

[Rollcall Vote No. 246 Ex.]

YEAS—93

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

NOT VOTING—7

Bond	Brownback	Miller
Boxer	Inhofe	
Breaux	McCain	

The nomination was confirmed.

Mr. LEAHY. Madam President, I move to reconsider the vote.

Mr. LEVIN. 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 Arkansas.

Mrs. LINCOLN. Madam President, I am sorry; I was absolutely unavoidably detained. I did miss the first vote this morning by about 20 seconds and would like to be on record in support of vote No. 244. Had I been here, I would have voted in the affirmative for the nomination of Mr. Gregory.

Mr. HATCH. Mr. President, just prior to the vote on the nomination of Roger Gregory, Chairman LEAHY made a couple of comments that require a response.

Let me make it clear that I agree with President Bush's judgment that Judge Gregory is well qualified to serve as a judge on the Fourth Circuit Court of Appeals. I commend Senators WARNER and ALLEN for their recommendation of Judge Gregory to President Bush. The controversy over his nomination by President Clinton, and his recess appointment in December 2000, had nothing to do with his qualifications. Rather, the controversy was over President Clinton's decision in late June of 2000—in the last 6 months of his Presidency—to nominate a Virginia resident for a Fourth Circuit seat that has been regarded as belonging to North Carolina. In doing so, the President could not have doubted that his action would cause a great deal of discord in the Senate—especially because it was done without consultation with

both home-state senators. I worked very hard to resolve the conflicts created by that nomination among the various interested parties. Unfortunately, the discord was only amplified by President Clinton's recess appointment that occurred after George Bush's election as President.

In my view, all these facts are now in the past. President Bush, in a very significant gesture aimed at changing the tone in Washington, focused on Judge Gregory's qualifications and, with the support of Senators WARNER and ALLEN, nominated Judge Gregory to a lifetime appointment. This was a clear gesture of bipartisanship by President Bush which is unprecedented in modern times. In the past 50 years, there has never been a case of which I am aware where a new President of one party has re-nominated a circuit judge originally nominated by the previous President of the other party.

Chairman LEAHY also made some remarks about how quickly he scheduled Judge Gregory's confirmation hearing. Indeed, he did so very soon after the Senate's organizational resolution was passed on June 29. However, this fact does not accurately describe the entirety of the Judiciary Committee's record on judicial nominees. Prior to the organizational resolution, Chairman LEAHY did not hold a single hearing on any of President Bush's executive or judicial nominees. He implies that he could not have held such hearings without the organizational resolution. But that is not true. Between June 5 and June 29, at least seven other Senate committees under Democratic chairmen held a total of 16 confirmation hearings on 44 nominees. One committee—Veterans' Affairs—even held a markup on a nomination. Further, the lack of an organizational resolution did not stop Chairman LEAHY from holding hearings on such topics as the Federal Bureau of Investigation, racial disparities of capital punishment, and counsel competency requirements for death penalty cases. We also had a subcommittee hearing on injecting political ideology into the committee's process of reviewing judicial nominations. From this record, it appears that the decision not to hold hearings on nominees was simply a calculated tactic to delay President Bush's nominees.

The Judiciary Committee's comparative lack of progress continues to this day. Since the reorganization was completed, other committees have considered nominees at a much faster pace. For example, the Foreign Relations Committee on July 10 held a markup on 16 nominees. In contrast, the Judiciary Committee has considered only three of the pending Bush judicial nominees and only three Department of Justice nominees.

As of this morning, we have 111 vacancies in the Federal district and circuit courts, including a number on the

Fourth Circuit. I encourage Chairman LEAHY to start scheduling frequent hearings and markups for these nominees. I look forward to working closely with him to review and confirm President Bush's nominees in a timely fashion.

If Chairman LEAHY believes that I, as Chairman, did not move Clinton nominees and was unfair—which the facts and the record clearly show otherwise—then I would hope he would do the right thing and move nominees at a faster pace than I did.

NOMINATION OF RALPH F. BOYD, JR., OF MASSACHUSETTS, TO BE AN ASSISTANT ATTORNEY GENERAL

NOMINATION OF EILEEN J. O'CONNOR, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed en bloc to consider and confirm Executive Calendar No. 247 and No. 249, which the clerk will report.

The legislative clerk read the nominations of Ralph F. Boyd, Jr., of Massachusetts, to be an Assistant Attorney General, and Eileen J. O'Connor, of Maryland, to be an Assistant Attorney General.

The PRESIDING OFFICER. The question is, shall the Senate advise and consent to the nominations?

The nominations are confirmed.

Mr. LEAHY. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. LEAHY. Madam President, we have moved very rapidly to consider matters before the Judiciary Committee having noticed these hearings within minutes of the time the Senate reorganized, meeting within days. We have five nominations through this morning.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I rise to congratulate Sam Haddon and United States Magistrate Judge Richard Cebull, whom the Senate today confirmed to serve as Montana's U.S. District Court judges. These confirmations are of great importance to my State of Montana. Currently only one of our three judgeships is filled, which has placed a large burden on the shoulders of our remaining judge, Don Malloy.

I thank the Judiciary Committee for taking up these nominations in such a timely manner, especially Senator LEAHY who has been very helpful, and Senator HATCH as well. I also thank them for putting up with the enthusiasm of Senator BURNS and myself as

we, in some sense, pestered or hectored the two Senators for getting up these nominations so quickly.

In addition, I thank the leader for scheduling these nominations to be confirmed this morning, at this time.

I could not think of two men who are more qualified to serve as Montana's Federal judges than Sam Haddon and Magistrate Judge Cebull. We in Montana tend to know each other, or if we do not know each other personally, we tend to know each other by reputation. I know Sam Haddon. I know Richard Cebull. I also know their reputations. They are sterling men and will serve as first-rate, highly distinguished U.S. Federal judges.

Sam Haddon is a graduate of the University of Montana Law School. After serving with the Border Patrol and the Federal Bureau of Narcotics in the late 1950s and early 1960s, he worked in private practice. I know he has dreamed of being a Federal judge. His dream has now come true. I might say, as an example of the hard-working industry of Sam Haddon, he is the first member of his family to go off to college and he now will become, when he is sworn in, a U.S. Federal judge. We are all extremely proud of Sam Haddon.

Before serving as U.S. Magistrate in Great Falls, MT, Richard Cebull served as a Billings attorney for close to 30 years. He was born and raised in our State and has earned the respect of everyone in our State who has had the good fortune and privilege of meeting him, engaging with him as a magistrate or in a nonprofessional capacity. He and Sam Haddon are two people who are just perfect representatives of the quality of the people in our State of Montana.

It is a great honor and with great pride I join in thanking them for wanting to serve, and I thank the Senate for confirming both of them so we in Montana now have all our judgeships filled. We have three wonderful U.S. district court judges. We thank all in the Senate who have made this happen.

I yield the floor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The PRESIDING OFFICER. The Senate will now resume consideration of H.R. 2299, which the clerk will report.

The legislative clerk read as follows:

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

Pending:

Murray/Shelby amendment No. 1025, in the nature of a substitute.

Mrs. MURRAY. Mr. President, I am pleased to present to the Senate the Transportation appropriations bill for fiscal year 2002.

This bill was reported unanimously by both the Appropriations Subcommittee on Transportation as well as the full Appropriations Committee. This bill has been carefully crafted with the regular input of Senator SHELBY and his staff.

The tradition of this subcommittee has always been one of bipartisanship. So long as I have the privilege of chairing this subcommittee, I intend to continue that tradition.

The bill as approved by the Appropriations Committee totals \$60.1 billion in total budgetary resources. That includes obligations released from the highway and airway trust funds as well as appropriations from the general fund. This funding level is higher than the level requested by the President. There are four reasons why this bill exceeds the President's request.

First, the administration's budget—rather than requesting appropriated dollars for railroad safety and hazardous materials safety—asks us to impose new user fees on the transportation industry.

Some opponents of this approach have called these proposals "George W. Bush's new taxes." The committee bill rejects these new user fees and provides the funds necessary for these critical safety functions.

Second, the bill increases funding for highways above the level requested by the President.

Under the administration's budget, the President launches two new initiatives at the expense of highway construction dollars to the States. They are the New Freedom Initiative for the disabled and an investment in new truck safety inspection stations at the United States-Mexico border.

The bill before you fully funds these two new initiatives. In fact, the bill adds \$15 million to the level requested by the administration for border truck safety activities.

However, in order to ensure that funding for these initiatives is not provided at the expense of highway construction funds in all 50 States, the bill increases funding for highways to a level that holds all States harmless.

Under the committee bill, every State will receive more highway construction funding than they would receive either under the President's budget or under the levels assumed in TEA-21.

Third, the bill includes a number of small but important safety initiatives that were not included in the President's budget.

Within the Federal Aviation Administration, the bill includes funding to hire an additional 221 safety inspectors.

Following the ValuJet crash in May 1996, the Transportation subcommittee

has been increasing the inspection work force every year in order to get to the level of 3,300 inspectors. That was the minimum level identified as necessary by the panel of experts that was convened following that crash. It was also the level identified by the National Civil Aviation Review Commission, which was chaired by now-Secretary Norm Mineta.

While the funds for these additional inspectors were not included in the President's budget this year, the bill as approved by the committee does provide them.

In the area of highway safety, the bill includes funds that were not requested to boost seat belt use, especially among at-risk populations. The Administration has articulated a very aggressive goal to increase seat belt use. Unfortunately, when our subcommittee reviewed the budget, we found no additional resources were requested to match the rhetoric.

Today, it is a tragic fact that African-American children, ages 5 to 12, face almost three times the risk of dying in a car crash than white children.

The bill before us includes additional, unrequested funds to tackle that problem. The committee has also provided funding above the President's request in the area of pipeline safety. I became involved in this issue after a tragic liquid pipeline accident that claimed three young lives in Bellingham, WA.

The bill before us provides funding that is \$11 million more than the level provided last year. Increased funding will be available to boost staffing for the Community Right to Know Initiative and other critical safety measures.

I am proud that this bill provides record funding to make pipelines safer. It is the right thing to do.

Finally, the funding in the bill is higher than the administration's request due to my insistence that we address chronic staffing, training, and equipment shortfalls at the Coast Guard's search and rescue stations.

The bill provides the Coast Guard's operating budget with \$45 million more than the administration's request in order to address these search and rescue deficiencies and fund the mandatory pay and benefit costs for our Coast Guard service members.

Before I close, I would like to turn to the issue of Mexican trucks, which is explained in detail on page 85 of the committee report. Here, our challenge has been to make sure that commerce can move between our two borders while—at the same time—ensuring the safety of all who use our highways.

President Bush requested \$88 million to improve the truck safety inspection capacity at the United States-Mexico border. Unfortunately, the Transportation bill as passed by the House of Representatives does not include even one penny for that request.