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State Legislatures Considering Sudan Divestment

Illinois is poised to become the first state whose pension funds will be prohibited from investing in companies doing business in Sudan. A bill prohibiting funds regulated by the Illinois Pension Code to invest in or make loans to companies doing business in Sudan passed the state Senate in mid-April and the House in May, with apparently veto-proof majorities in both chambers.

Six other state legislatures are considering Sudan-related investment action. Of those, the bills that would mandate divestment seem likely to fail; the bills most likely to pass merely encourage state pension systems to divest, rather than requiring that they do so.

Harvard University has also announced that it will divest its more than $4 million in holdings in PetroChina, a company widely criticized for its partnership with the Sudanese government and alleged complicity in human rights abuses.

Illinois Bill

The Illinois bill, originally sponsored by Sen. Jacqueline Y. Collins of Chicago, was introduced in January and prohibits "investment or deposit from the retirement system or pension fund to certain entities doing business in or with the government of Sudan until…the United Nations determines that the government of Sudan has taken sufficient and demonstrable steps to end human rights abuses," the bill's synopsis explains. The bill also forbids the state treasurer from depositing state funds into financial institutions that have made loans to entities doing business in Sudan. The bill passed the state Senate unanimously and the House with support from 89 of the chamber's 118 members.

Harvard will divest its holdings in PetroChina, a company widely criticized for its partnership with the Sudanese government and alleged complicity in human rights abuses.

The bill offers clear guidance to fund managers seeking a definition of a company doing business in Sudan. While several other states' bills do not offer any sort of litmus test for involvement in Sudan or suggest where pension fund managers may find information on these companies, the Illinois bill goes into significant detail. Investments forbidden by the bill are defined as:

- the government of Sudan and its agencies,
- companies controlled by the Sudanese government,
- companies based or incorporated in Sudan,
- companies sanctioned by the U.S. Office of Foreign Assets Control for illegal activities in Sudan,
- companies that do not submit a sworn affidavit stating that the company does not have assets in or conduct business with Sudan, and
- companies "identified by an independent researching firm that specializes in global security risk" as being involved in Sudan.

The last definition appears to be a reference to Conflict Securities Advisory Group, which describes itself as "the world's only firm dedicated to informing institutional and individual investors of terrorism- and proliferation-related risk factors" affecting publicly-traded companies, and

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Microsoft Reverses Position, Again, on Gay Rights – This month, Microsoft decided to renew its public support for both federal and Washington State legislation prohibiting workplace discrimination based on sexual orientation and gender expression. The company had received ire from many of its employees when it earlier had announced a new policy of neutrality on such legislation. 15

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which collects data on corporate activity in Sudan as part of its Global Security Risk Monitor. Although CSAG charges a fee for access to its information on Sudan, the bill specifies that any costs incurred by outside management firms in order to comply with the required divestment may not be passed on to the state.

The bill's divestment provisions are to be phased in, with the retirement systems 60 percent divested one year after the bill's passage and fully divested 18 months after passage.

An analysis prepared in the summer of 2004 by the Center for Security Policy (a group advocating divestment from companies doing business in nations identified as state sponsors of terrorism) said that the state's Municipal Retirement Fund, State Board of Investment and State Teachers' Retirement System owned a total of $1.19 billion worth of stock in companies doing business in Sudan. This figure includes companies with employees or significant investment in Sudan, companies that import or export products to or from Sudan, companies that have made loans to Sudanese entities and companies that have recently explored new investments in Sudan. At the time the report was issued, the three funds had a total of more than $50 billion in assets.

Pending Bills

State legislatures in Arizona, California, Kentucky, Maryland, New Jersey, New York and Texas have also considered the issue of state pension fund investments in Sudan, while Louisiana has focused more broadly on states listed by the U.S. State Department as state sponsors of terrorism, a group including Sudan. Among these bills, those mandating Sudan divestment have failed or appear likely to fail. The New Jersey and New York bills, both requiring divestment from Sudan, are still pending, but have seen no legislative action since December and March, respectively, when they were assigned to committees from which they have yet to emerge. At this date, it seems unlikely that either will pass, although significant publicity in the wake of the Illinois bill's passage could help their chances. A bill in Maryland—the most sweeping introduced so far, requiring not only pension fund divestment from Sudan, but selective purchasing policies penalizing companies doing business in Sudan—received an unfavorable report from a House committee in March and is now effectively dead.

A bill introduced in the California legislature which would have required CalPERS to tell companies in its portfolio to divest from Sudan or face a withdrawal of the pension system's funds is likely to pass, but has been significantly amended and now asks CalPERS and CalSTRS merely to "encourage" companies in their portfolio to pull out of Sudan. An analysis of a March 30 version of the bill, prepared by a state Assembly committee employee, attributes to CalPERS amendments that acknowledge the system's fiduciary responsibility and "remove all references to divestment or removing CalPERS funds from companies that support the Sudanese government and/or are doing business in Sudan." The amended bill was adopted by the Assembly and has been referred to a Senate committee.

The Texas legislature is also considering a nonbinding bill that would "encourage managers of Texas public pension funds to divest their portfolios of any stock in publicly-traded companies doing business in Sudan." That bill passed the House in mid-May and is being considered by a Senate committee. A second bill, which would forbid investment of state funds in companies doing business in Sudan, has not seen legislative action since mid-April. That bill's text acknowledges that "an investment standard prescribed by the Texas Constitution prohibits the legislature from restricting the investment of a fund or the investment discretion of an entity responsible for the management or investment of a fund."

Arizona and Kentucky's legislatures have also addressed the issue of state pension system funds in Sudan. A Kentucky bill which last saw legislative action in February urges the U.S. Congress to put pressure on the Sudanese government regarding the Darfur violence, and asks the Securities and Exchange Commission to require companies doing business in nations on the State Department list of state sponsors of terrorism to disclose this fact to investors "so that the Commonwealth may be assured that its funds are not contributing to terrorism." An Arizona bill, which became law in April, requires state pension systems to submit a list of their holdings annually; a legislative fact sheet mentions the fact that "certain companies listed on U.S. exchanges are linked to human rights abuses in Sudan" among reasons making such reporting necessary.

Louisiana is poised to adopt a bill allowing (but not requiring) fund managers to divest from companies doing business in nations designated as state sponsors of terrorism; the bill has unanimously passed the state House and will probably be presented to the full Senate in mid-May.

Future Bills

A staffer for Massachusetts State Senator Andrea Nuciforo Jr. confirmed for IRRC that the senator intends to introduce legislation requiring the state's pension systems to divest of any holdings in Sudan. (Nuciforo first announced his intent

to sponsor such a bill in January after meeting with several Williams College students who presented him with a copy of the New Jersey bill and asked him to sponsor a similar bill in Massachusetts.)

A bill requiring divestment has also been introduced in the Washington, D.C., city council, and while activists have urged the city of Boston to divest, the city council does not appear to have examined the issue. IRRC is not aware of any other city councils considering divestment.

Activists Call Darfur Famine 'Engineered'

"Never before in the history of Darfur has there been such a combination of factors causing the failure of livelihood strategies," a draft report from Tufts University's Feinstein International Famine Center states. "These factors include systematic asset-stripping, production failures, market failures, failures of access to natural resources and constraints on the remittances of migrant workers. Under these circumstances, region-wide famine appears inevitable."

Activist Eric Reeves of Smith College, who has worked to publicize the Darfur crisis in the United States, called the famine a "deliberately engineered catastrophe" in an article posted on his website, www.sudanreeves.org. "Sometime in the summer of 2004…genocidal destruction in Darfur became more a matter of engineered disease and malnutrition than violent killing." While direct violence continues, malnutrition and attendant disease have become "the major killers."

Parallels with South Africa

The recent spate of Sudan bills has inspired some members of the news media to compare the campaign with the South Africa divestment movement of the 1980s. Some significant differences between the two movements exist, however. Chief among them is the fact that the U.S. federal government already has sanctions against Sudan, whereas 1980s state sanctions against South Africa preceded (and helped encourage) federal sanctions. Current sanctions against Sudan—which were introduced in 1997 and prohibit nearly all exports to or imports from Sudan, excepting informational materials and certain humanitarian goods—also mean that few U.S. companies are now doing business with Sudan, and that some of those companies that are doing business there provide humanitarian goods with the permission of the U.S. government. Sudan is also less integrated into the global economy than apartheid South Africa was and therefore has fewer companies doing business there overall.

The 2005 Sudan legislation also focuses on divestment, whereas 1980s South Africa state and local legislation frequently required selective purchasing, which penalized companies doing business in South Africa when bidding on state or municipal contracts. Selective purchasing laws have generally been considered illegal since a 2000 Supreme Court decision voiding selective purchasing laws targeting companies doing business in Burma. Vagueness in the Court's decision has led some to believe that there are circumstances under which selective purchasing laws could be constitutional; however, lawmakers do not appear eager to test these theories.

University Divestment

In early April, Harvard's Corporation Committee on Shareholder Responsibility announced that the university would divest of its stock in PetroChina, worth over $4 million. The decision was made in the wake of significant pressure from students citing allegations that the company was complicit in human rights abuses in Sudan, including graduating seniors who pledged to withhold their traditional class gift to the university unless Harvard divested. "Harvard maintains a strong presumption against the divestment of stock for reasons unrelated to investment purposes," a statement from CCSR read; however, "we believe that the case for divestment in this instance is persuasive" due to the "unusual combination of circumstances presented by this particular holding." Although the move was widely hailed, some students and faculty remained critical of the possibility that the university may still hold shares of other companies doing business in Sudan.

Divestment campaigns are continuing at other colleges and universities, and in late April, the International Crisis Group's John Prendergrast and Samantha Power, author of the Pulitzer Prize-winning book *A Problem from Hell: America and the Age of Genocide,* sent a letter to the presidents of more than 100 colleges and universities, asking them to "review your university's investment portfolio to determine whether the university should divest itself of stock held in companies operating in Sudan."

This action, the letter continued, "would send a clear message to the companies involved and to the Government of Sudan that you will not support those who profit from the atrocities committed in Darfur." Students at more than 15 universities are circulating petitions saying that an institution investing in Sudan "condones… irresponsible corporate behavior."

—Jan Fetter-Degges

Controversies Aired at Newmont Annual Meeting

Newmont Mining's annual meeting passed April 27 without affording shareholders a formal chance to vote their shares on a simmering controversy involving its disposal of wastes from a gold mine by an Indonesian bay. The New York City pension funds had submitted a shareholder resolution on the issue, only to see it tossed out when the company persuaded the SEC staff that the proposal as worded raised ordinary business matters not appropriate for shareholder votes. But the funds expect to be back with a rephrased resolution next year, and in the meantime the controversy continues to fester, with six Newmont employees facing Indonesian criminal charges and forbidden from leaving the country.

While Newmont successfully fended off the Indonesia resolution, its annual meeting provided a venue for groups concerned about several of its operations to express their concerns. Thanks to the organizing muscle of Oxfam America and Earthworks, activists came from Peru, Romania, Ghana and a Nevada Indian reservation, as well as from Indonesia, to attend the meeting in Denver. Newmont gave them a chance to make two-minute presentations there, they also held press conferences, and Newmont CEO Wayne Murdy met privately with several of them in the days before the meeting.

Newmont in Indonesia

Newmont is the world's largest gold producer. The major controversy over its operations in Indonesia involves the disposal of waste from a mine that is now closed. Newmont's Newmont Minahasa Raya subsidiary had operated the Minahasa mine at Buyat Bay on Sulawesi island from 1996 until Aug. 31, 2004, when the reserves were depleted. Local villagers contend that mine wastes have polluted the waters and are responsible for a rash of illnesses, while Newmont responds that the illnesses are caused by poor sanitation and nutrition. In a Jan. 28, 2005, website posting, it calls the situation "bizarre," arguing that it has been "characterized by changing accusations and 'pseudo' science."

The Minahasa mine reportedly pumped 4 to 5 million tons of ground waste through a pipe into the offshore seabed, using a system known as submarine tailings disposal (STD), which has been a key in the controversy. Environmentalists contend that Newmont has used the system, which is not illegal in Indonesia, particularly irresponsibly, though they oppose it under any circumstances and maintain that the company should not have standards abroad that are different from those in the United States. (In a long article focusing on Newmont in Indonesia, published Nov. 9, 2004, *The New York Times* quoted William Riley, Northwest Regional Director of the U.S. Environmental Protection Agency, as concluding that the Clean Water Act effectively bans STD in the United States.)

The World Bank took a look at the system as part of a multi-year "Extractive Industries Review" designed to determine if the Bank should be supporting oil, gas and mining production. The final report, issued Sept. 17, 2004, concluded that "There is a continuing role for the Bank Group in supporting extractive industries provided its involvement supports poverty reduction and sustainable development." But on the issue of STD, it concluded that the system should not "be used until balanced and unbiased research, accountable to balanced stakeholder management, demonstrates its safety" and that it should "not be used in coastal waters used for subsistence purposes." But the report did not rule out STD "where it is clearly the best option and environmentally and socially acceptable."

The environmental group Global Response has worked to publicize the controversy. According to its website: "Newmont piped its tailings five miles from the shore into Buyat Bay and dumped them at a depth of 82 meters—dangerously shallow compared to most STD operations. The toxic tailings didn't just stay put. Upwelling currents scattered them, and breaking pipes caused spills that affected shallower waters, coral reefs and sea grasses. Additional contaminants and sedimentation flowed into the sea from rivers carrying waste from Newmont's mine."

While much of the reporting and activist ire over the issue has focused on STD, a long followup article in the Dec. 22, 2004, *New York Times* looked at airborne emissions from the Minahasa mine as well. The report said the mine has released about 17 tons of mercury into the air and 16 tons into the bay. It alleged that a 2001 internal company report had raised concerns about emissions that were serious enough for the company to install a $10 million mercury scrubber to control air emissions, but that it did not release the report and that the scrubber "did not work much of the time it was supposed to."

Newmont posted a response on its website Dec. 23, saying that "The article does not provide an accurate picture of environmental perfor-

mance at the Minahasa Mine in Indonesia, or of Newmont's corporate philosophy with respect to environmental protection." It said the 17 tons of mercury released into the air "complied with all applicable U.S. and Indonesian air quality regulations" and "would not cause any human health impacts to nearby residents." While the mercury scrubber "did not operate flawlessly," the report said, it did reduce the concentration of mercury in emissions. "The Indonesian government has set standards that are designed to be protective of human health and the environment, and we not only complied with those standards but were well below them," says Newmont.

Conflicting Reports

The controversy has been marked by conflicting reports. A World Health Organization report released in October 2004 and a draft Indonesian Environmental Ministry report made available about the same time said Buyat Bay was not polluted. (The WHO report concentrated on whether the villagers had Minamata disease, an acute form of mercury poisoning.) But a follow-up government report issued in November 2004 found arsenic and mercury pollution, concluding that arsenic levels were 100 times higher at the waste-dumping site than in other parts of the bay, making fish unsuitable for consumption, especially by children.

Newmont responded that "The tailings system was designed so that the arsenic would be a safe chemically stable form that is locked into the sediment and not released into the environment."

But the *New York Times* Nov. 8 article quoted an American hydrogeologist who disagreed, saying that the bottom dwelling organisms that serve as food for the fish could consume arsenic as solid particles.

Lawsuits and Detentions

Even before the conflicting reports were released, stories were circulating about mysterious illnesses and rashes affecting the fishing village on Buyat Bay. Buyat community members made criminal complaints on July 20, 2004, that Newmont pollution had caused serious health problems, including skin diseases, breathing problems and tumors, as well as ruin of fishing income. Three villagers followed up with a $543 million lawsuit against the company in August.

Newmont responded to the filing with three defamation suits, against a doctor, an environmental group and a scientist involved with the case. The villagers dropped their suit in December, acknowledging they had no proof that mine waste was responsible for the alleged illnesses, and Newmont dropped the first two defamation suits when the villagers' suit was withdrawn and accusations retracted. The suit against the scientist is still outstanding and was one of the issues that came up at Newmont's annual meeting.

Also still pending is a $133.6 million civil lawsuit that the Indonesian Ministry of Environment filed March 9 accusing Newmont's Minahasa Raya subsidiary of polluting the environment and making the Buyat Bay residents ill. Newmont, calling the suit "baseless," also argues that it is in violation of the Contract of Work signed between the Indonesian government and its subsidiary, which stipulates that all disputes between the parties would "be settled by conciliation or arbitration in accordance with the international arbitration rules." A March 9 Newmont statement posted on its website quotes its subsidiary's lawyer: "We are now confused about the real motive of the Ministry of Environment in filing this civil lawsuit. Is it purely a legal procedure and act or are there certain parties who have taken advantage of this controversy?"

Not only is the civil case pending, but six Newmont executives (two American, three Indonesian, one Australian) face criminal charges filed March 18 for polluting Buyat Bay and have been prohibited from leaving the country. Five of them had already been jailed for a 32 days in September and October. No detailed charges were filed at the time of the jailing, and one of the Americans, mine general manager Bill Long, told the *Rocky Mountain News* March 24, 2005,"I still don't know what the charges were."

At the time, a Sept. 24 *New York Times* article noted that "Indonesia has a history of corruption, and several Western officials said they believed that some Indonesian government officials were using the questioning and detentions to extract money from Newmont as it closed the mine and left the area." The *Associated Press* March 25, 2005, commented that the criminal case "risks spooking investors who complain that Indonesia's legal system and police are inefficient and corrupt."

Various elements of the controversy—from questions about mine tailings disposal to the risks of doing business in Indonesia—have important implications for a second Newmont venture there. A larger, and much richer, gold and copper mine—Batu Hijau—on the island of Sumbawa, opened in 1999 and is expected to be in business until at least 2015. Earthworks says Batu Hijau operations are dumping 120,000 tons of tailings a day into Senunu Bay. Like the mine at Buyat Bay, the company uses the submarine tailing disposal system, but farther out to sea.

New York City's Resolution

The New York City pension funds hold 1,469,818 shares of Newmont stock. In November they filed a reso-

lution asking the company "to review its policies concerning waste disposal at its mining operations in Indonesia, with a particular reference to potential environmental and public health risks incurred by the company by these policies, and to report to shareholders." In the supporting statement the funds asserted that "transnational corporations operating in countries with repressive governments, ethnic conflict, weak rule of law, endemic corruption or poor labor and environmental standards face serious risks to their reputation and share value if they are seen to be responsible for, or complicit in, degradation of the environment or human rights violations."

Newmont went to the Securities and Exchange Commission staff with a request for a no-action letter allowing it to omit the proposal from its proxy statement. The company argued that the proposal raised mundane, "ordinary business" issues not suitable for shareholder consideration. In particular, the company pointed to the resolution's emphasis on environmental risks, arguing that "waste disposal is an inherent aspect of the company's business, as are the company's efforts to minimize any resulting risk." It pointed to recent SEC staff decisions where companies have been allowed to omit resolutions on global warming when they referred to risk in the resolved clause, as well as a 2004 decision where Newmont itself was allowed to omit a resolution from Boston Common Asset Management asking for a report on the risk to its operations, profitability and reputation from its social and environmental liabilities.

The SEC staff agreed to the no-action request Feb. 5. Taken by surprise, the New York funds appealed for reconsideration, but the SEC March 15 issued a second letter saying, "We find no basis to reconsider our position."

However, New York has rebounded in the past from similar setbacks at the SEC. A case in point occurred in 2001, when New York ran into trouble with one type of shareholder resolution on global labor standards; several of the target companies persuaded the SEC staff that the proposal could be omitted as vague and misleading because it did not fairly summarize the relevant labor standards to make clear to shareholders what they were voting on. After that stumbling block, the city requested and was granted a meeting with the SEC staff for guidance in rephrasing the resolution to pass muster under the shareholder proposal rule. On the Newmont issue, the city has also asked for a meeting with the SEC staff, and expects to file a different proposal next year.

Annual Meeting Action

While New York City was frustrated at not being able to put forward its proposal, the company did let activists from Peru, Ghana, Romania and a Nevada Indian reservation, as well as Indonesia, have a say around the annual meeting. In the case of Peru, Newmont has agreed to cancel expansion of its Yanacocha gold mine in northern Peru, bowing to activists' concerns that it would pollute drinking water, but the mine remains controversial. In Ghana, it is getting criticism for problems arising with two new mines—especially for building one mine partly inside a protected forest reserve that may be home to endangered species. In Romania, it has been criticized for its 10 percent stake in a Canadian company that has rights to a proposed open-pit gold mine that activists say would displace many residents (the World Bank has withdrawn support for the project). And in Nevada, the Shoshone Indians are concerned that gold mining threatens sacred sites.

The week of the annual meeting, the activists were invited to meet privately with Newmont CEO Wayne Murdy. Representatives from Peru and Nevada met with him on April 25 and figures from the Ghanaian controversy met on the 26th. Newmont spokesman Doug Hock described the meetings to *The Denver Post* as "very productive," saying, "We took the time to listen and learn, and we look forward to more productive dialogue going forward." But *The Rocky Mountain News* said Indonesian representative Nur Hidayati of the Indonesian Forum for the Environment had rejected a meeting. It quoted her as saying, "We feel there won't be any progress if we talk with Newmont in meetings. In previous meetings, they have shown no good will to solve the problem. We want the shareholders to know that Newmont makes profit at the cost of environment and sufferings of communities."

Representatives from the five communities made statements the morning of the annual meetings. They issued a "solidarity statement" asking the company to respect human rights by:

- Fully respecting all human rights and not committing human rights violations, including intimidation of community members and activists.
- Refraining from projects that have not secured the free, prior, and informed consent of the communities concerned.
- Fully disclosing information about the environmental and social impacts of projects.
- Providing fair and just compensation for local communities affected by mining.
- Respecting the spiritual and cultural values of communities.

On the environment, the statement called for:

- Ending the practice of ocean

dumping of mine wastes.

- Protecting water resources from pollution and depletion.
- Keeping sites of spiritual significance and protected areas off limits from mining.
- Ensuring that operations will not result in sulfuric acid drainage to water and soil.
- Providing guaranteed funding, before beginning a project, to cover reclamation and closure costs fully.
- Addressing needs left behind by closed mines such as clean-up, reclamation, remedying health impacts, and making land compensations.

At the annual meeting itself, activists from the five countries were allowed to make two-minute presentations, arranged by Oxfam America and Earthworks. Indonesian representative Nur Hidayti strongly criticized the company's continuing defamation lawsuit against an Indonesian professor, Dr. Rignolda Djamaluddin, whose pronouncements had help formed the basis for the villagers' Buyat Bay lawsuit that they later withdrew. An Oxfam press release quoted Nur Hidayati as saying, "I am here because Dr. Rignolda cannot be here as a result of this lawsuit that is meant to intimidate us and stifle our voice....Our communities demand Newmont end its practice of dumping mine wastes into the ocean. This irresponsible practice poses high risks to the environment and the community—and it is not allowed in the United States where Newmont is based."

Mineweb reported that Newmont employees attending the annual meeting wore gold lapel pins in support of the detainees in Indonesia. It also quoted Murdy as saying, "There is absolutely no reason for our employees in Indonesia to be under suspicion or to be detained. The initial allegations of Buyat Bay were shocking and sensational and absolutely false." As the news media spread the "sensationalism and wild allegations," Murdy insisted that "it's done great harm to Newmont." *Mineweb* also quoted Murdy as saying: "We're learning. We've come a huge distance in the last 15 years. Where we have had legitimate problems, we'll face up to them."

—Carolyn Mathiasen

UK Mandates Corporate Social Reporting

Under guidelines published by the United Kingdom's Accounting Standards Board (ASB) this month, the boards of listed British companies will now be required to detail in their annual operating and financial review—a statutory filing—"the resources and risks that may affect the entity's long-term value," including in the environmental, labor and social arenas. The standard, which applies to all results reported by companies after April 1, 2005, sets out more than 30 principles, plus 40 pages of implementation guidance.

ASB Chairman Ian Mackintosh hailed the reporting standard as "an important step forward in encouraging greater transparency and more open communication between companies and their shareholders," but some social and environmental groups say it still provides companies with too much room for interpretation.

Standards

The ASB began developing the standard, dubbed Reporting Standard One, in May 2004, when the British government announced its proposals for a statutory reporting regime and placed the ASB in charge. The ASB is an operating board of the Financial Reporting Council, an independent regulator that seeks to promote confidence in corporate reporting and governance. Reporting Standard One builds on existing regulations and the ASB's 2003 statement of best practice, which the new standard supercedes.

The principles say that an operating and financial report needs to:

- "reflect the directors' view of the business;
- "assess the strategies adopted by the entity and the potential for those strategies to succeed;
- "have a forward-looking orientation;
- "complement as well as supplement the financial statements;" and
- be comprehensive, balanced, and "comparable over time."

In addition, the operating and financial report must cover:

- "the nature, objectives and strategies of the business;
- "the development and performance of the business, both in the period under review and in the future;
- "the resources, risks and uncertainties and relationships that may affect the entity's long-term value; and
- "the position of the business including a description of the capital structure, treasury policies and objectives and liquidity of the entity, both in the period under review and the future."

In fulfilling these criteria, the ASB says that reports need to "in-

clude information about a range of matters, including employees, environmental matters, and social and community issues, with analysis using key performance indicators." The guidance leaves to directors' discretion, though, the performance indicators they should report.

More specifically, the ASB says it is "required whenever the directors in good faith judge them material" to report on:

- "corporate governance," including "values and structures";
- "key relationships with employees, customers, suppliers and others, on which…success depends"; and
- "policies and performance on environmental, community, social, ethical and reputational issues including compliance with relevant laws and regulations."

In formulating guidance on reporting on social and environmental issues, the ASB said it considered the measures outlined in the Global Reporting Initiative, the AccountAbility AA1000 series and the guidelines for company reporting on environmental performance produced by the United Kingdom's Department for Environment, Food and Rural Affairs.

The Environment

Environmental matters, the ASB says, "particularly environmental risks and uncertainties," affect all businesses to some extent, "as they can affect investment decisions, consumer behavior and government policy." It says that "proper attention to the environmental impacts of supply chains and products and to regulatory compliance of the company's own operations are both important for a business' public reputation and for its license to operate." While it acknowledges that environmental matters of concern will vary by industry, it believes there is "some consensus as to the generic environmental concerns" on which all companies should report: water and energy use, waste management and climate change.

The ASB provides various examples of how companies, depending on their specific environmental risks, might develop indicators to quantify their risk and monitor their progress in addressing or reducing it.

For companies involved in the transportation of hazardous materials, the ASB says they might monitor "significant spills" as a key indicator, and therefore report:

- a definition and calculation for significant spills,
- quantified data, such as the number of significant spills for the reporting period and the causes for them,
- an assessment of the effectiveness of their hazardous waste management,
- a list of sources for underlying data, and
- a quantified target for improvement, such as a commitment to reduce significant spills to below 10 per year within three years.

Companies involved in energy production, the ASB says, should probably monitor carbon dioxide emissions given the likely impact of growing emissions on their reputations, and accordingly provide in their reviews:

- a definition and calculation for carbon dioxide and other greenhouse gas emissions measured in million of tons of carbon dioxide equivalents,
- an assessment of the effectiveness of the management of the company's impact on greenhouse gas emissions,
- the sources for underlying data, and
- quantified targets for reducing emissions.

Employees

The ASB's guidance stresses that employees are a "particularly key resource," and that the "strengths of a company's workforce and the ways it is managed can play a major role in both current and future company performance." Key management issues, it notes, are a company's ability to recruit and retain top-notch talent, and poor employment relationships, it says, "can carry the risk of costly litigation, low workforce morale and ultimately affect company reputation." Areas critical for directors to analyze, the ASB says, are:

- employee health and safety, including details on work-related injuries and diseases,
- employee turnover and retention rates, including remuneration policies, number of applicants per post, offer and acceptance statistics and skills shortages,
- training and development, including descriptions of training programs and participation rates,
- employee morale, including reporting on employees' levels of job satisfaction and absence rates,
- employee productivity, including statistics on revenue and profit ratios per employee, and
- diversity statistics.

Other Areas

Also under the umbrella of social and community matters, the ASB's guidance looks at product safety, genetically modified foods, product responsibility, underage drinking or smoking, obesity, labor and human rights, including the rights of indigenous peoples, and the ethical management of the supply chains. All are examples, it says, of "issues that can significantly impact on the reputation of an entity."

On supply chain management, it says, "a company that sources its branded products from overseas could

The High Votes So Far for the 2005 Social Issues Proxy Season			
Preliminary and final vote results are only just starting to come in for shareholder proposals on corporate social responsibility. Here is the roundup of the highest-scoring proposals so far. (A "?" symbol indicates that the vote result is preliminary.)			
Company	**Resolution**	**Primary Filer**	**Vote**
Emerson Electric Co.	Adopt sexual orientation anti-bias policy	Domini, Northstar, Pride Foundation	38.9%
Bard (CR) Inc.	Implement ILO standards and third-party monitoring	NYC funds	28.9%
Pfizer Inc.	Report on policy on drug reimportation	MN State Bd. of Invest	28.5%
General Electric Co.	Disclose costs of PCB cleanup delay	Sisters of St. Dominic/Caldwell, Mercy Investment	27.5% ?
Vintage Petroleum	Report on/reduce greenhouse gas emissions	Nathan Cummings Foundation	25.6% ?
Gilead Sciences	Review AIDS pandemic's impact on company	Camilla Madden Trust	24% ?
Lucent Technologies Inc.	Disclose political contributions in newspapers	Davis, E.	23.4%
Hormel Foods Corp.	Issue sustainability report	Adrian Dominican Sisters	15.7%
Verizon Communications	Report on political donations and policy	Domini	15.0% ?

face additional risks relating to stakeholder, in particular customer, concerns around local labor practices." In these cases, it says, a company "might have put in place a system to validate and monitor supply chain performance, specifically related to adherence to stated policies." It says the results from these monitoring efforts might be areas where directors would want to set up key indicators to report to shareholders and other stakeholders. Other statistics it highlights are factory locations, monitoring frequency, compliance rates in issue areas such as child labor, and ratings assigned to facilities by accredited monitors.

Reception

The Institute of Chartered Accountants in England and Wales, which had been an advocate of higher reporting standards, welcomed the new standard as a "historic opportunity" for managements to improve their communication with investors and other stakeholders. Eric Anstee, chief executive of the institute, praised the ASB's "flexible and generally non-prescriptive approach" and said his group is encouraging corporate boards "to rise to the challenge." Dr. Nigel Sleigh-Johnson, the institute's head of financial reporting cautioned, however, that companies' worries over liability might still lead to "bland and highly-caveated" reports. Even so, he believes that markets will push for higher standards in reporting, punishing companies that fail to provide compelling reports.

However, members of the Corporate Responsibility Coalition, which represents 120 organizations and trade unions, including Amnesty International and Friends of the Earth, remain far more skeptical. They say the new standard leaves too much discretion to boards not to disclose performance on a wide range of critical social and environmental issues. Directors only need to include such information if it "significantly affects the company and its future performance, leaving huge loopholes where companies can avoid reporting on environmental impacts," the groups said in a press statement.

The coalition argues that reports should include details on all of a company's major impacts on the environment and on communities—rather than just those that might affect profits. Martyn Williams, Corporates Campaigner at Friends of the Earth, said, "Even under these new rules, companies will still get away with putting profits first—whatever the cost to the environment and communities." He added, "The loopholes in the rules will mean companies can fill their reports with good news while continuing to hide the bad from public view. Until companies are forced to be open about the problems they create only a few of the best will really clean up their act."

—Peter DeSimone

Investor Group, GE Take Actions on Climate Risk

Having launched the Investor Network on Climate Risk (INCR) 18 months ago, a group of institutional investors returned to the United Nations Headquarters in New York City on May 10 to issue a new "Call to Action" on global warming—directed at companies, investors, fund managers and government regulators.

Summit Highlights

INCR co-hosted and organized the second Institutional Investor Summit on Climate Risk together with the United Nations Fund for International Partnerships.

Among the 10 new goals of the INCR are to invest at least $1 billion in clean technologies that reduce greenhouse gas emissions, require fund managers to describe their capabilities to assess climate risk, and evaluate 100 large companies according to their climate governance strategies. The company evaluation will be based on the 14-point Climate Change Governance Checklist that IRRC developed for Ceres in 2003. Ceres is a coalition of investor, environmental and public interest groups that serves as the secretariat for INCR. (*See the accompanying box for the full 10-point Call to Action.*)

Keynote speakers at the second Institutional Investor Summit on Climate Risk included former U.S. Treasury Secretary Paul O'Neill and former Vice President Al Gore. O'Neill recalled his days as CEO of **Alcoa** and his company's success in the early 1990s in reducing and in some cases eliminating greenhouse gas emissions through more efficient manufacturing processes. Later, during his tenure as Treasury Secretary in the Bush administration in 2001-2002, O'Neill was the odd-man-out in advocating government action on global warming that went beyond voluntary control measures.

Gore, who now serves as a principal of Generation Asset Management, an investment firm based in London, said the breach in U.S. leadership on climate policy has shifted some of the responsibility to the financial community. "Integrating issues related to climate change into your analysis of what stocks are worth investing in is simply good business common sense," he said. He added that institutional investors have a fiduciary duty to take a long-term view, and he lamented that so many companies and fund managers have become fixated on quarterly profits and quarterly investment returns—"even if it destroys long-term value in the stock market."

Making Headway

Calls for more concerted action to address global warming are gaining traction within the investment community.

- Since the first Institutional Investor Summit on Climate Risk, held at the United Nations on Nov. 21, 2003, INCR's membership has grown from 10 founding members with $600 billion in assets to 43 members with $2.7 trillion in assets.
- Attendance at the second U.N. Summit rose to nearly 400 financial, corporate and investor leaders from about 250 attendees the first time around. State governments represented at the summit included California, Connecticut, Kentucky, Iowa, Maine, Massachusetts, Maryland, New Mexico, New York, North Carolina, Oregon and Vermont.
- International representation also increased. One outcome of the May 10 summit is a new partnership between INCR and its British counterpart, the Institutional Investors Group on Climate Change. The two groups now will collaborate on research and advocacy programs.

Other significant developments since the first U.N. Summit have been the ramping up of a U.S. shareholder campaign and agreements by more than a dozen oil, utility and auto companies to prepare reports analyzing their greenhouse gas emission trends and the financial risks and opportunities posed by global warming. Recently, some companies have also called publicly for caps on emissions of carbon dioxide, the main greenhouse gas, putting them at odds with Bush administration policy.

The CEO of one such company, James Rogers of **Cinergy Corp.**, was on hand to address attendees at the recent U.N. Summit. Rogers had been catapulted into the national spotlight the day before, when it was announced that his utility would be acquired by **Duke Energy Co.** for $9.1 billion to form the nation's largest electric utility. Rogers, who will become CEO of Duke if the merger is approved, said emerging constraints on carbon dioxide emissions were an important factor in bringing the two utilities together. Duke's large fleet of natural gas and nuclear plants should enable Cinergy to retire some of its aging coal-fired plants, he said, which are much more carbon-intensive. At the same time, Duke will benefit from low-cost generation from Cinergy's remaining coal plants—without raising the carbon emissions profile of the combined company.

Duke Chairman and CEO Paul

Anderson, who will serve as chairman of the combined company, gave his own address before North Carolina businessmen on April 7 in which he spoke out in favor of a carbon tax on fossil fuels. Calling global warming "one of the most pressing issues of our time," Anderson said a carbon tax makes sense, "even if it costs our business more and is harder to sell politically," because it is preferable to the "regulatory patchwork" that has been developing at the state level to address this issue.

GE Announcement

Many presenters at the May 10 U.N. Summit also commented on a major address that **General Electric** Chairman and CEO Jeffrey Immelt had delivered the day before the meeting. In a speech at George Washington University's business school, Immelt said, "I think most business people are planning" for "a day when we have standards of some kind pertaining to carbon." He announced that GE had decided to set a goal to cut its greenhouse gas emissions by 1 percent over the next seven years. Without this goal, GE's emissions were forecast to grow 40 percent by 2012.

More significantly, Immelt pledged to double the company's research budget for energy and environmental technologies to $1.5 billion a year for such things as wind turbines, hybrid diesel-electric locomotives and more fuel economical jet engines. Immelt said he expects such technologies to bring in $20 billion in revenues by 2010, which is double what they provided for the company in 2004.

In addition to capitalizing on a new revenue stream, Immelt said he wants to halt a disturbing trend. "America is the leading consumer of energy," he said. "However, we are not the technical leader. Europe today is the major force for environmental innovation." Immelt called GE's new initiative "Ecoimagination."

Connecticut Treasurer Denise Nappier, one of the lead conveners of the U.N. investor summit, hailed GE's announcement as an example of how "Corporate and financial leaders need to look strategically at climate change and how it will impact the long-term health of businesses, industries and our economy. The risks are real, but so too are the opportunities," she said.

Comparing GE and Exxon

The turn of events at GE is especially remarkable given that the company had been virtually silent on the global warming issue until recently. In the 2003 study, *Corporate Governance and Climate Change*, commissioned by Ceres and written by IRRC, GE was identified as taking only four actions on the 14-point Climate Change Governance Checklist. This put GE at the bottom of 20 companies evaluated in the report, including oil companies **ExxonMobil** and **ChevronTexaco** as well as automaker **DaimlerChrysler**. As of two years ago, GE had not completed an inventory of its greenhouse gas emissions—let alone set targets to control them—and it had no information posted on its website or in its securities filings about global warming or prospects for greenhouse gas controls. Moreover, Immelt and his predecessor, Jack Welch, had never spoken out publicly on the issue.

To put what Immelt announced on May 9 in some perspective, GE now will invest 15 times more money annually in clean energy technologies than ExxonMobil (a company of comparable size) has pledged over 10 years for what it has been calling "the largest ever investment in independent climate and energy research," in an ongoing advertising campaign.

In 2002, ExxonMobil pledged $10 million a year over 10 years to support the Global Climate and Energy Project at Stanford University. The goal of this project is to develop "breakthrough technologies" to reduce greenhouse gas emissions. (The $100 million that ExxonMobil has pledged over 10 years is little more than the $88 million in profit it made *each day* during the first quarter of 2005.)

INCR Action Plan

One of the main objectives of the new "Call for Action" issued at the May 10 investor summit is to enable more comparative analysis of companies' plans to control their greenhouse gas emissions and pursue new business initiatives. In addition to governance review of 100 large publicly traded companies, which will be conducted by IRRC and completed by the end of this year, one of the main action items of INCR is to urge the Securities and Exchange Commission to require companies to disclose their financial risks related to climate change in securities filings.

In addition, INCR members will call upon all auto, electric power and oil and gas companies held in their portfolios to issue reports within a year on how their businesses might be affected by greenhouse gas controls and dwindling supplies of affordable fossil fuels.

At least one of the dozen state treasurers attending the summit suggested that companies that were unwilling to produce such reports should be subject to possible divestment action. "We should pick four or five companies that could make the most difference and give them a reasonable timetable," said North Carolina Attorney General Richard Moore. "We should tell them, 'If you don't do this we will not own your stock.' We will be successful if we all stick together."

Another component of the new INCR action plan is to track how the

Managing Climate Risk and Capturing the Opportunities:
A Renewed Call for Action by the Investor Network on Climate Risk

Institutional investors

1. Seek to deploy $1 billion of capital to achieve attractive investment returns over the long term and help catalyze adoption of clean technology in the broader marketplace, while at the same time adhering to the fiduciary standards that govern investor actions.
2. Develop a climate risk model for institutional investors that addresses shareholder resolutions, proxy voting and corporate dialogue on climate risk.
3. Adopt a reliable and generally accepted global standard for disclosure of climate risk.
4. Build a new forum for international investor collaboration and information sharing on climate risk.

Fund managers and financial advisors

5. Require and validate that relevant investment managers, seeking to manage our fund assets, describe the resources, expertise and process that they use to assess the risks associated with climate change.
6. Publish an annual scorecard showcasing how mutual funds vote on climate change shareholder resolutions.

Companies

7. Engage all publicly held companies in the auto, electric power, and oil and gas sectors and encourage them to follow the lead of some companies and report within a year how likely scenarios for climate change, future greenhouse gas limits and dwindling access to inexpensive energy will affect their businesses and competitiveness, and to identify steps they are taking to reduce those financial impacts and seize new emerging market opportunities.
8. Engage with companies, recognize leaders and promote best practices on steps that investors and companies can take to address climate risk.
9. Produce the "Corporate Governance Score Card on Climate Risk", an annual corporate governance scorecard of 100 large emitters of greenhouse gases. This scorecard will be distributed throughout the investor community by the end of 2005 to inform them of the efforts that companies and their boards of directors are taking to consider and address climate risk.

Government

10. Work with the Securities and Exchange Commission to require that companies disclose the risk associated with climate change as part of their securities filings.

The above statement was issued at the conclusion of the second Institutional Investor Summit on Climate Risk at the United Nations this month.

nation's leading mutual funds are voting on global warming-related shareholder proposals. A 2004 study commissioned by Ceres and written by IRRC, called *Unexamined Risk*, found that only three of the top 100 U.S. equity mutual funds (in terms of assets under management) voted in favor of any shareholder proposals asking for reviews of climate risk during the 2004 proxy season.

Yet another element of the plan is to have money managers provide information to INCR members on their proxy voting policies, resources, expertise and processes used to assess the risks associated with climate change. Here, too, the inference is that more investment capital may be directed toward firms that demonstrate strong capabilities in this area.

Citigroup and **BankAmerica** have had policies in place for several years to assess the effects of greenhouse gas emissions from their facilities and lending operations. **J.P. Morgan Chase** joined this group on April 25, when it announced that it will "work with clients to develop new financial products that facilitate emissions reductions, conduct research into the financial implications of the rising cost of carbon, and deploy investment capital to businesses that reduce or mitigate greenhouse gases."

Among other things, the bank will now factor in the costs of carbon dioxide emissions in its loan review process for power plants, and it will report annually on emissions from the power sector projects it funds. Bank officials also plan to lobby for a national approach on greenhouse gases and to encourage major emitters to develop carbon mitigation plans.

JP Morgan developed its policy with prodding by environmental groups, such as the Rainforest Action

Network (RAN) and Friends of the Earth. Leading up to the bank's announcement, RAN had organized demonstrations at JP Morgan branches and at the firm's annual shareholders meeting in New York.

Ilyse Hogue, a campaign organizer at RAN, recently told the U.K.'s *Guardian* newspaper, "Banks have remarkably vulnerable brands, and advocacy groups determined that this was a very ripe area. [The banks] are not dependent on one revenue stream and it's easier to shift them towards more environmentally friendly investments. There is a world of difference between talking to Citigroup and talking to Exxon Mobil."

—Doug Cogan

NAS Questions Reactors' Nuclear Storage Safety

The declassified version of an investigative report by the National Academy of Sciences (NAS), released last month, into the security of spent fuel storage, criticized the nuclear power industry's regulatory body. The investigation, commissioned by the U.S. Congress in December 2003, compared storage units' vulnerability in light of conflicting assessments about their safety given the rise in terrorist attacks in recent years. The NAS delivered its initial, classified, report last July.

Spent Rods and Terrorism

The fuel for a nuclear reactor is comprised of rods made of enriched uranium. Once all usable energy is consumed, the so-called "spent fuel rods" are still highly radioactive and must be safely stored for thousands of years. In 2004, shareholders filed resolutions at Ameren, General Electric and PG&E asking the companies to report on the safety of their storage units (GE shareholders are concerned about GE-designed components). The two storage designs currently in use are cooling pools and dry casks. In a dry cask, spent fuel is contained in a canister made up of solid materials and passively cooled without the use of water or mechanics. In cooling pools or spent fuel pools, spent fuel rods are submerged in water that shields radiation and decreases the rod's temperature.

The NAS report raises concerns about the safety of spent fuel storage and the level of openness from the industry's regulatory body, the Nuclear Regulatory Commission (NRC). In some cases, the analysis was thwarted by the NRC's unwillingness to provide information. The NAS concluded that commercial nuclear power plants' resistance to terrorist attacks was not fully evaluated because the commission did not provide enough information. Specifically, the NRC "declined to provide detailed briefings to the [NAS] committee on surveillance, security procedures, and security training at commercial nuclear power plants." The commission also failed to "provide a formal briefing to the committee" on the specific types of threats it had considered for radiological sabotage, "asserting that the committee did not have a need to know this information." In its report, the NAS recommends that the NRC share more information on a timely basis.

Dry Cask vs. Pools

The NAS study concludes that dry cask storage is a preferable option because it relies on natural air circulation for cooling and it separates rods into different containers, decreasing the risk that an attack would strike a large amount of fuel. While the NAS concludes that a high-level terrorist attack on a dry cask storage unit is unlikely, it nevertheless recommends minor changes to enhance security.

The study found that cooling pools are more susceptible to attack because the fuel is concentrated in one area and high decay-head assemblies are stored together. The report also notes that most cooling pools have been reracked to hold approximately five times the amount of fuel they were originally designed to store, raising concerns that such a high concentration of heat could have disastrous consequences. The main danger that could result from an attack on a cooling pool is a radioactive fire that could release large quantities of radioactive material into the environment. Such a fire would escalate if a pool was partially or completely drained. The report explained that while operators are prepared to safeguard against water loss in the event of a leak or damage to the filtration system, they have not, for example, fully considered the effect a high-level attack could have if the wall of a pool were ruptured, exponentially increasing the speed of water loss.

Still, cooling pools are necessary for interim storage since spent fuel must be actively cooled for an average of five years before it can be transferred to dry storage. Contrary to

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Microsoft Reverses Position, Again, on Gay Rights

This month, Microsoft decided to renew its public support for both federal and Washington State legislation prohibiting workplace discrimination based on sexual orientation and gender expression. The company had received complaints from many of its employees when it earlier had announced a new policy of neutrality on such legislation.

Ending discrimination on the basis of sexual orientation has been a major shareholder campaign in 2005 and in recent seasons. This year, resolutions asking companies to adopt such anti-bias policies were filed at 27 companies, but so far 21 have been withdrawn when the target companies agreed to revise their fair employment policies to cover sexual orientation or to post these policies if they already had them. Microsoft has long had a fair employment policy in place that covers sexual orientation.

Defeated Bill

Microsoft's public policy reversal came just 15 days after an anti-discrimination bill was defeated in the Washington State Senate by one vote (25-24) and was the second time Microsoft had changed its stance on the issue in the past eight months. Just last month, Microsoft announced it would take a "neutral" stance on legislation designed to guarantee non-discrimination based on sexual orientation and gender identity, saying it was reevaluating its participation in "social issues." Outsiders speculated the underlying reason behind Microsoft's step back to neutrality was pressure from Rev. Ken Hutcherson, a local pastor, who threatened a national boycott of Microsoft products.

Not surprisingly, while Microsoft's latest move drew praise from gay rights advocates, it also attracted sharp criticism from conservatives. Despite the outside pressure from both sides of the debate, it appears that employee sentiment played the biggest role in changing management's mind on the issue.

Employee Views

In an all-staff e-mail to employees, Microsoft CEO Steven Ballmer said that he had heard a wide range of views from many employees on "the recent anti-discrimination bill in Washington State and the larger issue of what is the appropriate role of a public corporation in public policy discussions." He observed, "One point really stood out….Regardless of where people came down on the issues, everyone expressed strong support for the company's commitment to diversity." Ballmer added, "I don't want to rehash the events that resulted in Microsoft taking a neutral position on the anti-discrimination bill in Washington State. There was a lot of confusion and miscommunication, and we are taking steps to improve our processes going forward."

Employee ire over Microsoft's neutrality evidently was strong. Upset by Microsoft's April decision, a group representing Microsoft's gay, lesbian, bisexual, and transgender employees collected 1,741 signatures on a petition that asked Microsoft to support once again sexual orientation and gender identity anti-bias legislation and sent the petition to Ballmer.

In "wrestling with the question of how and when the company should engage on issues that go beyond the software industry," Ballmer said, Microsoft decided to spell out principles to guide its public policy initiatives. He said that Microsoft will continue to focus its public policy activities "on issues that most directly affect" its business, "such as Internet safety, intellectual property rights, free trade, digital inclusion and a healthy business climate." Ballmer added, however, that diversity "is such an important issue for our business that it should be included in our legislative agenda" too. He said that while Microsoft's EEO policies have gone a long way to promote diversity and help Microsoft attract top-notch talent, its "policies can't cover the range of housing, education, financial and similar services that our people and their partners and families need." Ballmer said the he therefore feels that "it's appropriate for the company to support legislation that will promote and protect diversity in the workplace."

Gay rights advocates applauded the move. "We are proud that Microsoft did the right thing and has come down squarely on the side of fairness for all employees," said HRC President Joe Solmonese. "It is clear from Mr. Ballmer's statement that it is a business imperative to value a diverse workforce and support public policy that reinforces that principle." Microsoft has a record of strong support for workplace diversity and recently added gender identity and expression to its corporate non-discrimination policy, another move the HRC applauded. The group upgraded Microsoft's score in its Corporate Equality Index this year, making Microsoft one of only 57 *Fortune 500* companies with a perfect score.

Another Bill Likely

Rep. Ed Murray (D-Seattle), sponsor of the sexual orientation anti-bias legislation, told *The Seattle Post-Intelligencer* that he will reintroduce the gay civil rights bill next session. "I am thrilled that Microsoft has renewed its commitment to diversity,

fairness and tolerance in our state," Murray said in a statement. "Next year will bring a new session and I am ready to get to work in passing this long overdue legislation." Gov. Christine Gregoire also applauded Microsoft's move, saying, "the people of Washington overwhelmingly support civil rights."

However, some state politicians and activists believe Microsoft overstepped its bounds. State Sen. Val Stevens (R-Arlington) said she was disappointed that Microsoft had switched its position again. "This is not a good place for a company the size and magnitude of Microsoft to be now," Stevens told *The Associated Press*. "I know it must be difficult for the employees who do not agree with their policy." Randy Leskovar, senior pastor of Calvary Chapel in West Seattle, who testified against the bill, told *The Seattle Post-Intelligencer*, "Basically what [Microsoft is] getting involved in now is social engineering, which is not their place."

—Peter DeSimone

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current practice, the committee suggests that rods could be transferred to dry storage once they are sufficiently cooled. Cooling pools are in use at 78 sites, including all 65 sites with operating commercial nuclear power reactors, while dry cask storage is used at only 28 sites.

Plant Design and Location

The NAS stresses that the main variables in assessing a facility's safety are the unit's specific design and location. On this point it did not provide plant-specific assessments, but more information is presumably available in the classified report. (A free copy of the declassified report is available at http://www.nap.edu/books/0309096472/html/).

Although the NRC has directed the nuclear power plants to take steps to bolster their security since September 11th, it believes the federal government is ultimately responsible for ensuring safety against terrorist attacks. Industry representatives and the NRC told the NAS that they "view detecting, preventing, and thwarting such attacks as the federal government's responsibility." While the industry has implemented additional security measures, the report suggests that these measures have not gone far enough.

—Maureen O'Brien