is true.

Mr. DOMENICI. Mr. President, we have nothing further.

The PRESIDING OFFICER. Without objection, the amendments are considered en bloc and are agreed to en bloc.

The amendments were agreed to en bloc, as follows:

AMENDMENT 1687

(Purpose: To authorize the Secretary of the Interior to extend, on an annual basis, the repayment schedule of certain debt to facilitate Indian water rights settlements in the State of Arizona, with an offset)

On page 34, line 6, strike "\$56,525,000" and insert "\$54,425,000".

On page 42, between lines 5 and 6, insert the following:

**SEC. 2. FACILITATION OF INDIAN WATER RIGHTS.**

The Secretary of the Interior may extend, on an annual basis, the repayment schedule of debt incurred under section 9(d) of the Act of August 4, 1939 (43 U.S.C. 485h(d)) to facilitate Indian water rights settlements in the State of Arizona.

AMENDMENT NO. 1688

On page 13 of the bill, line 21, before the period, insert the following:

*Provided further*, That within funds provided herein, \$500,000 may be used for completion of design and initiation of construction of the McCarran Ranch, NV, environmental restoration project

AMENDMENT NO. 1689

(Purpose: To set aside funding in connection with the harbor of Morehead City, North Carolina, for a project to disperse sand along Bogue Banks)

On page 16, line 12, before the period at the end, insert the following: "*Provided further*, That the Secretary of the Army may use \$3,000,000 of the funds provided under this heading to undertake, in connection with the

harbor of Morehead City, North Carolina, a project to disperse sand along Bogue Banks".

AMENDMENT NO. 1690

(Purpose: To provide for a transfer of funds to the Bureau of Reclamation to conduct a feasibility study for the purposes of providing water to Park City and the Snyderville Basin, Utah)

On page 2, line 18, after "expended" insert the following: ", of which \$500,000, along with \$500,000 of the unobligated balance of funds made available under this heading in the Energy and Water Appropriations Act, 2003, may be transferred to the Bureau of Reclamation to conduct a feasibility study for the purposes of providing water to Park City and the Snyderville Basin, Utah".

AMENDMENT NO. 1691

(Purpose: To set aside funding for dredging and other operation and maintenance of the Rogue River, Gold Beach, Oregon)

On page 15, line 8, strike "facilities;" and insert "facilities; and of which \$500,000 may be available for dredging and other operation and maintenance of the Rogue River, Gold Beach, Oregon:".

AMENDMENT NO. 1692

(Purpose: To provide funds for use in carrying out Great Lakes remedial action plans and sediment remediation programs under the Water Resources Development Act of 1990)

On page 31, between lines 7 and 8, insert the following:

**SEC. 1. GREAT LAKES REMEDIAL ACTION PLANS AND SEDIMENT REMEDIATION PROGRAMS.**

Of the amounts made available by this title under the heading "GENERAL INVESTIGATIONS", not less than \$1,500,000 may be available for Great Lakes remedial action plans and sediment remediation programs under section 401 of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; Public Law 101-640).

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.

Mr. REID. Mr. President, if I could have the attention of the distinguished chairman of the subcommittee, I think he would agree that we have spent all day working on this bill. It is an important bill with \$27.3 billion in funding for some of the most important aspects this Government does.

We are now at a point where we are about to wrap this up. If there are Members who have amendments to offer, they should get over here within the next 40 minutes. If they are not here by then, we will assume there are no other amendments to be offered. We have other work that we need to do. There are negotiations going on on some amendments. Other than that, we are arriving at a point where we will move forward.

I have several amendments that I would like to send to the desk en bloc. I note that there are a number of amendments—in fact, two—in order, Nos. 1652 and 1660, which will be as modified.

We are so efficient that we are trying to agree to them twice. I don't think that is necessary. These have already been cleared.

I withdraw my request.

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

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

AMENDMENTS NOS. 1650, AS MODIFIED; 1653, AS MODIFIED; 1658, AS MODIFIED; 1669, AS MODIFIED; 1675, AS MODIFIED; 1679; 1685; AND 1696 THROUGH 1721, EN BLOC

Mr. REID. Mr. President, I send a series of amendments to the desk that have been cleared on both sides and ask for their consideration.

The PRESIDING OFFICER. The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself and Mr. DOMENICI, proposes amendments numbered 1650, as modified; 1653, as modified; 1658, as modified; 1669, as modified; 1675, as modified; 1679; 1685; and 1696 through 1721, en bloc.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

Mr. REID. Mr. President, I ask unanimous consent that the amendments be agreed to, en bloc. They have been cleared with my distinguished chairman.

Mr. DOMENICI. Mr. President, we have reviewed these one by one over the afternoon and they are all acceptable.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendments are agreed to, en bloc.

The amendments were agreed to, as follows:

AMENDMENT NO. 1650, AS MODIFIED

(Purpose: To direct the Secretary of the Army to implement the project for ecosystem restoration, Gwynns Falls, Maryland)

On page 31, between lines 7 and 8, insert the following:

**SEC. 1. GWYNNS FALLS WATERSHED, BALTIMORE, MARYLAND.**

The Secretary of the Army may implement the project for ecosystem restoration, Gwynns Falls, Maryland, in accordance with the Baltimore Metropolitan Water Resources-Gwynns Falls Watershed Feasibility Report prepared by the Corps of Engineers and the city of Baltimore, Maryland.

## AMENDMENT NO. 1653, AS MODIFIED

(Purpose: To set aside funding for dredging and other operation and maintenance of the Umpqua River, Oregon)

On page 15, line 8, strike "facilities;" and insert "facilities; and of which \$500,000 may be available for dredging and other operation and maintenance of the Umpqua River, Oregon:".

## AMENDMENT NO. 1658, AS MODIFIED

(Purpose: To set aside funds for the Navajo electrification demonstration program)

On page 42, line 20, strike the period at the end and insert ", of which \$3,000,000 may be available for the Navajo electrification demonstration program under section 602 of Public Law 106-511 (114 Stat. 2376)."

## AMENDMENT NO. 1669, AS MODIFIED

(Purpose: To authorize the Secretary of the Army to carry out a joint project with Asotin County, Washington to construct a Snake River Confluence Interpretative Center near Clarkston, Washington)

On page 31, between lines 7 and 8, insert the following:

**SEC. 1. SNAKE RIVER CONFLUENCE INTERPRETATIVE CENTER, CLARKSTON, WASHINGTON.**

(a) IN GENERAL.—The Secretary of the Army, acting through the Chief of Engineers (referred to in this section as the "Secretary") is authorized and may carry out a project to plan, design, construct, furnish, and landscape a federally owned and operated Collocated Civil Works Administrative Building and Snake River Confluence Interpretative Center, as described in the Snake River Confluence Center Project Management Plan.

(b) LOCATION.—The project—

(1) shall be located on Federal property at the confluence of the Snake River and the Clearwater River, near Clarkston, Washington; and

(2) shall be considered to be a capital improvement of the Clarkston office of the Lower Granite Project.

(c) EXISTING STRUCTURES.—In carrying out the project, the Secretary may demolish or relocate existing structures.

(d) COST SHARING.—

(1) TOTAL COST.—The total cost of the project shall not exceed \$3,500,000 (excluding interpretative displays).

(2) FEDERAL SHARE.—The Federal share of the cost of the project shall be \$3,000,000.

(3) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of the cost of the project—

(i) shall be \$500,000; and

(ii) may be provided—

(I) in cash; or

(II) in kind, with credit accorded to the non-Federal sponsor for provision of all necessary services, replacement facilities, replacement land (not to exceed 4 acres), easements, and rights-of-way acceptable to the Secretary and the non-Federal sponsor.

(B) INTERPRETIVE EXHIBITS.—In addition to the non-Federal share described in subparagraph (A), the non-Federal sponsor shall fund, operate, and maintain all interpretative exhibits under the project.

## AMENDMENT NO. 1675, AS MODIFIED

(Purpose: To authorize the Secretary to remove oil bollards in Burlington Harbor, VT)

After section 104, insert the following:

"The Secretary is authorized and may design, remove and dispose of oil bollards and associated debris in Burlington Harbor, VT, at full Federal expense."

## AMENDMENT NO. 1679

(Purpose: To provide for a report on administrative expenditures of the Secretary of Energy for the Energy Employees Occupational Illness Compensation Act)

On page 63, between lines 2 and 3 insert the following:

**SEC. 3. REPORT ON EXPENDITURES FOR THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION ACT.**

Not later 180 days after the date of enactment of this Act, the Secretary of Energy shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on administrative expenditures of the Secretary for the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384 et seq.).

## AMENDMENT NO. 1685

(Purpose: To direct the Secretary of the Army to complete the general reevaluation report for the project for flood damage reduction, Mill Creek, Cincinnati, Ohio)

On page 31, between lines 7 and 8, insert the following:

**SEC. 1. FLOOD DAMAGE REDUCTION, MILL CREEK, CINCINNATI, OHIO.**

Not later than 1 year after the date of enactment of this Act, the Secretary of the Army, acting through the Chief of Engineers, shall complete the general reevaluation report for the project for flood damage reduction, Mill Creek, Cincinnati, Ohio.

## AMENDMENT NO. 1686

(Purpose: To increase the authorization of appropriations for the provision of environmental assistance for the State of Mississippi)

On page 31, between lines 7 and 8, insert the following:

**SEC. 1.**

Section 592(g) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 380) is amended by striking "\$25,000,000 for the period beginning with fiscal year 2000" and inserting "\$100,000,000".

## AMENDMENT NO. 1697

(Purpose: To provide that the funds made available for a transmission study on the placement of 500 megawatt wind energy in North Dakota and South Dakota shall be nonreimbursable)

On page 54, line 19, before the period at the end, insert the following: "PROVIDED FURTHER, That the \$750,000 that is made available under this heading for a transmission study on the placement of 500 megawatt wind energy in North Dakota and South Dakota may be nonreimbursable".

## AMENDMENT NO. 1698

At the appropriate place, insert the following:

SEC. . Of the funds made available under Operation and Maintenance, General, an additional \$500,000 may be made available to the Recreation Management Support Program to work with the International Mountain Bicycling Association to design, build, and maintain trails at Corps of Engineers projects.

## AMENDMENT NO. 1699

(Purpose: To modify the project for flood control, Park River, Grafton, North Dakota)

On page 31, between lines 7 and 8, insert the following:

**SEC. 1. PARK RIVER, GRAFTON, NORTH DAKOTA.**

Section 364(5) of the Water Resources Development Act of 1999 (113 Stat. 314) is amended—

(1) by striking "\$18,265,000" and inserting "\$21,075,000"; and

(2) by striking "\$9,835,000" and inserting "\$7,025,000".

## AMENDMENT NO. 1700

(Purpose: To direct the Western Area Power Administration to provide electrical power supply and delivery assistance to the local distribution utility as required to maintain proper voltage levels at the Big Sandy River Diffuse Source Control Unit)

On page 54, line 19, before the period, insert the following: "Provided further, That, in accordance with section 203 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1593), electrical power supply and delivery assistance may be provided to the local distribution utility as required to maintain proper voltage levels at the Big Sandy River Diffuse Source Control Unit".

## AMENDMENT NO. 1701

On page 13 of the bill, line 21, before the period, insert the following:

: Provided further, That within funds provided therein, \$100,000 may be used for initiation of feasibility studies to address erosion along Bayou Teche, LA within the Chitimacha Reservation

## AMENDMENT NO. 1702

(Purpose: To provide a definition of rural Utah for the purposes of the environmental assistance program)

On page 28, strike lines 13 through 25 and insert the following:

SEC. 115. Section 595 of the Water Resources Development Act of 1999 (113 Stat. 383; 117 Stat. 142) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 595. IDAHO, MONTANA, RURAL NEVADA, NEW MEXICO, AND RURAL UTAH.;"

(2) in subsection (a)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(B) by striking (a) and all that follows through "means—" and inserting the following:

"(a) DEFINITIONS.—In this section:

"(1) RURAL NEVADA.—The term 'rural Nevada' means"; and

(C) by adding at the end the following:

"(2) RURAL UTAH.—The term 'rural Utah' means—

"(A) the counties of Box Elder, Cache, Rich, Tooele, Morgan, Summit, Daggett, Wasatch, Duchesne, Uintah, Juab, Sanpete, Carbon, Millard, Sevier, Emery, Grand, Beaver, Piute, Wayne, Iron, Garfield, San Juan, and Kane, Utah; and

"(B) the portions of Washington County, Utah, that are located outside the city of St. George, Utah.;"

(3) in subsections (b) and (c), by striking "Nevada, Montana, and Idaho" and inserting "Idaho, Montana, rural Nevada, New Mexico, and rural Utah"; and

(4) in subsection (h), by striking "2001—" and all that follows and inserting "2001 \$25,000,000 for each of Idaho, Montana, New Mexico, and rural Utah, to remain available until expended."

At the appropriate place, insert the following:

SEC. . Of the funds made available under Construction, General, \$1,500,000 may be made available work to be carried out under Section 560 of the Water Resources Development Act of 1999 (Public Law 106-53).

## AMENDMENT NO. 1704

(Purpose: To set aside funding for a defense and security research center)

On page 44, line 14, before the period at the end, insert ", of which \$3,000,000 may be available for a defense and security research center".

## AMENDMENT NO. 1705

(Purpose: To require the Secretary of the Interior and the Secretary of Energy to report to Congress on acquisitions made by each Department of articles, materials, or supplies manufactured outside the United States)

On page 34, line 10, strike the period at the end and insert “: *Provided further*, That of this amount, sufficient funds may be available for the Secretary of the Interior, not later than 60 days after the last day of the fiscal year, to submit to Congress a report on the amount of acquisitions made by the Department of the Interior during such fiscal year of articles, materials, or supplies that were manufactured outside the United States. Such report shall separately indicate the dollar value of any articles, materials, or supplies purchased by the Department of the Interior that were manufactured outside the United States, an itemized list of all waivers under the Buy American Act (41 U.S.C. 10a et seq.) that were granted with respect to such articles, materials, or supplies, and a summary of total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States. The Secretary of the Interior shall make the report publicly available by posting the report on an Internet website.”

On page 47, line 12, strike the period at the end and insert “: *Provided further*, That of this amount, sufficient funds shall be available for the Secretary of Energy, not later than 60 days after the last day of the fiscal year, to submit to Congress a report on the amount of acquisitions made by the Department of Energy during such fiscal year of articles, materials, or supplies that were manufactured outside the United States. Such report shall separately indicate the dollar value of any articles, materials, or supplies purchased by the Department of Energy that were manufactured outside the United States, an itemized list of all waivers under the Buy American Act (41 U.S.C. 10a et seq.) that were granted with respect to such articles, materials, or supplies, and a summary of total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States. The Secretary of Energy shall make the report publicly available by posting the report on an Internet website.”

## AMENDMENT NO. 1706

On page 41, line 5, strike “655” and insert in lieu thereof “566”.

## AMENDMENT NO. 1707

On page 28, line 1 strike “105-227” and insert in lieu thereof “105-277”.

## AMENDMENT NO. 1708

(Purpose: To provide funding to preserve Department of Energy historical sites and other aspects of the history of its programs)

On page 48, line 8, after the word “expended:” insert the following:

“*Provided*, That the Secretary of Energy may use \$1,000,000 of available funds to preserve historical sites associated with, and other aspects of the history of, the Manhattan Project”

## AMENDMENT NO. 1709

(Purpose: To set aside funding for the Administration’s Clean Energy Technology Exports Initiative)

On page 42, line 20, before the period at the end, insert “, of which \$400,000 may be made available to the Office of International Market Development to carry out a program to implement, and serve as an administrative center in support of, the multi-agency Clean Energy Technology Exports Initiative”.

## AMENDMENT NO. 1710

(Purpose: To limit the availability of funds for the Advanced Concepts Initiative of the National Nuclear Security Administration pending a report on activities under the initiative)

At the end of title III, add the following:

SEC. 313. No funds appropriated or otherwise made available under this title under the heading “ATOMIC ENERGY DEFENSE ACTIVITIES” may be obligated or expended for additional and exploratory studies under the Advanced Concepts Initiative until 30 days after the date on which the Administrator for Nuclear Security submits to Congress a detailed report on the planned activities for additional and exploratory studies under the initiative for fiscal year 2004. The report shall be submitted in unclassified form, but may include a classified annex.

## AMENDMENT NO. 1711

(Purpose: To set aside funding for the Great Lakes fishery and ecosystem restoration program)

On page 13, line 21, before the period at the end, insert the following: “: *Provided further*, That the Secretary of the Army may use at least \$1,000,000 of the funds provided under this heading for the Great Lakes fishery and ecosystem restoration program”.

## AMENDMENT NO. 1712

At the appropriate place on page 42, after section 211, insert the following:

“**SEC. XX. RESTORATION OF FISH AND WILDLIFE HABITAT AND PROVISION OF BOTTLED WATER FOR FALLON SCHOOL-CHILDREN.**

(a) IN GENERAL.—In carrying out section 2507 of Public Law 101-171, the Secretary of the Interior, acting through the Commissioner of Reclamation, shall—

(1) notwithstanding sec. 2507(b) of P.L. 101-171, provide \$2.5 million to the State of Nevada to purchase water rights from willing sellers and make necessary improvements for Carson Lake and Pasture.

(2) provide \$100,000 to Families in Search of Truth, Fallon, NV for the purchase of bottled water for schoolchildren in Fallon-area schools.

(b) LIMITATION.—The funds specified to be provided in (a)(1) shall only be provided by the Bureau of Reclamation when the title to Carson Lake and Pasture is conveyed to the State of Nevada; the waiver of sec. 2507(b) of P.L. 101-171 shall only apply to water purchases for Carson Lake and Pasture.

(c) ADMINISTRATION.—The Secretary of Interior, acting through the Commissioner of Reclamation, may provide financial assistance to State and local public agencies, Indian tribes, nonprofit organizations, and individuals to carry out this section and sec. 2507 of P.L. 101-171.

## AMENDMENT NO. 1713

(Purpose: To direct the Secretary of the Army to provide technical, planning, design, and construction assistance for the Schuylkill River Park, Philadelphia, Pennsylvania)

At the appropriate place, insert the following:

**SEC. . SCHUYLKILL RIVER PARK, PHILADELPHIA, PENNSYLVANIA.**

The Secretary of the Army may provide technical, planning, design, and construction assistance for Schuylkill River Park, Philadelphia, Pennsylvania, in accordance with section 564(c) of the Water Resources Development Act of 1996 (Public Law 104-303; 110 Stat. 3785), as contained in the May 2000 report of the Philadelphia District based on regional economic development benefits, at a Federal share of 50 percent and a non-Federal share of 50 percent.

## AMENDMENT NO. 1714

(Purpose: To direct the Secretary of the Interior to lease certain public lands in Wyoming)

On page 63, between lines 2 and 3 insert the following:

**SEC. 3 . MARTIN’S COVE LEASE.**

(a) DEFINITIONS.—In this section:

(1) BUREAU OF LAND MANAGEMENT.—The term “Bureau of Land Management”, hereafter referred to as the “BLM”, means an agency of the Department of the Interior.

(2) CORPORATION.—The term “Corporation” means the Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-day Saints, located at 50 East North Temple Street, Salt Lake City, Utah.

(3) MARTIN’S COVE.—The term “Martin’s Cove” means the area, consisting of approximately 940 acres of public lands in Natrona County, Wyoming as depicted on the Martin’s Cove map numbered MC-001.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(b) LEASE.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary may enter into an agreement with the Corporation to lease, for a term of 25 years, approximately 940 acres of Federal land depicted on the Martin’s Cove map MC-001. The Corporation shall retain the right of ingress and egress in, from and to any part of the leasehold for its use and management as an important historical site.

(2) TERMS AND CONDITIONS.—

(A) SURVEY.—As a condition of the agreement under paragraph (1), the Corporation shall provide a boundary survey to the Secretary, acceptable to the Corporation and the Secretary, of the parcels of land to be leased under paragraph (1).

(B) ACCESS.—

(i) IN GENERAL.—The Secretary and the Corporation shall enter into a lease covenant, binding on any successor or assignee that ensures that, consistent with the historic purposes of the site, public access will be provided across private land owned by the Corporation to Martin’s Cove and Devil’s Gate. Access shall—

(I) ensure public visitation for historic, educational and scenic purposes through private lands owned by the Corporation to Martin’s Cove and Devil’s Gate;

(II) provide for public education, ecologic and preservation at the Martin’s Cove site;

(III) be provided to the public without charge; and

(IV) permit the Corporation, in consultation with the BLM, to regulate entry as may be required to protect the environment and historic values of the resource at Martin’s Cove or at such times as necessitated by weather conditions, matters of public safety and nighttime hours.

(C) IMPROVEMENTS.—The Corporation may, upon approval of the BLM, improve the leasehold as may become necessary from time to time in order to accommodate visitors to the leasehold.

(D) ARCHAEOLOGICAL PRESERVATION.—The Corporation shall have the obligation to protect and maintain any historical or archaeological artifacts discovered or otherwise identified at Martin’s Cove.

(E) VISITATION GUIDELINES.—The Corporation may establish, in consultation with the BLM, visitation guidelines with respect to such issues as firearms, alcoholic beverages, and controlled substances and conduct consistent with the historic nature of the resource, and to protect public health and safety.

(F) NO ABRIDGEMENT.—The lease shall not be subject to abridgment, modification, termination, or other taking in the event any

surrounding area is subsequently designated as a wilderness or other protected areas. The lease shall contain a provision limiting the ability of the Secretary from administratively placing Martin's Cove in a restricted land management status such as a Wilderness Study Area.

(G) RIGHT OF FIRST REFUSAL.—The Corporation shall be granted a right of first refusal to lease or otherwise manage Martin's Cove in the event the Secretary proposes to lease or transfer control or title of the land to another party.

(H) FAIR MARKET VALUE LEASE PAYMENTS.—The Corporation shall make lease payments which reflect the fair market rental value of the public lands to be leased, provided however, such lease payments shall be offset by value of the public easements granted by the Corporation to the Secretary across private lands owned by the Corporation for access to Martin's Cove and Devil's Cove.

(I) RENEWAL.—The Secretary may offer to renew such lease on terms which are mutually acceptable to the parties.

(C) MINERAL WITHDRAWAL.—The Secretary shall retain the subsurface mineral estate under the leasehold, provided that the leased lands shall be withdrawn from all forms of entry, appropriations, or disposal under the public land laws and disposition under all laws relating to oil and gas leasing.

(D) NO PRECEDENT SET.—This Act does not set a precedent for the terms and conditions of leases between or among private entities and the United States.

(E) VALID AND EXISTING RIGHTS.—The Lease provided for under this section shall be subject to valid existing rights with respect to any lease, right-of-way, permit, or other valid existing rights to which the property is subject.

(F) AVAILABILITY OF MAP.—The Secretary shall keep the map identified in this section on file and available for public inspection in the Casper District Office of the BLM in Wyoming and the State Office of the BLM, Cheyenne, Wyoming.

(G) NEPA COMPLIANCE.—The Secretary shall comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in carrying out this section.

AMENDMENT NO. 1715

(Purpose: To appropriate funds to develop an environmental impact statement for introducing non-native oyster species into the Chesapeake Bay)

: *Provided*, That using \$200,000 appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, may develop an environmental impact statement for introducing non-native oyster species into the Chesapeake Bay. During preparation of the environmental impact statement, the Secretary may establish a scientific advisory body consisting of the Virginia Institute of Marine Science, the University of Maryland, and other appropriate research institutions to review the sufficiency of the environmental impact statement. In addition, the Secretary shall give consideration to the findings and recommendations of the National Academy of Sciences report on the introduction of non-native oyster species into the Chesapeake Bay in the preparation of the environmental impact statement. Notwithstanding the cost sharing provisions of Section 510(d) of the Water Resources Development Act of 1996, 110 Stat. 3760, the preparation of the environmental impact statement shall be cost shared 50% Federal and 50% non-Federal, for an estimated cost of \$2,000,000. The non-Federal sponsors' may meet their 50% matching cost share through in-kind services, provided that the Secretary determines that work performed by the non-

Federal sponsors is reasonable, allowable, allocable, and integral to the development of the environmental impact statement.

AMENDMENT NO. 1716

On page 14, line 26, strike "\$1,949,000,000" and insert in lieu thereof "\$2,014,000,000".

AMENDMENT NO. 1717

On page 42, at the end of line 20 insert: : *Provided*, That of the funds made available for the Office of Electricity and Energy Assurance, the Office may provide grants to states and regional organizations to work with system operators, including regional transmission organizations and independent system operators, on transmission system planning. The Office may require that grantees consider a full range of technology and policy options for transmission system planning, including energy efficiency at customer facilities and in transmission equipment, customer demand response, distributed generation and advanced communications and controls. *Provided further*, That of the funds made available for the Office of Electricity and Energy Assurance, the Office may develop regional training and technical assistance programs for state regulators and system operators to improve operation of the electricity grid.

AMENDMENT NO. 1718

(Purpose: To provide additional funding for the project for Passaic River Steambank Restoration, Minish Park, New Jersey, with an offset)

On page 10, line 9, strike "That" and all that follows through line 12 and insert the following: "That the Secretary of the Army, acting through the Chief of Engineers, may use \$1,000,000 of the funds made available under this heading to continue construction of the project for Passaic River Steambank Restoration, Minish Park, New Jersey, and \$6,500,000 of the funds made available under this heading to carry out the project for the Raritan River Basin, Green Brook Sub-Basin, New Jersey: *Provided further*, That the Secretary of the Army."

AMENDMENT NO. 1719

(Purpose: To require the Secretary of Labor to provide technical and managerial assistance to the Secretary of Energy to carry out claims-related activities under the Energy Employees Occupational Illness Compensation Program Act 2000)

At the appropriate place, insert the following:

SEC. \_\_\_\_ (a) MEMORANDUM OF AGREEMENT.—Not later than 45 days after the date of enactment of this Act, the Secretary of Energy and the Secretary of Labor shall enter into a Memorandum of Agreement (referred to in this section as the "MOA") under which the Secretary of Labor shall agree to provide technical and managerial assistance pursuant to subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385o et seq.).

(b) REQUIREMENT.—Under the MOA entered into under subsection (a), the Secretary of Labor shall, not later than 90 days after the date of enactment of this Act, assume management and operational responsibility for the development and preparation of claims filed with the Department of Energy under subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385o et seq.), consistent with the regulations under part 852 of title 10, Code of Federal Regulations, including the development of information necessary for the informed consideration of such claims by a physicians panel (which shall include work histories, medical records, and exposure assessments with respect to toxic substances).

(c) PROCUREMENT OF SERVICES.—The Secretary of Labor may procure temporary services in carrying out the duties of the Secretary under the MOA.

(d) DUTIES OF SECRETARY OF ENERGY.—Under the MOA entered into under subsection (a), the Secretary of Energy shall—

(1) consistent with subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385o et seq.), manage physician panels and secure necessary records in response to requests from the Secretary of Labor; and

(2) subject to the availability of appropriations, transfer funds pursuant to requests by the Secretary of Labor.

(e) SUBMISSION TO CONGRESS.—The MOA entered into under subsection (a) shall be submitted to the appropriate committees of Congress and made available to the general public in both printed and electronic forms.

AMENDMENT NO. 1720

(Purpose: To prohibit the use of funds for the Great Lakes Sediment Transport Models)

On page 15, line 16, after "2004" insert the following: " : *Provided further*, That none of the funds appropriated under this heading may be used for the Great Lakes Sediment Transport Models".

AMENDMENT NO. 1721

(Purpose: To reinstate and transfer a hydroelectric license to permit redevelopment of a hydroelectric project in the State of New York, and for other purposes)

On page 63, between lines 2 and 3 insert the following:

SEC. 3 \_\_\_\_ REINSTATEMENT AND TRANSFER OF THE FEDERAL LICENSE FOR PROJECT NO. 2696.

(a) DEFINITIONS.—

(1) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(2) TOWN.—The term "town" means the town of Stuyvesant, New York, the holder of Federal Energy Regulatory Commission Preliminary Permit No. 11787.

(b) REINSTATEMENT AND TRANSFER.—Notwithstanding section 8 of the Federal Power Act (16 U.S.C. 801) or any other provision of that Act, the Commission shall, not later than 30 days after the date of enactment of this Act—

(1) reinstate the license for Project No. 2696; and

(2) transfer the license to the town.

(c) HYDROELECTRIC INCENTIVES.—Project No. 2696 shall be entitled to the full benefit of any Federal law that—

(1) promotes hydroelectric development; and

(2) that is enacted within 2 years before or after the date of enactment of this Act.

(d) CO-LICENSEE.—Notwithstanding the issuance of a preliminary permit to the town and any consideration of municipal preference, the town may at any time add as a co-licensee to the reinstated license a private or public entity.

(e) PROJECT FINANCING.—The town may receive loans under sections 402 and 403 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2702, 2703) or similar programs for the reimbursement of the costs of any feasibility studies and project costs incurred during the period beginning on January 1, 2001 and ending on December 31, 2006.

(f) ENERGY CREDITS.—Any power produced by the project shall be deemed to be incremental hydropower for purposes of qualifying for energy credits or similar benefits.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1650, AS MODIFIED

Mr. SARBANES. Mr. President, the purpose of this amendment is to ensure that the Army Corps of Engineers meets its responsibilities to the restoration of the Baltimore metropolitan area ecosystem restoration project. The amendment authorizes and directs the Corps to implement the project in accordance with the Baltimore Metropolitan Water Resources—Gwynns Falls Feasibility Report, prepared by the Army Corps of Engineers and the city of Baltimore.

For 10 years, the U.S. Army Corps of Engineers has been studying water resource problems in the Baltimore metropolitan area. In 1994, the Baltimore District completed a reconnaissance report which concluded that there has been extensive degradation to the marine, aquatic, wetland, riparian and terrestrial habitats in the Baltimore metropolitan area. Over the years, rapid growth of the area, filling of wetlands, and previous construction of Federal works to meet flood control and navigation needs, among other things, have contributed to the degradation of the streams that drain the Baltimore basin. The report identified a Federal interest in restoring the ecosystem of six watersheds, with the Gwynns Falls watershed selected first for further study.

The city of Baltimore agreed to share with the Corps in the cost of the next phase of the study process—a \$1.6 million feasibility study. During the course of that more detailed study, the Corps found that there was a significant loss of stream water and groundwater into sewers located in the stream channels and, in order to restore the Gwynns Falls ecosystem and more than 2 million gallons of water per day to the watershed, the cracks in these sewers must be repaired. In December 2001, Corps Headquarters agreed that the sewer line rehabilitation work was integral to—and should be included in—the ecosystem restoration project and was within the Corps' environmental restoration authority. In fact, the Corps found that it was far less expensive to line the sewers and seal the manholes than undertake other alternatives such as channel lining and artificial watering. The draft Baltimore Metropolitan Water Resources Gwynns Falls Watershed Feasibility Report, completed in January 2002, recommended sewer system rehabilitation as a key part of the environmental restoration projects for Gwynns Falls. It was anticipated at that time, that the feasibility report would be completed by May 2002 and the project would be authorized for construction in the Water Resources Development Act of 2002.

In 2001, the city of Baltimore and EPA began the process of negotiating a consent decree to address the city's collection system overflow problem which was polluting area streams and waterways in violation of the Clean Water Act. Baltimore signed the con-

sent decree with EPA in April 2002 making the city legally responsible for approximately \$900 million in sewer infrastructure improvements throughout the city, including fixing the sewer system in the Gwynns Falls watershed by the year 2007. The city did so with the understanding that the Corps would share in the approximately \$13 million cost of sewer rehabilitation in this area.

Months went by and no action was taken on the feasibility report until April 2003, when the Office of the Assistant Secretary of the Army effectively renegeed on the agreement to participate in this project. Although the office, once again, concurred that the sewer work was integral to the ecosystem restoration project, it claimed that the sewer rehabilitation portion of the recommended project was now the legal responsibility of the city—because it signed the consent decree—and therefore it was inappropriate for the Federal Government to cost-share in this part of the project. Despite having acted in good faith to comply with Federal law and participating for years in studies with the Army Corps of Engineers with the intended purpose of improving the urban ecosystem in this area, the city of Baltimore is now being penalized for signing this consent decree. Throughout this process, the city was never appraised by the Corps that, if it signed the consent decree, the Corps would not be able to share in the cost of this project. Now Baltimore is left with the prospect of either attempting to remove the Gwynns Falls project from the consent decree—an uncertain prospect at best—or somehow overcoming a Corps planning guidance document. That is what we are seeking to do with this amendment.

It is important to point out that there is no other instance that we have been able to identify in Federal law or regulation, that prohibits a municipality from using Federal funds or programs to help achieve compliance with a consent decree. Indeed, a number of cities have used the Clean Water State Revolving Fund or EPA State and Tribal Assistance Grants for this purpose. There is no logical reason that the Corps of Engineers' program should not follow suit.

Why offer the amendment to this measure? First of all, it does not appear that the Senate will consider a Water Resources Development Act this year. Second, time is running out for the city of Baltimore. In order to meet the 2007 consent decree deadline and to avoid future penalties for sewage discharges, the city must begin design and construction of the Gwynns Falls project shortly.

This amendment simply directs the Secretary to implement the project in accordance with the original plans in the Gwynns Falls Feasibility Study.

AMENDMENT NO. 1709

Mr. BYRD. Mr. President, I have strongly supported efforts to advance opportunities to open markets abroad

to an array of clean energy technologies. At my urging, the Bush administration, in October 2002, released the Clean Energy Technology Exports, CETE, strategy. This action plan outlined a 5-year, nine-agency initiative that is intended to "increase U.S. clean energy technology exports to international markets through increased coordination among Federal agency programs and between these programs and the private sector." The CETE directive is geared at helping to address three major challenges in global energy policy: increased U.S. competition in developing country markets; environmental sustainability, including climate change; and energy security.

Even though the participating Federal agency partners released this strategic plan last year, no funding has been identified by any of the agencies to implement the CETE strategy. All too often, this is the case with multi-agency initiatives that do not have the explicit support of the administration, and I fear that, once again, this is the case. At this point, little, if anything new, is being done by this administration to promote clean energy technologies overseas.

My amendment is a small step that is intended to get the ball rolling by establishing an administrative center. A truly effective program of this magnitude deserves significantly more attention and funding, and the U.S. is missing a huge opportunity to capture a greater share of global clean energy technology markets. However, we must start somewhere, and my amendment is a practical one. If the CETE strategic plan is going to be successful, then such an initiative requires a focal point—a one-stop-shop, so to speak—to allow industries and organizations with interests to more effectively access the services of the Federal Government.

Thus, my amendment provides \$400,000 in funding for the Office of International Market Development within the Department of Energy to help carry out the task. While this center is to be physically housed at the Department of Energy, DOE, the center's mission is to help carry out the multi-agency CETE strategy. I also strongly urge all participating agencies such as the Department of Commerce, U.S. Agency for International Development, and others to contribute staff and other appropriate resources to get this center up and running.

This is just a start on a long overdue Federal initiative. But, if we are serious about addressing the immense global energy and environmental challenges that we commonly share with other nations, this initiative must get much greater attention and far more support from this administration.

AMENDMENT NO. 1715

Mr. SARBANES. Mr. President, I am pleased to join with Senator WARNER in offering this amendment directing the Secretary of the Army to develop an environmental impact statement, EIS,

to evaluate the risks and benefits of introducing non-native oysters in Chesapeake Bay.

The Chesapeake Bay was once the largest producer of oysters in the world, providing some 20 million bushels annually at the turn of the century. The once abundant oyster populations not only sustained an important part of our economy, providing jobs for thousands of oystermen and others in the seafood and maritime industries, but served as filters, cleaning the entire volume of the Bay's waters every three to six days and provided habitat and sustenance for many of the Bay's living resources. Today, the Bay's oyster population is only one percent of what it was a century ago—the victim of the deadly diseases MSX and Dermo as well as over-harvesting and the loss of habitat. Maryland's watermen and the oyster industry are being threatened with economic extinction and scientists estimate that it now takes the current population of oysters nearly a year to filter the Bay's waters.

In 1999, scientific experts from Maryland and Virginia reached a consensus on how to restore oysters which contained two essential components—the construction of three-dimensional oyster reefs and the establishment of permanent reef sanctuaries—to create habitat and provide for the growth and increased fecundity of oyster populations. This approach was embraced in the Chesapeake 2000 Bay Agreement which set an ambitious goal of increasing oyster abundance by tenfold by the year 2010. Over the past three years, our Chesapeake Bay area Congressional Delegation has worked closely together to secure the necessary authorizations and appropriations of approximately \$5 million a year through the U.S. Army Corps of Engineers and NOAA to help the States of Maryland and Virginia implement this strategy. Indeed, we are delighted that the Senate energy and water appropriations bill, which we are considering today, provides \$4.5 million an increase of \$1.5 million over the fiscal 2003 level and President's budget request to continue this effort. By restoring the physical oyster habitat, creating new oyster reefs and planting disease-free oysters on these reefs, it is our hope that this project will increase native oyster populations and ultimately help to ensure the economic and environmental revival of the Bay.

In order to expedite the process of repopulating oysters in Chesapeake Bay, officials in Maryland and Virginia have recently proposed introducing a non-native Asian oyster, *Crassostrea ariakensis*, which is quick growing and more disease resistant into the Bay. However, because of differing opinions about the risks and benefits involved, the Chesapeake Bay Commission—a tri-state legislative commission—requested that the National Academies of Science National Research Council, NRC, undertake a study of the pros and cons of introducing this non-native

species. On August 14, 2003, the National Research Council released this report entitled "Non-native Oysters in Chesapeake Bay" which concluded that introducing a reproductive population of the Asian oyster, *Crassostrea ariakensis*, in Chesapeake Bay should be delayed until more is known about the potential environmental risks.

The NRC report found that "[I]t is not possible to predict if a controlled introduction of reproductive *C. ariakensis* will improve, further degrade, or have no impact on either the oyster fishery or the ecology of the Chesapeake Bay." The report recommended contained aquaculture of sterile *C. ariakensis* as an "interim action that provides an opportunity for researchers to obtain critical biological and ecological information on the non-native oyster required for risk assessment." It included detailed recommendations for biological, ecological, and socio-economic research that should be conducted to better inform public decisionmaking about the Asian oyster.

In a letter dated July 22, 2003, to the U.S. Army Corps of Engineers the Secretaries of the Virginia and Maryland Departments of Natural Resources requested that the Corps coordinate development of an environmental impact statement to evaluate the States' proposal to introduce reproductively capable Asian oysters in the waters of Chesapeake Bay. The Corps responded that it cannot initiate an EIS unless specifically authorized and funded by Congress to do so. This is what our amendment seeks to accomplish. The amendment provides \$200,000 in Federal funds to initiate the study, which must be matched by the States. It further directs the Secretary to establish a scientific advisory body consisting of the Virginia Institute of Marine Science, the University of Maryland, and other appropriate research institutions to review the sufficiency of the environmental impact statement. In addition, it directs the Secretary to consider the findings and recommendations of the National Academy of Sciences in the preparation of the environmental impact statement.

I urge adoption of the amendment.

Mr. DOMENICI. Mr. 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. 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 say to our fellow Senators, we are finished with the exception of a colloquy or two, which are going to be ready shortly. However, we have been informed that Senator JOHN MCCAIN of Arizona desires to offer an amendment relative to a provision in the bill. We are trying to contact him to let him know we are

finished but for his amendment. If we can get him here—and we are going to try our best—we will ask him to offer his amendment. We will vote on it and then vote on final passage and we will be finished, which means that, on the request of our leader that we be finished by 7 o'clock tonight, we should do that easily, if we can find the Senator and start that process.

Mr. REID. Mr. President, will the distinguished chairman allow me to speak?

Mr. DOMENICI. I would be pleased to.

Mr. REID. Mr. President, I ask unanimous consent that there be no other amendments in order except those cleared by the two managers of the bill; and the Senator from Arizona is going to offer an amendment. I ask unanimous consent that those be the only amendments in order.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object—and I will not—I just want to say I agree because we have been telling the Senate that for a number of hours today, and now the time has come. We want to finish tonight, and there should not be any other amendments. They should have brought them here, if they have them. So I think the consent request is well taken. It should be granted.

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

Mr. REID. Mr. 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. BURNS. 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. BURNS. Mr. President, I ask unanimous consent to speak as in morning business for the time I shall need. If any other pending business comes up, I will gladly step aside.

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

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

#### LOS ANGELES RIVER REVITALIZATION

Mrs. BOXER. Mr. President, I would like to engage in a colloquy with the distinguished Senator from Nevada, Senator REID, the ranking member of the Energy and Water Appropriations Subcommittee.

I want to thank Senators DOMENICI and REID for their hard work in developing this legislation. In particular, I appreciate the attention that they have given to the infrastructure needs of California, as well as to the overall importance of this bill for those of us representing western States.

Los Angeles, the largest metropolitan area in the western United States, faces many challenges. Local community leaders are working hard to revitalize the areas surrounding the Los

Angeles River. The river, reinforced with concrete to provide flood control benefits, runs 51 miles through much of urban Los Angeles.

Both the Senate and House of Representatives include funding in the Energy and Water Appropriations bills for operation and maintenance of the Los Angeles County Drainage Area project. However, the House Appropriations Committee also included language directing \$2 million of additional funding to be used to "support Corps of Engineers assistance in local activities to revitalize the project areas for public safety, environmental restoration, recreation, aesthetics, community improvement, and related purposes."

This additional funding would provide essential support for local leaders and community stakeholders, working in conjunction with the Army Corps of Engineers, to move forward with this critical project. I urge the Senate conferees to agree with the House funding level for this project.

I know how much the Senator from Nevada cares about improving our communities and protecting our precious natural resources. This project works toward achieving both of these important goals.

Mr. REID. I agree with the Senator from California that our communities need the tools and resources to develop infrastructure projects that revitalize the environment, as well as the economy. I also agree that the project described by Senator BOXER has the potential to offer many benefits to the Los Angeles area and I will work to support this in conference.

Mrs. BOXER. I thank the Senator for his support.

#### DWORSHAK RESERVOIR

Mr. CRAPO. Mr. President, I want to express my appreciation for your efforts, and those of the subcommittee ranking member, Senator REID, in working with Senator CRAIG and me to support the important work of the U.S. Corps of Engineers in the Clearwater River Valley to mitigate damages caused by fluctuating levels in the Dworshak Reservoir.

As my colleagues know, the challenges of responding to the riverine needs of endangered salmon have been an enormous strain on the communities of the Pacific Northwest. We all share the commitment to restore Pacific Northwest salmon. This is a national interest. However, the efforts to restore the runs have a disproportionate and direct impact in communities in Idaho and the Pacific Northwest.

The town of Orofino in the Clearwater River Valley of Idaho is just such a community. The town sits at the base of the Dworshak Reservoir, which is capped by a Corps-managed dam. The Corps periodically uses water from Dworshak Reservoir to help adjust temperatures in the downstream rivers when salmon are making their runs to and from the ocean.

When spills are required, the levels of Dworshak Reservoir fall. Sometimes,

this can amount to drops of approximately 90 feet. A 90-foot drop is catastrophic to recreational opportunities provided by the reservoir. Boat docks and trailer ramps no longer reach the water, beaches dangle precariously above the waterline, and muddy banks exposed for as far as the eye can see.

The Corps has offered its help in mitigating the economic hardships caused by its actions in periodic reductions in reservoir water levels. I applaud that offer. I also commend Senator DOMENICI and Senator REID for providing the extra resources in the operations and maintenance account for the Dworshak Reservoir in this legislation to accommodate those mitigation efforts. I yield to the distinguished chairman to elaborate on that point.

Mr. DOMENICI. I want to echo the comments of the Senator about the importance of these resources. We have provided an additional \$1 million above the President's request for the O&M function for this specific economic mitigation commitment for the community. It is the committee's intent that the Corps should use these resources to help address the recreational needs of the Clearwater River Valley community resulting from the alterations of the water level in the reservoir.

I believe the senior senator from Idaho, and a member of the subcommittee, also would like to be heard on this point.

Mr. CRAIG. I echo the words of my colleague from Idaho on the importance of this enhanced funding. Few areas in the Pacific Northwest suffer more directly or as clearly by the changing needs of migrating salmon.

I have been to Orofino and surrounding communities several times and have noted the rise and fall in fortunes of the nearby towns in accordance with the levels of water in the reservoir. As the Nation continues to press on this and other Pacific Northwest communities to take steps to revive protected salmon species, the Nation should also assist towns disproportionately affected by that national call to action. I appreciate the committee chairman securing these resources to recognize that commitment.

It is my understanding that it is the committee's intention that these resources are provided to the Corps to be spent in the community in a manner that helps restore the economic base of the surrounding towns. These activities would include environmental measures and the establishment of a functional large boat moorage. Is this correct?

Mr. DOMENICI. That is the committee's intention, and I appreciate your commitment to this important provision. I also appreciate Senator CRAPO's desire in helping to clarify these issues so that the needs of the Clearwater River Valley communities can be effectively addressed. I yield back to Senator CRAPO.

Mr. CRAPO. I thank the chairman, and I yield back the floor.

Mr. JEFFORDS. I have some concerns with the language in section 104. These are, I believe, technical concerns. My understanding is that the Corps of Engineers, in order to more effectively manage their resources, is interested in having continuing contract authority for congressionally authorized water resource studies. I have no problem with that, but I am not sure that the language is correct in 104.

Mr. REID. That is my understanding as well, and I believe that we need to work together and with the Corps to draft language that is exactly correct. I will work with the Senator from Vermont to make the necessary changes in conference.

Mr. DOMENICI. I will also work with my colleagues to make the necessary changes, as I do not believe there is a substantive disagreement.

Mr. JEFFORDS. I thank my colleagues for their cooperation, and I look forward to working on this language in conference.

#### HIGH-LEVEL WASTE CLEANUP

Mr. COCHRAN. Mr. President, Chairman DOMENICI knows I have been concerned about DOE's high-level waste cleanup program from its inception. Shortly after our committee concluded action on the bill, the GAO issued a report, entitled, "Challenges to Achieving Potential Savings in DOE's High-Level Waste Cleanup Program." In light of the language in our committee report on the program, the GAO provides a valuable and timely perspective on the nuclear waste clean-up program and confirms many of my concerns, as well as those expressed by our committee during our hearings.

Mr. President, as stated in our committee's report:

The Committee notes with concern the recent notification by the Department that the Hanford Waste Treatment Plant, Richland, Washington, construction project baseline would increase from \$4,350,000,000 to \$5,781,000,000, an increase of over \$1,400,000,000. The relative lack of outrage over a baseline change of that magnitude speaks volumes about what the Congress and public have come to expect from the Department's clean-up program. The tank waste treatment project has a long and sordid history that indicates both the magnitude of the task before the Department, as well as the Department's historic combination of overly optimistic cost estimates coupled with consistent project mismanagement. The Committee notes its concern in the demonstrated pattern of Departmental officials announcing reform of some aspect of the clean-up program, only to depart and be replaced by a new set of officials coming before the Committee to describe dramatic cost overruns on the project baselines promised by their predecessors, and claiming no responsibility for the assumptions underlying those previous commitments.

The Department is now into the second year of entering into new acceleration and reform agreements consistent with the policy conclusions of the Secretary's 2001 top-to-bottom review of the environmental clean-up program. The efforts is commendable in its success in focusing the Department and its stakeholders on the importance

of completing clean-up activities decades earlier than planned. The acceleration agreements entered into at the various clean-up sites have allowed the Department to book huge paper out-year savings and acceleration of completion dates. For example, the Department is claiming savings of \$12,000,000,000 and 20 years at the Savannah River Site, South Carolina; \$30,000,000,000 and 35 years at Hanford, Washington; \$2,000,000,000 and 6 years at Oak Ridge, Tennessee; and \$19,000,000,000 and 35 years at Idaho. In many cases the savings are based on assumed changes in law, yet-to-be reformed regulatory environments, contractor savings, and other highly optimistic assumptions. The Department has had its successes, most notably Rocky Flats, Colorado, and should be commended. But even with such highlights, the weight of the historical record leaves the Committee to question who will be around in the future (other than the taxpayers) when these estimated cost savings will inevitably be revised.

Mr. President, I respect Secretary Roberson's efforts to encourage innovation in the program. Last February, she proposed a new initiative aimed at accelerating cleanup at DOE's sites and focusing on more rapid reduction of the considerable environmental risks. She projects this will cut years off the program and produce \$63 billion in savings.

Now that GAO has issued its first report on the acceleration initiative, I hope the chairman will join me in examining their findings and recommendations and identifying actions that we may recommend to the conference.

Mr. DOMENICI. The Senator has my assurance that GAO's report and recommendations will be carefully analyzed and that I will work with him to ensure that they are considered as we work toward conference.

Mr. COCHRAN. I thank the chairman and urge that he give special attention to the following GAO recommendation:

DOE's accelerated cleanup initiative should mark the beginning, not the end, of DOE's efforts to identify other opportunities to improve the program by accomplishing the work more quickly, more effectively, or at less cost. As DOE continues to pursue other management improvements, it should reassess certain aspects of its current management approach, including the quality of the analysis underlying key decisions, the adequacy of its approach to incorporating new technologies into projects, and the merits of a fast-track approach to designing and building complex nuclear facilities. Although the challenges are great, the opportunities for program improvements are even greater. Therefore, DOE must continue its efforts to clean up its high-level waste while demonstrating tangible, measurable program improvements.

This recommendation underscores my view that DOE should continue to develop and test new technologies, which may have the potential to provide price and schedule savings. Since 1996, our committee has recommended that DOE investigate alternative melting technologies, including the advanced vitrification system, to back-up the baseline system. These recommendations came from the National Academy of Sciences and from DOE's own sponsored studies.

Pursuing backup systems has always made sense. As GAO points out, the risks inherent in the chemical composition of the tanks require a backup approach as insurance. As our committee report explains, "the weight of the historical record" often requires us to ask "who will be around in the future (other than the taxpayers) when these estimated cost savings will inevitably be revised."

Mr. DOMENICI. I share the Senator's concerns and will inquire about GAO findings and will join you in urging the Department to give priority to developing technologies that are different from the baseline system and could provide an insurance policy.

Mr. COCHRAN. Mr. President, I appreciate the Senator's response and request his efforts in conference to encourage DOE to evaluate and demonstrate backup technologies that have shown potential to provide cost and schedule savings in the program.

Mr. DOMENICI. I appreciate the Senator raising these issues, and I urge the Department to carefully consider his thoughtful comments and recommendations.

Mr. COCHRAN. I thank the chairman and appreciate his leadership.

U.S. ARMY CORPS OF ENGINEERS' OPERATION AND MAINTENANCE FUNDING FOR NOXIOUS WEED CONTROL AT LAKE SAKAKAWEA, GARRISON DAM, ND

Mr. CONRAD. Mr. President, I commend the leadership of the Appropriation Committee, and particularly subcommittee Chairman DOMENICI and Senator REID for their work on this bill. I bring to the chairman's attention a troubling problem we have in North Dakota around Lake Sakakawea, a reservoir controlled by the U.S. Army Corps of Engineers. As water levels drop, more of the land around the lake owned by the Corps becomes exposed, which is a perfect habitat for noxious weeds. In fact, an additional 140,000 acres have become exposed due to low water levels causing explosive growth.

The spread of noxious weeds is directly impacting farmers, ranchers, and other landowners in the vicinity of Lake Sakakawea. These landowners are responsible for controlling noxious weeds on their land; however, their efforts are futile when their land can be easily contaminated from weeds on Corps land. Unless the Corps has more resources to fight the noxious weeds, landowners will continue to face an uphill battle.

Mr. REID. I, too, am concerned about the situation around Lake Sakakawea and appreciate my colleague from North Dakota for bringing this to our attention. I agree that the Corps of Engineers has an obligation to address it, and I would be happy to work with my colleagues to identify additional funds to tackle the noxious weeds around Lake Sakakawea.

Mr. DORGAN. Mr. President, I thank my colleague from Nevada for his support, and I would like to work with

him and the chairman of our subcommittee to find additional funding to combat this growing problem in the energy and water conference. Right now, the Corps is stretched thin financially and, as a result, it cannot keep pace with this expansive and growing problem. The Corps has a clear responsibility to address this problem and it cannot be ignored. It is my hope that the Corps will dedicate funds to controlling this weed problem from the money that would be provided from the amendment offered by Chairman DOMENICI and Senator REID that would add \$65 million to the Corps operations and maintenance budget. The low lake level is due to the persistent drought plaguing much of the West, and I believe that the Corps has a responsibility to address problems on its lands resulting from weather-related conditions.

Mr. DOMENICI. I recognize the situation faced by those around Lake Sakakawea, and I will work with you to address this problem as we move this bill to the Energy and Water Appropriations conference.

#### SECTION 310

Mr. BINGAMAN. Mr. President, will the chairman yield for a question?

Mr. DOMENICI. I will be happy to yield.

Mr. BINGAMAN. Mr. President, section 310 of the current legislation directs the Secretary of Energy to file a permit modification to the Waste Isolation Pilot Plant's, WIPP, Waste Analysis Plan, WAP. Section 310(a) requires that for determining compliance with the Solid Waste Disposal Act, 42 U.S.C. 6901 et. seq., and any other applicable laws, all waste received for storage and disposal shall be limited in confirmation that it contains no ignitable, corrosive or reactive waste through the use of radiography or visual examination of a statistically representative population of waste; and to review of the waste stream profile form to verify that the waste contains no ignitable, corrosive or reactive waste. Section 310(b) requires that compliance shall be monitored exclusively in the WIPP underground rooms through airborne monitoring of volatile inorganic compounds.

Mr. DOMENICI. Mr. President, the Senator is correct.

Mr. BINGAMAN. Mr. President, is the chairman aware of an ongoing study, due December 2003, by the National Academy's Board on Radioactive Waste Management regarding waste characterization requirements for contact handled transuranic waste to be disposed of at the WIPP facility?

Mr. DOMENICI. Mr. President, yes I am aware that there has been ongoing scientific studies in this area.

Mr. BINGAMAN. Mr. President, will the chairman agree that as section 310 undergoes conference with the House and the language is considered that it is consistent with the ongoing study by the National Academy?

Mr. DOMENICI. Yes, I believe the provision has been developed based

upon sound science and will be glad to compare the National Academy report with section 310.

Mr. BINGAMAN. Mr. President, I thank the chairman for taking the time to discuss this matter with me.

Mr. JEFFORDS. Mr. President, I have agreed not to offer my amendment which would have required the submission to the Committee on Environment and Public Works of a log of documents relating to New Source Review at the Department of Energy by a time certain. My agreement is based on a promise from the Department made to my staff today. The Department has committed that this log will be delivered to me and the committee within the next few days. I ask unanimous consent that a September 25, 2002, letter from the Department to me, as then chairman of the committee, be printed in the RECORD following my remarks. This letter promised delivery of the document log by October 24, 2002, yet the Department failed to provide that log.

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

DEPARTMENT OF ENERGY,  
Washington, DC, September 25, 2002.

Hon. JAMES M. JEFFORDS,  
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in further response to your December 19, 2001, letter to Secretary Abraham requesting certain documents in the possession of the Department of Energy (DOE) and related to Environmental Protection Agency's (EPA) review of its New Source Review (NSR) program. This supplements our earlier acknowledgment of your request on March 1, 2002, as well as a letter earlier today that transmitted certain documents that are arguably responsive to your request.

Based on conversations with Committee staff following our letter from earlier this afternoon, we understand that the Committee staff is interested in what additional responsive documents DOE has located and what our intentions are with respect to those documents. Other than Congressional testimony and the like, which we understand not to be covered by the Committee's request, the additional arguably responsive documents DOE has located consist of internal Administration communications regarding the ongoing development of proposed and final rules.

We understand that EPA has previously indicated to you its concerns providing internal executive branch deliberative communications of this nature but has also indicated that it wants to continue to work with the Committee on a cooperative basis. We further understand that you have reached agreement with EPA regarding how these interests may be accommodated. We share EPA's wish to work out a reasonable accommodation of these interests, and stand ready to provide you these materials on the same basis as that set out in EPA's letter to you of today.

Specifically, on or before October 24, 2002, we will provide the Committee the 1996 NSR rulemaking documents responsive to Items I through V of your December 19, 2002 request. With respect to documents responsive to Items II and IV of your request, we will continue discussions with the Committee to reach a mutually acceptable accommodation for the delivery and protection of informa-

tion that is attorney work product or otherwise protected by law. With respect to documents responsive to your request that related to the upcoming proposed rule, we agree to continue to discuss our respective positions on Congressional access to those documents. In the meantime, and not later than October 24, 2002, we will produce a log of documents responsive to your request that relate to the upcoming rules on new source review. Finally, with respect to any responsive documents we locate that are not addressed above, including responsive documents related to the NSR "90 day review," we will provide these to the Committee by October 24, 2002, on the same basis as EPA.

If you have any questions regarding this matter, please call me or have a member of your staff call me.

Sincerely,

DAN R. BROUILLETTE,  
Assistant Secretary for  
Congressional and Intergovernmental Affairs.

Mr. NICKLES. Mr. President, I rise in support of H.R. 2754, the fiscal year 2004 Energy and Water Appropriations bill, as reported by the Senate Committee on Appropriations.

I commend the distinguished chairman and the ranking member for bringing the Senate a carefully crafted spending bill within the subcommittee's 302(b) allocation and consistent with the discretionary spending cap for 2004.

The pending bill provides \$27.3 billion in discretionary budget authority and \$27.3 billion in discretionary outlays in fiscal year 2004 for the Department of Energy, the Bureau of Reclamation, and the Corps of Engineers.

The bill is \$1 million below the subcommittee's 302(b) allocation for budget authority and \$47 million in outlays below the 302(b) allocation. The bill provides \$511 million more in budget authority and \$483 million more in outlays than the President's budget request, and \$1.2 billion in budget authority and \$1.8 billion in outlays more than the 2003 enacted level.

I am concerned that there may be an amendment to add \$125 million in emergency funding for the Corps of Engineers. This amendment, if offered, will have a Budget Act violation and I will not be able to support it.

I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD at the conclusion of my remarks. I urge the adoption of the bill as it was reported from committee.

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

S. 1424, ENERGY AND WATER APPROPRIATIONS, 2004:  
SPENDING COMPARISONS—SENATE-REPORTED BILL  
(Fiscal year 2004, in millions of dollars)

	General purpose	Mandatory	Total
Senate-reported bill:			
Budget authority .....	27,312	.....	27,312
Outlays .....	27,312	.....	27,312
Senate Committee allocation:			
Budget authority .....	27,313	.....	27,313
Outlays .....	27,359	.....	27,359
2003 level:			
Budget authority .....	26,156	.....	26,156
Outlays .....	25,555	.....	25,555
President's request:			
Budget authority .....	26,801	.....	26,801

S. 1424, ENERGY AND WATER APPROPRIATIONS, 2004:  
SPENDING COMPARISONS—SENATE-REPORTED BILL—  
Continued

(Fiscal year 2004, in millions of dollars)

	General purpose	Mandatory	Total
Outlays .....	26,829	.....	26,829
House-passed bill:			
Budget authority .....	27,080	.....	27,080
Outlays .....	27,173	.....	27,173
SENATE-REPORTED BILL COMPARED TO—			
Senate 302(b) allocation:			
Budget authority .....	(1)	.....	(1)
Outlays .....	(47)	.....	(47)
2003 level:			
Budget authority .....	1,156	.....	1,156
Outlays .....	1,757	.....	1,757
President's request:			
Budget authority .....	511	.....	511
Outlays .....	483	.....	483
House-passed bill:			
Budget authority .....	232	.....	232
Outlays .....	139	.....	139

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.  
Prepared by SBC Majority Staff, July 21, 2003.

Mrs. MURRAY. Mr. President, I wish to address two parts of the Senate energy and water bill that are extremely important to Washington State: the environmental cleanup program, which impacts the Hanford Nuclear Reservation, and the Army Corps of Engineers.

First, let me express my deep appreciation to Chairman DOMENICI and Senator REID for their work on this bill. As always, they have taken limited resources and produced a well-balanced bill. That's a big challenge given the great needs our country faces in infrastructure, water, and energy. They have worked hard to understand the needs of my State and every State, and I thank them. I also thank the subcommittee staff. Clay, who is now at the White House, Drew, Tammy, Roger and Nancy do a remarkable job dealing with the thousands of requests from Members, and I thank them as well.

I want to begin by talking about the environmental cleanup program at the Department of Energy. That program is charged with cleaning up nuclear sites across the country, including the Hanford Nuclear Reservation in Washington State. For many years, I have had to fight the efforts of this and other administrations to under-fund this critical responsibility.

This year, I am pleased that we don't have to fight for increased funding. I think that success is due to several factors. First, we have a bipartisan group of Senators who are committed to cleaning up sites in their States, and our group has pushed hard for this increased funding. In addition, we are fortunate to have the subcommittee chairman and Senator REID as allies in this effort. The Department of Energy also deserves credit for putting forward a good budget request that puts these funding issues behind us this year.

But despite the agreement on funding levels, there is another problem that is brewing which I believe threatens the effective cleanup of these sites.

Like the people of the Tri-Cities, WA, I want to make sure that dangerous waste is cleaned up. I am concerned that this administration may try to change the ground rules so it could declare victory and walk away from the

site, without doing all the clean up work that's required. That could happen if the administration changes the definition of high-level nuclear waste.

To prevent that type of game-playing, the Natural Resources Defense Council, NRDC, brought a lawsuit against the Department of Energy. That suit sought to block new DOE rules on the reclassification of nuclear waste. Before that case went to trial, the NRDC and the States offered to settle the issues. Unfortunately, the Department of Justice and the Department of Energy rejected that cooperative approach.

The case went to court, and the Department of Energy lost. One would expect the DOE to go back to the plaintiff and the states to settle the issues, but that's not what happened. Instead the DOE came running to Congress, asking for legislation to do what it could not do in court.

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

To make the best use of the funding provided in this bill, the Department of Energy needs to get back to working in partnership with the States and Federal regulators. A unilateral approach will simply cost more money and will only create further delays. I understand the Department and contractors want to get on with their work, but they must recognize that State and Federal regulators also have a job to do. And most importantly, the people who live near these sites deserve to know, understand, and have input on the activities taking place near their homes.

In a letter to Speaker HASTERT, the Department claims the loss in court will greatly impede the cleanup of waste in Idaho, South Carolina, and Washington State. That simply is not true, according to the NRDC, the attorneys general of those three States, and the environmental directors of each State. I strongly urge my colleagues to reject the Department's request for a change in law.

I also strongly urge the Department of Energy to get back to its job of cleaning up the waste, rather than wasting valuable time seeking help from Congress over a court case that it lost.

I would also like to applaud the report language in the Senate bill that directs the Office of Management and Budget to review the Department of Energy's cleanup agreements, contracting, and cost estimates. I believe we should press the Department and contractors to cleanup these sites faster and more cheaply. Everyone sup-

ports this goal. However, we should not reduce the cleanup standards or threaten the safety of workers and surrounding communities. We must examine agreements and contracts to make sure they are realistic and that they don't rely on regulatory agreements and technologies that do not exist today. I do not want to stand here in two, three or ten years and have to explain that the reason some agreement or contract did not meet success was because it was never achievable in the first place.

Let me close this topic by making clear that we are making progress on cleanup around the country. This is a very challenging program that deals with the most dangerous materials in the world. That often requires new solutions and technologies, but our scientists, engineers, and workers have risen to the occasion. At Hanford, we are nearly done removing the spent fuel from the K-basins. This work is likely to be complete before the required timeline. Early success is also being achieved on the cocooning of reactors and cleanup of the plutonium finishing plant.

In short, we are starting to make real and substantive progress in this effort. In this bill, we are providing the necessary funding. Now, we need the Department of Energy to take this money and work hand-in-hand with regulators and communities to make the cleanup a success.

The second issue I would like to address is the budget for the Army Corps of Engineers.

As Chairman DOMENICI and Senator REID often say, we face the challenge of an inadequate budget for the Corps with every administration. In that simple sense, this year is nothing new. However, I think we are facing a compounding crisis this year when you consider: the scale of this year's cut-back of the Corps' budget, the cumulative effect of years of inadequate funding, and the President's failure to fund low-use/shallow draft ports.

First, the President's budget for the Corps is \$445 million less than our current fiscal year budget. I commend the chairman and Senator REID for restoring \$233 million of this funding. In the end, however, it creates a downward trend at a time when we cannot afford to ignore our infrastructure. This funding shortfall means we are not keeping up on our time-lines to construct projects that are already underway. It also means we are not moving ahead on new projects that are critical for expanding our infrastructure capability and expanding our ability to export American products.

Even more troubling is the growing backlog in our operation and maintenance funding. Our infrastructure is falling apart around us—threatening our economy, and in some cases the lives of our sailors and boaters.

In Washington and Oregon, we have many examples of Corps infrastructure that is falling apart. John Day Lock

and Dam has a crack running the entire length of one monolith. That threatens the entire operation of the lock. This will require more than \$8 million, which is twice what is included in the President's budget. I thank the Subcommittee for providing an increase for the John Day Lock in the Senate bill.

Here's another example. Thousands of feet of the north and south jetties at the Mouth of the Columbia River have been lost to storms. The loss of these jetties creates greater dredging issues and threatens the safety of ships and boats that are navigating one of the most treacherous bars in the country.

If left unchanged, the amount of funding provided in the budget for Bonneville Lock and Dam would result in a \$4 million penalty against the United States. Again, thankfully, the Senate subcommittee increased funding and will avoid that penalty.

These are just a few of the threats facing our existing, major water infrastructure. Clearly, the budget for the Corps is grossly inadequate.

We also need to remember that the budget does not provide sufficient funds for low-use and shallow draft ports. In fact, in some cases there is no funding to meet these needs. The President's budget seems to take pride in under-funding or zeroing out funds for these ports and channels. There is an apparent belief in the administration that because of the low volume use of these harbors it would constitute an unwise use of Federal funds to keep them open. This narrow view of the situation abandons some of our most economically-challenged rural communities in Washington, in Oregon, and across the country.

Look at the port of Chinook in Washington State where a failure to perform maintenance dredging on the Chinook channel has nearly closed the Port. It was only because the subcommittee intervened and the Corps responded quickly that the port will not be closed this fall and winter to fishing fleets. I express my sincere appreciation to the work of this subcommittee for protecting the jobs relying on this port.

When the port of Chinook is properly maintained, the annualized cost of dredging the channel is about \$400,000. That small investment produces major economic benefits. The commercial and recreational use of the Port's marina alone bring in more than \$3 million. Add to that number the value of the Buoy Crab Company, which employs 40 year-round workers and 100 seasonal employees. It's the second largest crab processor in Washington State. And we cannot forget that the port is located in a rural county that is facing some of the highest unemployment rates in the State.

Near Chinook is the port of Ilwaco, which generates almost \$9 million in commercial seafood sales. Charter boat fishing generates an additional \$2.8 million. Again, a consistent dredging program can maintain an economy

that brings millions of dollars into a rural economy and keeps our people employed.

In Oregon, they have 7 or more low-use, shallow draft ports. All of them are located in rural, coastal communities, and none of them received funding in the President's budget. The only bright note once again is that the subcommittee has chosen to fund these ports and to protect the jobs they support.

It appears that there are more than 25 ports and channels that receive funding not included in the President's budget. These are ports and channels that will remain open only because this subcommittee decided to value jobs and economies in rural America.

We must find a way to get this administration and future administrations to provide adequate budgets for the Corps. We cannot continue to underfund our existing infrastructure and fail to invest in building our economies.

I thank Chairman DOMENICI and Senator REID for their support of water infrastructure and for their efforts on this bill.

Mr. BYRD. Mr. President, I have often spoken of the grandeur of West Virginia's mountains and the abundance of tranquil mountain streams that gurgle quietly throughout the State. However, these same majestic mountains and streams are also conduits for disaster and devastation. When the heavy rains hit, waters from the mountaintops surge to the valleys and turn once peaceful meandering mountain streams into angry, raging, muddy torrents of horror, rising up over their banks and destroying anything in the way.

In West Virginia, such torrential flooding seems to be an annual event—since 1993, the State has had eleven federally declared disasters. In this year alone, the State has had two federally declared disasters. In the latest round of devastating flooding in the state earlier this summer, twenty counties were declared Federal disaster areas. Homes were damaged or destroyed, and the severe impact on the infrastructure in the southern part of the State—from roads, bridges, water and sewer, to power sources—brought a normal way of life to a screeching halt once again.

I know that West Virginia is not alone in attempting to recoup from such disasters. This year, many States have been impacted by floods, tornadoes, ice storms, and other severe conditions of nature that have crippled individuals and communities alike. That is why I am co-sponsoring an amendment with Senator REID in the amount of \$65 million that would provide funding assistance through the Army Corps of Engineers to aid impacted States in recovering and rebuilding from recent natural disasters. This funding, coupled with the \$983 million Federal Emergency Management Agency recently received through the FY 2003 Supplemental, should go a

long way in helping States get back on their feet.

This amendment provides \$65 million for the Corps under the operations and maintenance account to help repair damages to public facilities, such as obstructive deposits in flood control streams, bank erosion threatening public facilities, damages to other public infrastructure such as water and sewer facilities. Additionally, funds provided will allow the Army Corps to repair weather related damages that have occurred to Federal infrastructure.

Weather-related damages have occurred to public infrastructure across the country that is beyond the ability of local governments to repair. As I mentioned, West Virginia has recently suffered devastating floods. Numerous other States such as Michigan, Louisiana, Missouri and Illinois are still suffering from damages that occurred in previous storm events. In May of this year, unusually heavy rainfall occurred in four counties of the Upper Peninsula of Michigan causing rivers and streams throughout the area to swell out of their banks, inflicting severe and widespread damages. The greatest damages occurred in Marquette County where an earthen dike at Silver Lake Basin failed, sending an estimated eight billion gallons of water cascading downstream through the city of Marquette toward Lake Superior. The floodwaters destroyed or damaged numerous public and private structures and caused unprecedented environmental and ecological damage within the Dead River Basin and into Lake Superior in Marquette County. Two power generation facilities were damaged. One of the power generation facilities, the Presque Isle plant in the city of Marquette, resulted in shutdown for more than 30 days. Without power, two iron ore mines, which produce about 20 percent of our nation's annual iron ore output, were shut down, idling 1,200 workers. Dozens of other area businesses, institutions and private homeowners were also seriously impacted. Three of the four counties affected are impoverished, with a majority of the population over 65 years of age. Local governments simply do not have the capital to pay for the public damages. Without an infusion of Federal aid, Marquette and the other three counties will have a difficult, if not impossible, task of recovering from this disaster.

This amendment fills a significant funding void to provide States expedited recovery from natural disasters that have occurred throughout the United States. These funds are vitally needed, as any flood, tornado, or storm victim can tell you, and I urge the Senate to approve their inclusion in this bill.

I thank my colleagues for their consideration of this important amendment.

Mr. JEFFORDS. Mr. President, I rise to express my concern regarding section 205 of H.R. 2754, the fiscal year 2004

energy and water appropriations legislation. The provision affects the protection of the Rio Grande silvery minnow. As ranking member of the Senate Environment and Public Works Committee, the committee of jurisdiction over the Endangered Species Act, I am concerned about the impact this provision will have on the future survival of this species.

In New Mexico, Federal, State and environmental stakeholders were in the midst of negotiations that would yield long-term solutions to the water crisis in the Rio Grande. These negotiations began in response to a 10th Circuit Court of Appeals ruling that both San Juan-Charm water and native Rio Grande water could be taken by Federal officials to meet environmental conditions for the silvery minnow. The discussions were recently suspended due to the time pressures placed on the parties by the provision in this bill.

The parties, convened by Governor Richardson, are seeking locally driven resolutions that would both fulfill the intent behind this provision and also address the conditions that precipitated the need for the court's opinion.

These negotiations have moved very close to agreement on the sustainable and equitable management of water resources in the Middle Rio Grande. The negotiations were a great step toward collaboration and made progress under the Governor's leadership. That they have been called off, due largely to this provision, puts at risk a precedent for collaboration that could be a model for endangered species and river management throughout the West.

I am concerned that section 205 would prevent the Bureau of Reclamation from releasing water from its reservoirs to maintain silvery minnow habitat and that without access to this water, it will be more difficult to acquire the water needed to meet the target flows in the U.S. Fish and Wildlife Service biological opinion endorsed in this provision. Any action that takes water out of the Bureau's hands increases the pressure on remaining water supplies and on the silvery minnow. Negotiated water management reforms, not exemptions to the Endangered Species Act, will best meet the needs of all who are dependent on the Rio Grande.

This rider also would seek to sanction a biological opinion from the Fish and Wildlife Service. The Endangered Species Act is a flexible tool that allows for biological opinions to adapt to changing circumstances and increased knowledge. If this biological opinion is endorsed by this provision, it is likely that it would not be reopened, even if the Service learns of more effective methods for protecting the silvery minnow.

The Rio Grande silvery minnow occurs only in the middle Rio Grande. This species was historically one of the most abundant and widespread fishes in the Rio Grande basin, occurring

from New Mexico, to the Gulf of Mexico. It was also found in the Pecos River, a major tributary of the Rio Grande, from Santa Rosa, NM, downstream to its confluence with the Rio Grande in south Texas. It is now completely extinct in the Pecos River and its numbers have severely declined within the Rio Grande. Currently, the species occupies only about five percent of its known historic range.

The parties to the mediation, the Governor's office; environmental groups; the conservancy district; the Bureau of Reclamation; several Indian Pueblos; the State water engineer; and the city of Albuquerque should be able to continue their negotiations to find a mutually agreeable solution to this problem, without jeopardizing the underlying species protections provided by the Endangered Species Act.

Mr. LEVIN. In May of this year, unusually heavy rainfall occurred in four counties of the Upper Peninsula of my home State of Michigan—Baraga, Gogebic, Marquette and Ontonagon Counties—causing rivers and streams throughout the area to swell out of their banks, inflicting severe and widespread damages. These four counties are not able to absorb this disaster as they have overall unemployment and poverty rates higher than the state average.

The greatest damages occurred in Marquette County where an earthen dike at Silver Lake Basin failed, sending an estimated 8 billion gallons of water cascading downstream through central Marquette County and the city of Marquette toward Lake Superior. Rapidly moving water and massive amounts of trees, logs and other debris has severely undercut many sections of the riverbank, making them unstable and creating serious public safety and environmental concerns.

Damages to one of the power generation facilities, the Presque Isle plant in the city of Marquette, resulted in shutdown for more than 30 days. Without power, two iron ore mines, which produce about 20 percent of our Nation's annual iron ore output, were shut down, idling 1,200 workers. These mines contribute nearly \$115 million in personal income annually and are two of the largest employers in Marquette County. Even this temporary shutdown has had a significant negative impact on the local, regional, State and national economies. Dozens of other area businesses, institutions and private homeowners were also seriously impacted.

Current estimates of economic damages alone to these counties, mostly in Marquette County, are calculated at over \$100 million. There have been severe impacts to roads, bridges, culverts, water control structures, utility infrastructure and environmental and ecological damage to the waterways resulting from this flooding. When the public damage figures, currently estimated at \$18-20 million, are combined with those high economic impacts

caused by the loss of electrical power generation capabilities and the environmental degradation to the area, it paints a devastating picture for this area in Michigan. Further, this area is still recovering from the flooding that occurred last year. The fact that these counties have suffered two major disasters in two years is extremely significant.

Without our assistance, Marquette and the other three counties will have a difficult, if not impossible, task of recovering from this disaster. And the health, safety, economic vitality, and quality of life of the communities and their citizens will certainly suffer for years to come.

I urge my colleagues to support this request for \$125 million in emergency funding for flood damage remediation assistance.

Mr. DOMENICI. Mr. President, I heretofore indicated there would be a vote on a McCain amendment preceding final passage. The Senator has sent word that he no longer desires to offer his amendment. He withdraws it. That means there are no amendments pending. We are ready to go to final passage.

I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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.

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 Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that following the passage of the bill, the Senate insist on its amendment, request a conference with the House on the disagreeing votes, and the Chair be authorized to appoint conferees on the part of the Senate.

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

The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. ALLARD) is necessarily absent.

I further announce that the Senator from Oregon (Mr. SMITH) is absent because of a death in the family.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAU), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

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

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—92

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allen	Domenici	McCain
Baucus	Dorgan	McConnell
Bayh	Durbin	Mikulski
Bennett	Ensign	Murkowski
Biden	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Brownback	Frist	Pryor
Bunning	Graham (SC)	Reed
Burns	Grassley	Reid
Byrd	Gregg	Roberts
Campbell	Hagel	Rockefeller
Cantwell	Harkin	Santorum
Carper	Hatch	Sarbanes
Chafee	Hollings	Schumer
Chambliss	Hutchison	Sessions
Clinton	Inhofe	Shelby
Cochran	Inouye	Snowe
Coleman	Jeffords	Specter
Collins	Johnson	Stabenow
Conrad	Kennedy	Stevens
Cornyn	Kohl	Sununu
Corzine	Kyl	Talent
Craig	Landrieu	Thomas
Crapo	Lautenberg	Voinovich
Daschle	Leahy	Warner
Dayton	Levin	Wyden
DeWine	Lincoln	

NOT VOTING—8

Allard	Graham (FL)	Miller
Breaux	Kerry	Smith
Edwards	Lieberman	

The bill (H.R. 2754), as amended, was passed, as follows:

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

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 1722

Mr. SANTORUM. I ask unanimous consent notwithstanding the passage of H.R. 2754, the energy and water appropriations bill, it be in order to consider the Bingaman amendment which is at the desk; that the amendment be considered and agreed to, and the motion to reconsider be laid upon the table without any intervening action or debate.

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

The amendment (No. 1722) was agreed to, as follows:

(Purpose: To improve administration of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA))

On page 51, line 13, insert before the period: "Provided, That from the funds made available under this heading for transfer to the National Institute for Occupational Safety and Health for epidemiological research,

\$7.5 million shall be transferred to include projects to conduct epidemiological research and carry out other activities to establish the scientific link between radiation exposure and the occurrence of chronic lymphocytic leukemia;”.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses and appoints the following as conferees on the part of the Senate.

The Presiding Officer (Mr. ALEXANDER) appointed Mr. DOMENICI, Mr. COCHRAN, Mr. MCCONNELL, Mr. BENNETT, Mr. BURNS, Mr. CRAIG, Mr. BOND, Mr. STEVENS, Mr. REID, Mr. BYRD, Mr. HOLLINGS, Mrs. MURRAY, Mr. DORGAN, Mrs. FEINSTEIN, and Mr. INOUE conferees on the part of the Senate.

#### PARTIAL-BIRTH ABORTION BAN ACT OF 2003—Resumed

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I ask that the Chair lay before the House the message from the House accompanying S. 3, as under the previous agreement.

The legislative clerk read as follows:

A message from the House to accompany S. 3, a bill to prohibit the procedure commonly known as partial-birth abortion.

Mr. SANTORUM. Mr. President, we have before the Senate right now what is usually a procedural motion. When the House passes a bill and the Senate passes a bill and they are different, we procedurally just move to disagree with the House and their provision and go to conference, just as we did prior to the calling up of this bill, S. 3.

The Presiding Officer, who is sitting here for the Vice President, said we were appointing conferees.

The Senator from California has sought to have a debate about whether we are going to disagree with the House and therefore go to conference. I don't understand quite why this is necessary since it is purely a procedural motion. I have been in the Senate not that many years. I have been here about 9 years and have never had a debate on a motion to disagree with the House and to have this kind of time spent when everybody agrees that is what we need to do.

I will support the motion to disagree with the House so we can go to conference and come up with a bill on partial-birth abortion that will be in a conference report that will then come to the Senate that will not be amendable.

If we did not disagree with the House, and the bill came here to the floor, we would have the House bill here. It would be subject to amendments. We would go on again for a long time and have debates and discussions on other amendments. We would have to send it back to the House, and we would be going through this game again.

So this is just a way to bring finality to this process of trying to get a bill

which has now been hanging out here in the Senate. We passed this several months ago. The House did also. We have sort of been on hold here because of this procedural motion.

Now that we have agreed to allow 8 hours of debate—2 of which were last night—we will debate a couple hours tonight, and tomorrow morning we will have run a couple more hours, and then, hopefully, finish it sometime, maybe tomorrow evening. But the idea is to get this bill to conference where I am confident we will get a bill that will be to the liking of the vast majority of the Senate as well as the House and the President.

With that, we will have this bill signed and for the first time have a Federal piece of legislation to ban a procedure which the late Senator from New York, standing at that desk right over there, referred to as “infanticide.”

It is a gruesome procedure which is very difficult to talk about because it is so gruesome and graphic, this description of what this procedure is all about.

It is used almost always on babies who would otherwise be born alive, who are post 20, 21 weeks in gestation, which is halfway through a pregnancy, or later.

These babies are, as I said before, in most cases, healthy. The mothers are healthy. This procedure is used because late in pregnancy a mother decides, for some reason, that she no longer wants the child within her—which is a tragic situation to have a child that is unwanted. I think we all recognize the tragedy of that.

But I think what most Members of the Senate have said is that this procedure—not that she shouldn't have the right to do it. Roe v. Wade, as interpreted by many subsequent Supreme Court cases, gives a woman the absolute right to an abortion at any time during pregnancy.

Now, for those of you who have not listened to debates on abortion before in the Senate or who have not read the case law with respect to abortion, that may come as a surprise to you, that Roe v. Wade, and its subsequent line of cases, has developed to the point where there is no restriction—no restriction—on the right to an abortion up until the moment the baby separates from the mother completely. Up until that time, the Supreme Court now has decided that a woman has a right to kill the child within her. Or even, as in the case of partial-birth abortion, the Supreme Court ruled that the woman has a right to kill the child who is but an inch, 2, or 3 inches completely from being separated from the mother in the process of being delivered. That is how extreme the Roe v. Wade decision is.

Now, I would say that for most Americans who are listening, that is further than they had thought Roe v. Wade had taken this country, and that it is not where the vast majority of Americans are. That is why 70 percent of the people in this country oppose partial-birth

abortion and would like to see it banned. That is why the vast majority of people in this country are for some limitation on abortion.

Depending on the poll you see, anywhere from 15 to 23 percent of the American public want abortions available at any time during pregnancy. Most Americans—the overwhelming majority of Americans—want some restrictions.

Now, in the Senate we did something I would argue was unfortunate. A couple months ago we adopted an amendment offered by the Senator from Iowa which was truly an extreme amendment.

We hear so much talk about people who are pro-life, who are against abortion, as being extremists. The definition of “extreme” is someone who is outside the norm. Well, when you have 15, 16, 17 percent holding this position, and 85 percent holding the other position, it is very difficult for the 16 percent to say the 85 percent is extreme.

But that is what we hear on the floor of the Senate, that those who believe in the absolute right given under Roe v. Wade—the absolute right—to have an abortion at any point in time in a pregnancy, for any reason—because you don't like the color of your child's eyes or because your child may have a cleft palate or because something happened in your personal life that has upset you and you no longer wish to carry this child, even though you may be 37 or 38 weeks along—it doesn't matter.

Under Roe v. Wade, and under the amendment offered by the Senator from Iowa, we have said in the Senate—I believe wrongly and unjustly—that should be the law of the land, that a woman's right, domain over a child, is absolute until complete separation. There are some who even argued after separation. But, thankfully, the Senate voted last year that a child who was born and completely separated has a constitutional right. That is how far we have come. We actually passed a bill last year which said that once a child is born it has constitutional protection. That is the biggest step we have been able to take to protect the life of innocent children in America.

But what this Roe v. Wade language—this language which I anticipate being dropped in conference—says is that we believe in the absolute right—absolute right—of a woman to terminate a pregnancy, to kill the child within her, at any point in time, for any reason. That is what the law of the land says.

Now, I would make the argument that Roe v. Wade, because of this twisting of the Constitution—it really is tortuous—has done something that we have not seen done in this country, that we have not seen done in this country since the Dred Scott decision.

If we think back to the Dred Scott decision—well over 100 years ago, 150 years ago—the Dred Scott decision was based on a misunderstanding of ordered